

Public Document Pack



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

Julie Muscroft

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Wednesday 22 January 2020

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 30 January 2020**.

(A coach will depart the Town Hall, at 09:35 am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Council Chamber Huddersfield Town Hall.)

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

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

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
R Smith
J Taylor
N Patrick
M Thompson

Green

K Allison
S Lee-Richards

Independent

C Greaves

Labour

M Akhtar
S Hall
M Kaushik
W Simpson

Liberal Democrat

J Lawson
A Munro
A Pinnock

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of previous meeting

1 - 4

To approve the Minutes of the meeting of the Committee held on 17 December 2019.

3: Interests and Lobbying

5 - 6

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: 2019/92457

Erection of agricultural building (modified proposal) and cladding of existing building 20, Wellhouse Lane, Kirkheaton, Huddersfield.

(Estimated time of arrival at site 09:55 am)

Contact Officer: Neil Bearcroft, Planning Services

Ward(s) Affected: Dalton

8: Site Visit - Application No: 2019/93445

Demolition of existing bungalow and erection of 3 dwellings with gardens and parking 3, Marsh Gardens, Honley, Holmfirth.

(Estimated time of arrival at site 10:30 am)

Contact Officer: William Simcock, Planning Services

Ward(s) Affected: Holme Valley North.

9: Site Visit - Application to divert part of public footpath Holmfirth 60 at Wolfstones Heights Farm, Upper

Application to divert part of public footpath Holmfirth 60 at Wolfstones Heights Farm, Upperthong.

(Estimated arrival at site 10:50 am)

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

Ward(s) Affected: Holme Valley South

10: Site Visit - Application No: 2018/90208

Erection of 18 dwellings (within a Conservation Area). Land at 172 Gillroyd Lane, Linthwaite, Huddersfield.

(Estimated time of arrival at site 11:35 am)

Contact Officer: Victor Grayson

Ward(s) Affected: Colne Valley

11: Local Planning Authority Appeals

7 - 86

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: Teresa Harlow, Planning Services

Ward(s) Affected: Golcar, Colne Valley, Ashbrow, Newsome, Lindley, Holme Valley North, Holme Valley South.

Planning Applications

87 - 88

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 27 January 2020.

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

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

12: Application to divert part of public footpath Holmfirth 60 at Wolfstones Heights Farm, Upperthong 89 - 104

Application to divert part of public footpath Holmfirth 60 at Wolfstones Heights Farm, Upperthong.

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

Ward(s) Affected: Holme Valley South

- 13: Planning Application - Application No: 2019/92164** 105 - 130
- Erection of 17 dwellings Land off Parkwood Road, Golcar, Huddersfield.
- Contact Officer: Victor Grayson, Planning Services
- Ward(s) Affected:** Golcar
-
- 14: Planning Application - Application No: 2019/92240** 131 - 148
- Change of use of land to pub garden and play area The Sun, 137, Highgate Lane, Lepton, Huddersfield.
- Contact Planning Officer: Neil Bearcroft, Planning Services
- Wards(s) Affected:** Almondbury
-
- 15: Planning Application - Application No: 2018/90208** 149 - 174
- Erection of 18 dwellings (within a Conservation Area). Land at 172 Gillroyd Lane, Linthwaite.
- Contact Officer: Victor Grayson, Planning Services.
- Ward(s) Affected:** Colne Valley
-
- 16: Planning Application - Application No: 2019/92457** 175 - 222
- Erection of agricultural building (modified proposal) and cladding of existing building 20, Wellhouse Lane, Kirkheaton.
- Contact Officer: Neil Bearcroft, Planning Services
- Ward(s) Affected:** Dalton
-
- 17: Planning Application - Application No: 2019/93445** 223 - 238
- Demolition of existing bungalow and erection of 3 dwellings with gardens and parking 3, Marsh Gardens, Honley, Holmfirth.
- Contact Officer: William Simcock, Planning Services.
- Ward(s) Affected:** Holme valley North
-

18: Exclusion of the Public

To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

19: Planning Application - Application No: 2018/90208

Erection of 18 dwellings (within a Conservation Area). Land at 172 Gillroyd Lane, Linthwaite, Huddersfield.

Contact Officer: Victor Grayson, Planning Services

Ward(s) Affected: Colne Valley

(To receive exempt information in respect of Agenda Item 15)

Planning Update

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

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Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Tuesday 17th December 2019

Present: Councillor Terry Lyons (Chair)
Councillor Paul Davies
Councillor Donald Firth
Councillor James Homewood
Councillor Andrew Marchington
Councillor Bernard McGuin
Councillor Nigel Patrick
Councillor Mohammad Sarwar
Councillor Mohan Sokhal
Councillor Harpreet Uppal
Councillor John Lawson

Apologies: Councillor Anthony Smith
Councillor Sheikh Ullah

1 Membership of the Committee

Councillor John Lawson substituted for Councillor Anthony Smith

2 Minutes of previous meeting

The minutes of the meeting held on 7 November 2019 were approved as a correct record.

3 Interests and Lobbying

Councillors McGuin, Davies, Uppal and Homewood declared that they had been lobbied on application 2019/91083.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

No deputations or petitions were received.

The Sub Committee was informed of the reasons why a request for a deputation on the outcomes of a legal case covering a Public Right of Way from Sandy Lane to Nether Moor Road, South Crosland was refused.

6 Public Question Time

No questions were asked.

7 Site Visit - Application No: 2019/91083

Site visit undertaken.

8 Local Planning Authority Appeals

That the report be noted.

9 Planning Application - Application No: 2019/90085

The Sub Committee gave consideration to Planning Application 2019/90085
Erection of 8 dwellings Land at, Lancaster Lane, Brockholes, Holmfirth.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Hamish Gledhill (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:

1. Time limit for commencement of the development (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. Detailed 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 (for highways and amenity).
17. Finished floor levels set as per Environment Agency's advice.
18. No development in flood zone 3.
19. No ground level raising in flood zone 3.
20. Scheme to ensure stability of New Mill Road.

(2) Secure a S106 agreement to cover the following matters:

- i. Sustainable Travel Fund (£4,000)
- ii. Arrangements for the future maintenance and management of surface water drainage infrastructure within the site.

(3) That, pursuant to (2) above, in the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution

Planning Sub-Committee (Huddersfield Area) - 17 December 2019

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.

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

For: Councillors P Davies, Homewood, Lawson, Marchington, McGuin, Patrick, Sarwar and Sokhal (8 votes)

Against: Councillors D Firth and Uppal (2 votes)

Abstained: Councillor Lyons

10 **Planning Application - Application No: 2019/92646**

The Sub Committee gave consideration to Planning Application 2019/92646 Outline application for erection of residential development Spurn Point, Manchester Road, Linthwaite, Huddersfield.

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. Standard conditions for outline applications.
2. Provision of visibility splays.
3. Detailed design of junction of new estate road.
4. Detailed design of internal adoptable roads.
5. Details of highway retaining walls.
6. Surfacing of parking areas.
7. Bin store and collection arrangements.
8. Construction management plans (for highways and amenity).
9. Pre and post development defects survey of a section of Manchester Road adjacent to the site with repairs/remedial works as necessary.
10. Temporary drainage during construction.
11. Detailed drainage design with 'layout' under reserved matters.
12. Investigation, remediation and validation in relation to potential contaminated land.
13. Electric vehicle charging points.
14. Detailed tree information for the trees along the site's north/western boundary to be provided with 'layout' details.
15. Noise report and mitigation.
16. Affordable housing provision.
17. Open space provision.
18. Education provision.
19. Sustainable Travel Fund/Travel Plan (to include provision for the upgrade of bus stop numbers 21716 and 19120).

Planning Sub-Committee (Huddersfield Area) - 17 December 2019

20. Preliminary ecological appraisal and impact assessment.

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

For: Councillors P Davies, Homewood, Lawson, Lyons, Sarwar, Sokhal and Uppal (7 votes)

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

Abstained: Councillor Marchington

11 Planning Application - Application No: 2019/91083

The Sub Committee gave consideration to Application Planning Application 2019/91083 Demolition of existing dwelling and erection of detached dwelling with detached garage/gym/store 345, Bradley Road, Bradley, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Steven Miller (objector) and Malcolm Sizer (on behalf of the applicant).

That consideration of the application be deferred to provide an opportunity for the applicants to resolve a discrepancy in the plans. This relates to a height comparison between the previously approved and currently proposed side elevations.

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

For: Councillors P Davies, D Firth, Lyons, McGuin, Sarwar, Sokhal and Uppal (7 votes)

Against: Councillors, Homewood, Lawson and Marchington (3 votes)

Abstained: Councillor Patrick

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: 30 JANUARY 2020

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: Golcar; Colne Valley; Ashbrow; Newsome; Lindley; Holme Valley North; Holme Valley South;
Ward councillors consulted: No**

Public or private: Public

Has GDPR been considered? Yes. There no GDPR implications.

1. Summary

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

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

- 2.1 2017/60/93847/W - Outline application for erection of 36 dwellings at land off, Upper Quarry Road and Bradley Road, Bradley, Huddersfield, HD2 1XD. (Sub-Committee in accordance with Officer recommendation) (Appeal dismissed; application for Award of Costs against the Council refused)
- 2.2 2019/53/91612/W - Telecommunications notification for installation of communications hub (within a Conservation Area) at 11-13, Ramsden Street, Huddersfield, HD1 2SX. (Officer) (Dismissed)
- 2.3 2019/63/91614/W - Telecommunications notification for installation of communications hub (within a Conservation Area) at 4, Market Place, Huddersfield, HD1 2AN. (Officer) (Dismissed)
- 2.4 2019/53/91615/W - Telecommunications notification for installation of communications hub (within a Conservation Area) at 52, John William Street, Huddersfield, HD1 1ER. (Officer) (Dismissed)
- 2.5 2019/53/91616/W - Telecommunications notification for installation of communications hub (within a Conservation Area) at 19-23, Market Street, Huddersfield, HD1 2EH. (Officer) (Dismissed)
- 2.6 2019/53/91620/W - Telecommunications notification for installation of a communication hub (within a Conservation Area) at St George's Square, Huddersfield, HD1 1JB. (Officer) (Dismissed)

- 2.7 2019/62/91096/W - Erection of detached garage at Medina, Oldfield Road, Honley, Holmfirth, HD9 6RP. (Officer) (Dismissed)
- 2.8 2019/62/91503/W - Erection of single and two storey extensions and demolition of existing garage (within a Conservation Area) at 56, Upper Clough Road, Linthwaite, Huddersfield, HD7 5PF. (Officer) (Dismissed)
- 2.9 2019/62/91842/W - Erection of detached garage at Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN. (Officer) (Dismissed)
- 2.10 2019/60/90372/W - Outline application for erection of residential development (2 dwellings) (within a Conservation Area) at Land at Kiln Hill, Slaithwaite, Huddersfield, HD7 5JS. (Officer) (Dismissed)
- 2.11 2018/62/93112/W - Change of use of land for siting of 4 log cabins for holiday let at land at, Thick Hollins Road, Meltham, Holmfirth. (Officer) (Dismissed)
- 2.12 2018/62/93768/W - Alterations and extension to agricultural building to form dwelling at land opp, 12, Clough Head Farm, Slaithwaite Gate, Bolster Moor, Huddersfield, HD7 4NW. (Officer) (Dismissed)
- 2.13 2019/62/91350/W - Erection of detached dwelling at adj, 7, East Street, Jackson Bridge, Holmfirth, HD9 1HY. (Officer) (Dismissed)
- 2.14 2019/63/91619/W - Telecommunications notification for installation of communications hub (within a Conservation Area) at 45-47, New Street, Huddersfield, HD1 2BQ. (Officer) (Dismissed)
- 2.15 2018/61/92848/W - Reserved matters application for erection of 19 dwellings pursuant to outline permission 2015/90507 for outline application for residential development (within a Conservation Area) at Land off, Carr Top Lane, Golcar, Huddersfield, HD7 4JB. (Officer) (Appeal Allowed; application for Award of Costs against the Council refused)
- 2.16 2019/ClassQ/90967/W - Prior notification for change of use from agricultural building to one dwelling and associated operational development at barn adj, Lower Hey Farm, Holt Head Road, Slaithwaite, Huddersfield, HD7 5TU. (Officer) (Allowed)
- 2.17 2019/53/91618/W - Telecommunications notification for installation of communications hub (within a Conservation Area) at 25-27, New Street, Huddersfield, HD1 2AZ. (Officer) (Allowed)
- 2.18 2019/62/92595/W - Erection of two storey side and rear extensions and porch to front at 85, Mount Avenue, Mount, Huddersfield, HD3 3XS. (Officer) (Allowed)
- 2.19 2018/61/93508/W - Reserved matters application pursuant to outline permission 2016/91502 for erection of one detached dwelling at Adj, 1, Spring Lane, Holmfirth, HD9 2LN. (Sub-Committee in accordance with Officer recommendation) (Appeal against condition allowed; application for Award of Costs against the Council allowed)

3. Implications for the Council

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

3.1 Working with People

3.2 Working with Partners

3.3 Place Based Working

3.4 Climate Change and Air Quality

3.5 Improving outcomes for children

3.6 Other (eg Legal/Financial or Human Resources)

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 – Head of Planning and Development (01484 221000)

mathias.franklin@kirklees.gov.uk

9. Background Papers and History of Decisions

Not applicable

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Appeal Decision

Hearing held on 20 November 2019

Site visits made on 19 and 20 November 2019

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd January 2020

Appeal Ref: APP/Z4718/W/19/3232430

Land adjacent Upper Quarry Road and Bradley Road, Bradley, Huddersfield

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr G R E Bottomley against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/60/93847/W, dated 6 November 2017, was refused by notice dated 10 January 2019.
 - The development proposed is demolition of existing dwelling and outline application for the erection of 36 dwellings.
-

Decision

1. The appeal is dismissed.

Application for costs

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

Procedural Matters

3. The application was submitted in outline, with all matters reserved except for the access. I have dealt with the appeal on this basis, treating proposed site layout plans as illustrative, except in relation to the access.
4. Amended access plans (drawing nos 1707802d; 1905501-1 Rev A; 1905501-2 Rev A) have been submitted for consideration, showing suggested alternative options for the junction arrangement. The Council provided a written response to the additional plans at the Hearing and the appellant has had the opportunity to respond. The suggested changes are within the red line boundary and do not fundamentally change the nature of the proposal. I am, therefore, satisfied that no party's interests would be prejudiced by accepting the plans for initial consideration. I address the implications of the amended plans in my reasoning below.

Main Issues

5. The main issues in this case are:
 - The effect of the proposal on highway safety.
 - Whether the proposal would make adequate provision for affordable housing?

- Whether the proposal would make adequate provision for open space?
- Whether the proposal would make adequate provision for education?

Reasons

Highway safety

6. The appeal site consists of a vacant field and garages within an existing residential area. The site is served by an unadopted lane between numbers 32 and 34 Bradley Road which forms a junction with the A6107 Bradley Road. Bradley Road is tapered on the approach to the traffic signal-controlled junction with the A62 Leeds Road and has a footway and off-road parking lay-bys either side of the access road.
7. A single eastbound lane exists on Bradley Road immediately outside the site; however, this becomes two lanes to the east of the site's entrance and three lanes further east on the approach to the Bradley Road/Leeds Road junction.
8. The centre of Bradley Road is hatched with a series of right turning pockets including one into the existing access road. A keep clear marking is provided across Bradley Road at the entry to the access road. An eastbound on-road cycle lane on Bradley Road terminates immediately prior to the site access road.
9. Traffic flows along this section of Bradley Road are high at morning and evening peak times. Peak hour flow data provided for a planning application for another site off Bradley Road included am and pm peak hour flows on Bradley Road. In the am peak (0800-0900) there were around 1,400 two-way movements (680 eastbound and 720 westbound) and in the PM peak (1700-1800) 1,470 two-way movements (800 eastbound and 670 westbound).
10. The appellant's Transport Statement provided trip generation rates for the appeal proposal on the basis of 40 units which would generate 9 arrivals and 21 departures in the morning peak hour and 20 arrivals and 13 departures in the evening peak hour. Based on 36 units this would equate to 8 arrivals and 19 departures in the am peak and 18 arrivals and 11 departures in the pm peak. The Council does not dispute this evidence.
11. A queue survey undertaken by the appellant at the application stage shows that in any time period, of the three established approach lanes, between the site's entrance and the Bradley Road/Leeds Road junction, only one experienced queues which extended as far as 28 and 30 Bradley Road, while the queue lengths in the other two lanes were considerably shorter. However, the Council's own surveys carried out at PM peak observed vehicles queuing past the site entrance in two lanes, with vehicles frequently encroaching on to the right turn pocket, into the site access and over the central hatched area.
12. At the request of the Council the appellant subsequently undertook video surveys which shows that vehicles queued past the site access in two lanes, sometimes past the existing refuge. My own observations on my site visits confirmed this and I noted that on occasion, queues extended past the Upper Quarry Road junction at peak PM time.
13. The video survey shows that the longer lane queues in one lane past the existing pedestrian refuge and, depending on the size and position of vehicles in the queue, a slow moving but free flowing line of traffic on the inside of the queue. On

occasion, a faster moving inner lane was observed where vehicle size and position allowed.

14. The video survey also showed that the cycle lane encourages vehicles to over-run the central hatching whilst the inside lane of traffic must enter the cycle lane. However, the width of carriage way is such that vehicles only encroach into the hatching by up to a metre leaving some 2.5m or more for right turning vehicles to enter the pocket(s) and enter the site access or Upper Quarry Road and remain clear of the through traffic on the westbound carriage.
15. It was also noted that on one occasion a car overtook the two lanes of traffic to join a short queue in lane 3 by driving over one or both right turn pockets. Vehicles also on occasion encroached into the parking layby on the mouth of Upper Quarry Road to pass stationary or slower moving vehicles in the outside line of traffic. The video survey shows that only one vehicle was observed to overrun the nearside footway at the existing pedestrian refuge west of the Upper Quarry Road junction.
16. The existing access road will be reconfigured in order to provide an access with a width of 5.5m together with 2m footways to either side, facilitated by the demolition of number 32 Bradley Road. The junction onto Bradley Road would have increased radii to either side, 6m to the east and 10m to the west. The access requires the existing laybys to the northern side of the carriageway along Bradley Road to be shortened slightly. The Council has not raised concerns regarding the reconfiguration of the existing access road itself.
17. In order to improve pedestrian access to the site a pedestrian refuge is proposed west of the improved junction approximately 2m in width and 5m in length. A pedestrian build-out is also proposed to the southern side of the carriageway within the layby area to provide a pedestrian link to the existing southern footway. It is also proposed to remove the existing keep clear marking at the Upper Quarry Road junction and the site access and replace with yellow box marking and red surfacing in the cycle lane.
18. The pedestrian island west of the junction would allow a width of 5.5m for the eastbound carriageway enabling vehicles to continue to queue in two lanes and so there would not be a detrimental effect on queue length or congestion along Bradley Road. The proposed modifications to the right turn lane into the site would not affect the storage capacity of the approach lanes to the A62 signals.
19. I consider that the pedestrian refuge and build-outs would improve pedestrian crossing facilities and provide a degree of protection to right-turning vehicles. It would also help to prevent the situation of vehicles overtaking the two lanes of traffic by driving over the right turn pocket to join a short queue in lane three.
20. An independent Stage 1 Road Safety Audit identifies in table 2.2 (Problem 2) that stationary traffic regularly queues in the offside lane with free-flowing traffic in the nearside lane and that visibility for right turning vehicles will be impeded by the queue, which increases the potential for a collision with an eastbound car, motorcycle or cyclist travelling in free-flowing conditions in the nearside lane. This echoes the Council's concerns that the proposal would intensify right turning movements into the site. It considers that vehicles turning through queueing traffic into a live lane is one of the major causes of injury accidents in the area due to a lack of inter-visibility. It is also concerned about vehicles overrunning the footway.

21. Due to the proposed carriageway width, the pedestrian refuge would not prevent two lanes forming and whilst the yellow box junction would encourage drivers to leave the site access clear, it would not prevent the situation of a vehicle crossing a stationary and then live lane of traffic. Consequently, the highway safety issue identified by the Road Safety Audit would still exist.
22. The video surveys undertaken on behalf of the appellant show that most people arriving at Upper Quarry Road do so from the southwest and turn left into the access to the appeal site. In the AM peak hour only 20% of arrivals turned right into Upper Quarry Road whilst in the PM peak (1700-1800) the proportion was 17.6%. It also showed that the level of right-turn movements into Upper Quarry Road from Bradley Road varied but averaged around 8 movements per hour (which serves 39 dwellings). This survey work provided information regarding the distribution of traffic which was then applied to the predicted flows for the proposed development.
23. Applying the same distribution to the predicted traffic arising from the appeal proposal right turn movements into the site would increase by 2 and 3 vehicle movements in the AM and PM peak hours respectively, equating to one movement every 20 minutes. The appeal proposal would result in an additional 6 arrivals and 14 departures in AM peak and 13 arrivals and 8 departures in PM peak over and above the consented development. The net increase in right turning movements into the site access above the level which the Council has already accepted equates to an additional 1 to 2 movements per peak hour.
24. Attention is drawn to the appellant's video survey which shows that the queue on the approach to the traffic signals only extends beyond the proposed access to the appeal site for just over a fifth of the peak hours surveyed. The potential situation where a vehicle would be turning right across a stationary lane and live lane would not, therefore, occur for the majority of the peak period (almost 80%) or for the rest of the day when vehicles pass through the junction free flowing. The appellant, therefore, considers that the increase in traffic and right-turn movements is insignificant and that the effect on highway safety is not considered to be material.
25. Whilst I acknowledge the appellant's evidence; there would, nevertheless, be an increase in right turn movements with limited visibility which would increase the risk of collisions. The extent to which the increased risk is materially significant depends upon the severity of the risk and the context of the existing road conditions.
26. The Council draws attention to a number of junctions in the area which it considers demonstrates the danger of vehicles turning right through either slow moving or standing traffic resulting in injury. Whilst those cases serve to demonstrate the danger of right-turn movements, they do not appear to be directly comparable to the appeal proposal in terms of volume of traffic, road layout etc.
27. As agreed by the parties at the hearing the most directly comparable junction in terms of road layout and volume of traffic is the Upper Quarry Road with Bradley Road junction which serves a similar number of dwellings (39) to the appeal proposal. An accident occurred when a motorcyclist was hit by a vehicle turning right through a queue across the live lane occupied by the motorcyclist. The appellant considers that one accident in 7 years does not indicate a road safety problem of any significance and that based on the video evidence, drivers using the junction appear to adapt safely to the situation of queuing traffic.

28. Attention is also drawn to the fact that there are no records of any serious accidents at the access to the appeal site in the last 10 years. Whilst this may be the case, the existing access only serves a few dwellings and some free-standing garages and so the use is relatively limited. Although there are no records of any serious accidents evidence was presented at the hearing by local residents of minor incidents which have not been reported.
29. I acknowledge that the accident rate at Upper Quarry Road is low and that the junction serves a similar number of properties. Nevertheless, the appeal site access is closer to the main Bradley Road/Leeds Road junction than the Upper Quarry Road junction. When vehicles queue past the site access in two lanes during peak hours I noted on my site visit the inner lane of traffic can flow quickly depending on the sequence of the traffic lights at the junction. Furthermore, I noted that vehicles speed up on the inner lane in order to get through the traffic lights whilst on green. Consequently, due to the proximity to the main junction, I consider that the risk associated with right-turn movements at the appeal site is greater than at the Upper Quarry Road junction.
30. The appellant has prepared a designer's response to the issues raised in the Road Safety Audit and some of those issues have been addressed by way of measures set out in a revised plan (ref: 1707802d). These include amongst other things: the relocation of an Advance Directional Sign in order to ensure drivers select the right lane in the approach to the junction; and adjustments to the existing and proposed tapers to the layby.
31. The proposed yellow box junction may provide vehicles with the opportunity to turn right whilst both lanes of traffic are stationary; however, it would not address the issue of vehicles turning right across a stationary lane of traffic whilst the inner lane of traffic is moving and reduced visibility. Furthermore, although the red surfacing would draw attention to the cycle lane itself; it would not improve driver's visibility of approaching cyclists. Consequently, I do not consider that the mitigation measures put forward in Plan No 1707802d would address highway safety concerns identified in the Road Safety Audit to an acceptable degree.
32. In response to the Road Safety Audit, the appellant has prepared an alternative scheme (1905501- Rev A and 1905501-2 Rev A, described as Option 2) which physically narrows the carriageway at the pedestrian refuge to force drivers to use the road as a single line of traffic. However, as highlighted by the Road Safety Audit, this would not prevent two lanes of traffic forming immediately east of the refuge island, across the junction bell mouth and so option 2 would not satisfactorily address the highway safety risk either. The Road Safety Audit recommends that the eastbound lane is physically restricted to a single lane opposite the bell mouth of the junction. However, as set out in the designer's response, any physical measure to prevent two lanes forming would also prevent right turn movements.
33. Furthermore, the reduction of the carriageway to single width at the pedestrian refuge would have the potential to increase congestion in the approach to the junction. The potential effects on the free-flow of traffic have not been assessed and, therefore, I am unable to take into account Plans numbered 1905501- Rev A and 1905501-2 Rev A in my Decision.
34. The Council confirmed at the hearing that the positioning of bollards on the pavement at both the proposed and existing refuge would discourage overrunning

of the footway and address their concerns in this respect. These could have been secured by condition, had I decided to allow the appeal.

35. Paragraph 108 of the Framework states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, amongst other things, a safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost effectively mitigated to an acceptable degree.
36. Paragraph 109 goes onto state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.
37. Whilst the unofficial two-lane queueing along Bradley Road in the proximity of the appeal site access is not ideal and should not be condoned, my consideration must be undertaken within the context of the road conditions present at the time of my decision. Even considering the fall-back position, within the context of the existing difficult road conditions and proximity to the junction, the increased risk would, in my view, be materially significant.
38. The fact remains that the highway safety issue identified in the Road Safety Audit would not be satisfactorily mitigated. Traffic turning right into the site access would have limited visibility due to the stationary queue of traffic and would have to cross a live lane of traffic which can be fast flowing which would in my view increase the risk of serious accidents occurring. Motorcyclists and cyclists would be at particular risk due to their small size and limited visibility. The proposal would, therefore, result in an unacceptable increased risk of collision to the detriment of highway safety.
39. Consequently, for the reasons stated above, the proposal would not be able to achieve a safe and suitable access and would have an unacceptable impact on highway safety. It would, therefore, conflict with Policy LP21 which requires that, amongst other things, proposals can be accessed effectively and safely by all users. Conflict also arises with paragraphs 108 and 109 of the Framework.

Provision of affordable housing

40. The Kirklees Strategic Housing Market Assessment 2016 (the SHMA) identifies a pressing need for affordable housing in the Borough. In the Huddersfield North Sub-area, there is a need for 3-bedroom (or larger) houses and a less but still substantial need for one- and two-bedroom homes. The sub-area has one of the lowest rates of ownership in Kirklees (at just over 60%).
41. Policy LP11 of the Local Plan seeks to ensure that proposals for housing provide a mix (size and tenure) of housing. It states that the Council will negotiate with developers for the inclusion of an element of affordable homes in planning applications for housing developments of more than 10 homes. The proportion of affordable homes should be 20% of the total units on market housing sites. It goes onto say that the proportion may be less where viability evidence demonstrates that there are development costs which would otherwise prejudice the implementation of the proposal. The preference is for affordable homes to be provided on site but where justified a financial contribution of at least equal value may be accepted to provide affordable homes elsewhere or to re-use or improve housing stock.

42. The supporting text to Policy LP11 at paragraph 8.38 states that negotiation will take place on individual planning applications if viability information is provided to show that the level of affordable homes required cannot be delivered.
43. In light of the pressing need for affordable housing a contribution would normally be required to make the development acceptable in planning terms. The contribution is calculated at equal value to that of on-site provision in order to enable provision elsewhere and would, therefore, be directly related and fairly and reasonably related in scale and kind to the development. Consequently, I consider that the requested affordable housing contribution would meet the tests set out at Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010 and the Framework.
44. In order to meet the requirements of Policy LP11, seven of the 36 units proposed would need to be provided as affordable housing. No affordable housing is proposed, either on or off-site by the appellant. Furthermore, there is no mechanism before me such as a Section 106 obligation by which to secure an off-site contribution.
45. The appellant has undertaken a Viability Appraisal which concludes that with or without Section 106 obligations relating to affordable housing, open space and education contributions, a negative site value is arrived at and that the proposed development is not viable. The appellant attributes the negative site value to depressed and stagnant house prices in the area as a major reason for the proposed development being unviable.
46. The Council appointed independent viability consultants who have reviewed the viability evidence and have undertaken a further assessment using the appellant's and their own figures and allowances. They also conclude that the proposed development is not viable, would not deliver an acceptable level of profit to a potential developer and that the development of the site cannot meet any affordable housing requirements nor any other planning obligations and be viable. It is not, therefore, in dispute that the proposal would not be viable either with or without affordable housing or other contributions. From everything which I have seen in submissions, there is no reason to disagree.
47. In the absence of affordable housing provision, the Council's position is that known housing need would not be met and that the proposal would be contrary to Policy LP11.
48. Policy LP11 includes a viability clause as an integral part of the policy; however, I agree with the Council that the wording of the Policy does not necessarily compel the decision maker to accept a lower proportion of affordable housing. Nevertheless, the presence of the viability clause, as recognised by the Inspector who considered the Local Plan at paragraph 74 of her report, provides flexibility to deal with cases where viability is an issue.
49. Paragraph 57 of the Framework states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.
50. It goes onto say that *"the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including*

whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force". The site is not allocated in the Plan and so was not appraised on an individual basis in the Local Plan Viability Study¹. The Viability Appraisal presented by the appellant has been assessed by independent consultants on behalf of the Council who agree with its conclusions. On the basis of evidence in submissions and at the hearing, and in light of the independent verification of the report, I consider that the Viability Appraisal can be given significant weight in my Decision.

51. The Local Plan Inspector states that the affordable housing shortage would be met through the provision of more than 250 affordable homes per year from outstanding permissions and new allocations. I also note that the affordable housing trajectory (figure 8) of the Local Plan includes completions, commitments and local plan allocations but not windfalls. This would seem to imply that the affordable housing requirement could be met from those sources. On this basis, the harm arising from the lack of 7 affordable units on this site would be limited and would not jeopardise the ability of the Council to meet its overall affordable housing target.
52. The viability clause in Policy LP11 enables flexibility to the decision maker to agree the provision of less affordable housing than the requirement of 20% and in my view the term 'less' would include no provision. Consequently, and in the particular circumstances of this case, I consider that whilst not making provision for affordable housing, the proposal would not be in conflict with Policy LP11.

Open space

53. Policy LP63 of the Local Plan states that new housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposal. New open space should be provided in accordance with the Council's local open space standards or national standards where relevant. In areas where existing open space provision is insufficient to meet local needs, provision of new open space on-site would be preferred to meet the needs of development. Where it is not viable the expansion or improvement of existing open space provision in the area will be sought.
54. The District wide open space provision standards are set out at Table 12 of the Local Plan. Based on these standards, a contribution toward natural/semi-natural greenspace and allotments within Ashbrow Ward is not required as the quantity standard has been met. Either on-site provision of parks and recreation (19.44 m² per dwellings) or an off-site contribution is required as the quantity standard in Ashbrow Ward has not been met. The Council indicates that a contribution towards the improvement of the nearby Oak Road Recreation Ground could be provided. The Recreation Ground is close to the site and would, therefore, be used by residents of the scheme.
55. The quality standard for amenity greenspace has not been met and so the provision of new amenity space equating to 14.58 m² per dwelling would be required. As the quantity standard has been met and whilst a contribution to off-site provision could be secured, on-site provision would help to achieve a well-designed scheme and meet the needs of residents in accordance with the fifth paragraph of Policy LP63. Children's equipped designated play areas provision

¹ Local Plan and Community Infrastructure Levy Viability Study 2015 and subsequent updates (Cushman and Wakefield)

should be provided at 0.25 hectares per 1000 population, equivalent to 6.1 m² per dwelling. This would equate to a requirement for 219 m² for 36 dwellings. Provision for young people would be 7.3 m² per dwelling resulting in a requirement for 262 m² per dwelling. Overall, children and young people provision would equate to around 482 m².

56. Whilst the appellant challenges the Council's request for contributions towards some typologies, the proposal would include 36 dwellings some of which would be family housing and so would generate demand for open space facilities. Provision is required where there is a quantitative or qualitative deficiency. Consequently, open space provision in the typologies referred to above either on-site or a contribution would normally be required to make the development acceptable in planning terms.
57. The physical requirement has been worked out based on standards contained in an up-to-date plan and the Open Space study which informed the plan in terms of quantity and quality standards and deficiencies. The requirement in square metres has then been translated into a financial contribution on the basis of the cost of providing equivalent provision 'on the ground'. The formula for calculating the financial contribution includes a 15% administration fee and it is not clear how this has been determined; however, I would have requested further information on this matter, had I decided to allow the appeal.
58. Overall, I consider that the requirement has been worked out on a proportionate basis on up-to-date standards in the Local Plan and would, therefore, be fairly and reasonably related in scale and kind to the development. Consequently, the requested open space requirement and contribution would meet the tests set out in Regulation 122 of the CIL Regulations and the Framework.
59. The proposal does not currently propose any on-site open space provision nor is it proposing a contribution to off-site provision. However, the Policy clearly states that new housing developments will be required to make provision *unless* the developer clearly demonstrates that it is not financially viable for the development proposal (my emphasis). The policy, therefore, provides sufficient flexibility to take financial viability into account. As explained above, I give significant weight to the Viability Appraisal in my Decision.
60. At the hearing, the appellant indicated that they would be willing to consider a planning condition to provide open space on-site and indeed some amenity space provision would be required in order to provide an attractive development. It is not clear whether all the typologies required could be provided on-site; however, I would have gone back to parties for clarification, had I decided to allow the appeal. Consequently, there would have been potential to include some open space as part of the proposal had I decided to allow the appeal. Due to the presence of the viability clause, I do not consider that the proposal would conflict with Policy LP63 of the Local Plan.

Education

61. Policy LP49 states that where the scale of development proposed may impact on education and health provision, the Council will actively work with applicants to resolve key planning issues in advance of a planning application being submitted.
62. It goes onto say that the need for the provision of additional school places will be a material consideration when proposals for new housing development are

considered. Developers should work with the Council at the earliest opportunity to ensure the phasing of development and appropriate mitigation is identified in a timely manner to ensure education provision can be secured.

63. The Policy is consistent with paragraph 94 of the Framework which highlights the importance of providing a sufficient choice of school places to meet the needs of existing and new communities. Local Planning Authorities should take a proactive approach to meeting this requirement and should give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications.
64. The Council's Providing for Education Needs Generated by New Housing provides further details on how the Council calculates contributions for education needs generated by new housing. The Council clarified at the hearing that the document is not Supplementary Planning Guidance but has been adopted by the Council. It is based on detailed research and forms a consistent and transparent basis for calculating contributions towards education provision.
65. Paragraph 3.1 states that in any proposal of 25 dwellings or more the need for educational contributions will be a material consideration. Contributions will only be sought where the new housing will generate a need which cannot be met by existing local facilities. Provision at these schools will be assessed to determine whether there is or will be sufficient capacity to accommodate the extra pupils that the proposed development would generate. The basis of this will be the school's number on roll data, forecasts of pupil numbers at relevant schools and the Net Capacity of school which is a measure of the accommodation capacity of schools. The LA's forecasts of additional pupils from new dwellings are based on the assumption that an additional 3 children per 100 houses per year group will be generated for primary and 2 for secondary.
66. Where the number of children generated by the development would increase the numbers on roll (NOR) over the net capacity, a financial contribution would be sought for each child over the net capacity. This would apply if forecast numbers on roll show a deficit of school places resulting from the additional children generated from the new housing. The basis of calculating a contribution will be the DCSF cost multiplier. The present cost multipliers for Kirklees are £11,767 per primary pupil and 17,730 per secondary pupil.
67. The Primary Admission Area Primary School is identified as St Thomas CE (VC) Primary School. On the basis of 3 children per 100 houses per year group, the development would generate an additional 5.4 school places. At the time which the housing units will be occupied (19/20) there would be a surplus of 2 places, hence 3.4 extra places would be required. On the basis of the DCSF cost multiplier (£11, 767) the contribution for 3.4 places would be £40,008 towards primary school provision. As the North Huddersfield Trust Secondary School has surplus spaces and no contribution to secondary school education is required.
68. Any family housing would generate additional pupils which would place pressure on existing education provision. Furthermore, it has been demonstrated that a shortfall in primary provision would arise as a result of the proposal at the Primary Admission Area Primary School at the time which the housing units would be occupied. The contribution would, therefore, be necessary to ensure that the development meets the needs of its residents and to make the development acceptable in planning terms. Furthermore, the contribution has been calculated on the basis of the DCSF cost multiplier and is, therefore, fairly and reasonably

related in scale and kind to the development, having regard to local provision already available. Consequently, I consider that notwithstanding viability issues, the requested contribution meets the tests set out at CIL Regulation 123 and the Framework.

69. Whilst a specific project has not been identified the Council confirmed at the hearing that it has a system of monitoring to ensure that contributions secured are directly related to the development in question. CIL Regulation 123 regarding the pooling of contributions is no longer relevant. Whilst I note the appellant's comments regarding the emerging Community Infrastructure Levy for the District, this has not yet been adopted.
70. The appellant has challenged the proposed contribution on the basis of a document 'Securing Sufficient High Quality Learning and Childcare Places'² which states that for the Huddersfield North area the trend in the number of children living in this planning area per year group towards 2021 is broadly static. However, unlike some other areas it does not say that there is no immediate need for additional places. Furthermore, this is a summary at the planning area level; whilst the Council's calculations are based on a detailed assessment of the Primary Admission Area Primary School.
71. Attention is drawn to the proposal to develop over 2000 houses at Bradley Park Golf Club where it is intended to provide new primary schools for the area. However, I note that no planning permission is in place for the school, and the Bradley Park site is significantly further away from the appeal site than St Thomas CE (VC) Primary School. Furthermore, the need for this additional school presumably arises at least in part from the proposed development for 2000 houses.
72. Policy LP4 relating to infrastructure provision states that new development should contribute to the provision of infrastructure, taking account of local and strategic needs and financial viability. Whilst Policy LP49 does not contain a viability clause, the plan must be read as a whole and in my view Policy LP4 provides the flexibility to take viability into account.
73. As discussed above I consider that significant weight can be attached to the Viability Appraisal in my decision. Consequently, whilst the proposal would not make provision for education, taking account of the viability appraisal, and in the particular circumstances of this case, I conclude that the proposal would not be in conflict with Policy LP49 or LP4.

Other Matters

74. Consultation has been undertaken on three options for a proposed relief road, all of which cross the site. The proposed relief road is at an early stage of the consultation process and the Council has confirmed that it is not a material consideration in this case; and I agree.
75. The Council has suggested a condition relating to metro cards and bus stop improvements. I have not considered the suggested conditions in detail as I have decided not to allow the appeal.

² Securing Sufficient High Quality Learning and Childcare Places, School Organisation, Planning and Development for 2018-2021' Kirklees Council

Planning Balance and Conclusion

76. The proposal would not make provision for affordable housing, education or the full extent of open space; however, Policies LP11, LP63, and LP49, taken together with Policy LP4 provide sufficient flexibility to deal with situations where flexibility is an issue. I attribute significant weight to the Viability Appraisal and so in the particular circumstances of this case, the proposal would not be in conflict with those policies. However, I have found that the proposal would cause harm to highway safety and conflict with Policy LP21. The conflict with Policy LP21 carries significant weight against the appeal and I consider that the proposal conflicts with the development plan as a whole.
77. The Council adopted its Local Plan in February 2019 and there is now a five-year supply of housing land. Paragraph 12 of the Framework states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
78. The proposal would have the potential to deliver market housing – which the Framework seeks to boost significantly - in an accessible location. The proposal would also have the potential to benefit the local economy by generating jobs during the construction phase and through resident spend in the longer term. The economic benefits would be generic and would arise with any development. There would also be some environmental benefits in the utilisation of a partial previously developed site and potential for a biodiversity net gain. Whilst I acknowledge that granting planning permission would provide at least some chance of development being delivered on the site along with the associated benefits, due to the uncertainty of the development coming forward, I can only attach moderate weight to these benefits in my Decision.
79. The considerations in favour of the development collectively carry moderate weight, but not sufficient in my view to overcome the harm to highway safety or the statutory presumption in favour of the development plan. The harm to highway safety and the conflict with Policy LP21, justifies a decision to refuse planning permission in this case.
80. For the reason stated, and with regard to all other matters raised, I conclude that the appeal should be dismissed.

Caroline Mulloy

Inspector

APPEARANCES

For the Local Planning Authority

Victor Grayson	BA (Hons) MTP MAUD, Development Management Masterplanner
Louise Hewlett	MEng, Principle Engineer, Traffic Signals
Joe Walker	HNC, Principal Engineer, Highways Safety
Ryan Kinder	HNC, Principal Engineer, Highways Development Management

For the Appellant

Mr Nicholas Willock	BSc (Hons), MA (Town and Regional Planning), MRTPI, MRICS
Mr Eric Appleton	B Eng. (Hons), DMS, C Eng. MICE, MCIHT

Interested Persons

Jane Walker	Resident
Carol Wright	Resident, Upper Quarry Road

HEARING DOCUMENTS

Documents submitted on behalf of the Council

Providing for Education needs Generated by New Housing
Further highways response of the LPA 20/11/19

Documents submitted on behalf of the Appellant

Extract from Manual for Streets
Appellant's note entitled 'Other matters' dated 19/11/19v
Appellant's note to Inspector dated 19/11/19
Costs Application
Response to new evidence received 19/11/19 (incl Kirklees Local Plan and CIL Viability Addendum (2016))



Appeal Decisions

Site visit made on 26 November 2019

by **Katie McDonald MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 December 2019

All Appeals

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeals are made by Mr Nathan Still (Infocus Public Networks Limited) against the decision of Kirklees Council.
 - Each development proposed is for the installation of a communication hub on the highway by an electronic communications code operator.
-

Appeal A Ref: APP/Z4718/W/19/3235275

Outside 11-13 Ramsden Street, Huddersfield HD1 2SX

- The application Ref 2019/91612, dated 15 May 2019, was refused by notice dated 8 July 2019.
-

Appeal B Ref: APP/Z4718/W/19/3235277

Outside 4 Market Place, Huddersfield HD1 2AN

- The application Ref 2019/91614, dated 15 May 2019, was refused by notice dated 8 July 2019.
-

Appeal C Ref: APP/Z4718/W/19/3235280

Outside 52 John William Street, Huddersfield HD1 1ER

- The application Ref 2019/91615, dated 15 May 2019, was refused by notice dated 8 July 2019.
-

Appeal D Ref: APP/Z4718/W/19/3235284

St George's Square, Huddersfield HD1 1JB

- The application Ref 2019/91620, dated 15 May 2019, was refused by notice dated 8 July 2019.
-

Appeal E Ref: APP/Z4718/W/19/3235286

Outside 19-23 Market Street, Huddersfield HD1 2EH

- The application Ref 2019/91616, dated 15 May 2019, was refused by notice dated 8 July 2019.
-

Appeal F Ref: APP/Z4718/W/19/3235287

Outside 25-27 New Street, Huddersfield HD1 2AZ

- The application Ref 2019/91618, dated 15 May 2019, was refused by notice dated 8 July 2019.
-

Decisions

1. Appeals A, B, C, D and E are dismissed.

2. Appeal F is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a communication hub on the highway by an electronic communications code operator at land outside 25-27 New Street, Huddersfield HD1 2AZ in accordance with the terms of the application Ref 2019/91618, dated 15 May 2019, and the plans submitted with it.

Procedural Matters

3. As set out above, there are 6 separate appeals, each for the installation of a communication hub on the highway by an electronic communications code operator pursuant to Class 16 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO). Whilst each appeal relates to a different site, the proposed communication hubs are identical and they are all within walking distance of each other in Huddersfield town centre. I have considered each proposal on its individual merits, but as they raise similar issues, the cases are dealt with in a single decision letter.
4. On 25 May 2019, the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 came into force, amending the GPDO. The amendment removes the permitted development right to install a public call box under Schedule 2, Part 16, Class A of the GPDO. However, transitional and saving provisions at Part 5 of the 2019 Regulations provide that where an appeal has been lodged within 6 months of the date of notice of refusal of a prior approval application submitted before 25 May 2019, the planning permission granted by Schedule 2, Part 16, Class A continues to have effect in relation to a public call box as if the amendments made to the GPDO by the 2019 Regulations had not been made. That is the case in respect of the 6 appeals before me.
5. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) requires the local planning authority to assess the proposed developments solely based on their siting and appearance, considering any representations received. My determination of these appeals has been made on the same basis.
6. The provisions of the GPDO require the proposed development to be assessed solely on the basis of its siting and appearance. Therefore, whilst the appellant has referred to the purported benefits of the proposed kiosk, I have not taken these matters into account other than in respect of heritage assets where the National Planning Policy Framework (the Framework) advises at Paragraph 196, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal".

Main Issue

7. The main issue is the effect of the siting and appearance of the proposed communication hubs upon the character and appearance of the locations proposed; with specific regard to the Huddersfield Town Centre Conservation Area, and as identified in each appeal below, the setting of designated heritage assets.

Reasons

8. Each communication hub would be a dark grey rectangular structure, around 2.63 metres high, 1.34 metres wide with a depth of about 0.32 metres. The fronts would contain a projecting canopy of around 0.6 metres under which would be a digital interactive touch screen, telephone handset and emergency call button. Clear glazed side sections are incorporated in the design that would enable visibility through the structure.
9. The overall appearance of the communication hub is modern, utilitarian, tall and bulky. In this regard, it may not be suitable in more sensitive locations. That said, its location in less sensitive areas could be appropriate as there is nothing fundamentally offensive about the design.
10. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the policies of the development plan and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance.
11. The appeal sites are all located within Huddersfield Town Centre Conservation Area (CA). The significance of the CA is derived from its historic, evolving and high quality townscape and the diversity of its architecture. The statutory requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Furthermore, I have considered the impact of the proposals on the setting of various listed buildings, as referred to in each appeal, and had special regard to the desirability of preserving the setting of each listed building as required under Section 66(1) of the Act.

Appeal A

12. The site for the proposal would be outside 11-13 Ramsden Street, adjacent to a pedestrian junction between Ramsden Street, Peel Street and Victoria Lane. The site is also located opposite Huddersfield Town Hall, and directly west of Huddersfield Library and Queensgate Market. All 3 of these buildings are Grade II Listed. The setting of the listed buildings encompasses the form of the street pattern and relationship with surrounding buildings.
13. There is very little other street furniture in the area in this location, and this gives the footways and public areas a sense of space and openness that contributes towards the historic character and townscape. Furthermore, where there is street furniture, it is of a traditional style with conservation type street lighting columns. The frontage to No 11-13 is traditional and well preserved, with narrow and well-proportioned openings.
14. In this location, the proposal would introduce a modern, tall and substantially sized conspicuous development into the street. Despite its narrow profile, the sheer height and width would erode the sense of space and openness and its design would appear incongruous and unsympathetic against the backdrop of No 11-13 and within the setting of the listed buildings.

Appeal B

15. The site for the proposal would be the footway to the front of 4 Market Place. Directly opposite No 4 is Market Cross, an open plaza with central listed memorial. No 4-6 Market Place is Grade II Listed, but contains a modern glazed shop front with the original façade evident at the upper floors. The setting of the listed building encompasses the form of the street pattern, relationship with surrounding buildings and the plaza to the front.
16. The street was particularly busy and commercial in nature, and there is an array of existing street furniture being close to the crossroads with Westgate and Kirkgate. Railings surround the corners, there are street lighting columns, traffic signals and signs, bollards and bins. The proposal would conspicuously and adversely contribute to the existing clutter. Added to this would be its modern, tall and substantially sized scale that would appear incongruous and unsympathetic in this street scene. Despite its position over the road, I also agree with the Council that it would detrimentally affect the traditional setting of the plaza, which is a unique feature of the CA.
17. Furthermore, whilst it would be located at the edge of the pavement, the proposal's size and design would erode the open setting of the listed building and its relationship with the plaza.

Appeal C

18. The site is within the eastern footway of John William Street, located to the front of Lion Chambers, a Grade II* Listed Building. Opposite the site is the Grade II* listed Britannia Buildings and St George's Square, a multi-use open space, which fronts Huddersfield Railway Station, a Grade I Listed Building. The majority of all other surrounding buildings are also listed. The wide street pattern and block layout forms part of the setting of the listed buildings as does St George's Square on approach to the Railway Station.
19. There is very little other street furniture in the area in this location, and this gives the footways and public areas a formal sense of space and openness that contributes towards the value and setting of the historic and well preserved character and townscape.
20. The proposal would be wholly inappropriate in this location, situated almost outside the main entrance to Lions Chambers. The conspicuously modern utilitarian design and large scale would be unsympathetic, harmful and incongruous; damaging and eroding the setting of the listed buildings and the character of the CA.

Appeal D

21. The site is on the edge of St George's Square to the front of the Grade I listed Huddersfield Railway Station, and the front of the Grade II* Listed Building 7 St George's Square. To the south of the application site is the Grade II* listed Britannia Buildings, to the north is the Grade I listed George Hotel. To the east of St George's Square, across John William Street, is Lion Chambers, another Grade II* Listed Building. The proposal would be sited within the setting of the Railway Station, given that St George's Square forms an open and formalised plaza on approach to the notable station façade.

22. In this location, the proposed kiosk would appear as an obtrusive and unplanned feature which would disrupt the open design of the public realm and multi use area, and the open, historic and well preserved approach to the railway station.
23. Moreover, it would also appear wholly inappropriate and incongruous. It would introduce an overly modern and conspicuous structure that would be harmful and unsympathetic. It would damage and erode the setting of the listed buildings and harm the character and appearance of the CA.

Appeal E

24. The site is on the wide expanse of footway along Market Street, located to the front of 19-23 Market Street, a large retail unit and Grade II Listed Building. The setting of the listed building includes the wide forecourt to the front. Opposite the site is a large relatively modern supermarket and multi storey car park development.
25. On the footway, there is existing street furniture, comprising planters, ticket machine, street lighting columns, railings, street cabinets, road signs and street lights along with a bus shelter opposite. However, this existing furniture is mostly located away from the frontage of the listed building such that the unhindered wide forecourt enables a sense of openness in which the building can be appreciated. This forms an important part of its setting.
26. As a result of the proposed siting, the modern scale and design of the proposal would interrupt this open expanse of footway and this would harmfully affect the setting of the listed building and cause harm to the character and appearance of the CA. Furthermore, despite most of the existing street furniture being located to the side of the building, the large and substantial size of the proposal would be conspicuous, contributing to street clutter in the area.

Appeal F

27. The site is located on a pedestrianised commercial street. The communication hub would be sited outside 25-27 New Street, a retail store with a modern shop front and dilapidated first floor appearance. Directly outside the store is a set of rubbish bins and there is other street furniture in the locality, such as bollards, A-boards, seats, planters and street lighting columns.
28. The adjoining building to the south, 29-35 New Street is Grade II Listed. Its setting comprises the area to the front of the buildings given its formal relationship with the street. Projecting from it is a glazed single storey canopy into Market Avenue along with seating to either side.
29. Whilst there is no coherence to the existing street furniture, the existing street is wide and it does not appear overly cluttered, such that the proposal would not adversely add to visual clutter. Furthermore, the location is less sensitive than the other appeals; and given the width of the pedestrianised street, the scale would not appear overly conspicuous or dominant.
30. Therefore, in this location, the proposal would have an acceptable effect upon the setting of the listed building and the character and appearance of the CA.

Conclusion for Appeals A, B, C, D and E

31. The Framework states that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The harm to the CA and the setting of the listed buildings would be less than substantial. The Framework details that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
32. Each proposal would support the expansion of electronic communications networks. They would also afford access for wheelchair and mobility scooters and provide public access to a payphone along with a digital touch screen to enable access to the internet and Council webpage. Whilst all these matters would represent public benefits, these would not outweigh the harm I have identified in each appeal.
33. Consequently, the siting and appearance of the communication hub in Appeals A, B, C, D and E would have an unacceptable and harmful effect upon the character and appearance of the area, failing to preserve or enhance the CA or preserving the setting of the listed buildings. Insofar as they are a material consideration, this would be contrary to the design aims of Policies LP24 (a) and LP35 (3. a & b) of the Kirklees Local Plan and Paragraphs 127 and 190 of the Framework.
34. For the reasons set out above, I conclude that the Appeals A, B, C, D and E should be dismissed.

Conclusion for Appeal F

35. The siting and appearance of the communication hub in Appeal F would have an acceptable effect upon the character and appearance of the area, preserving the CA and the setting of the nearby listed building. Insofar as they are a material consideration, this would be compliant with the design aims of Policies LP24 (a) and LP35 (3. a & b) of the Kirklees Local Plan and Paragraphs 127 and 190 of the Framework.
36. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
37. For the reasons set out above, I conclude that Appeal F should be allowed.

Katie McDonald

INSPECTOR



Appeal Decision

Site visit made on 29 October 2019 by C McDonagh BA (Hons), MA

by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2019

Appeal Ref: APP/Z4718/D/19/3235511

Medina, Oldfield Road, Honley, Holmfirth, HD9 6RP

- 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 Stewart Horn against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/62/91096/W, dated 1 April 2019, was refused by notice dated 29 May 2019.
 - The development proposed is erection of detached garage.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues for consideration in this appeal are as follows:
 - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan policy;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons for the recommendation

Whether inappropriate development in the Green Belt

4. The appeal site comprises an extended semi-detached dwelling known as Medina, which is of two-storey, stone-built appearance. The property has a driveway to the side, along with front and rear gardens which contain outbuildings. The site lies within the Green Belt adjacent to the open countryside.

5. The proposal entails the erection of a detached garage to the side of the dwelling. It would be built in the approximate location of a recently dismantled garage, with materials proposed to match those of the existing dwelling. It is understood the works are required to replace the former garage due to its poor condition and a need for outside storage.
6. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraphs 145 and 146 of the National Planning Policy Framework (the Framework) set out the forms of development that are not considered inappropriate within the Green Belt. These include part c), *the extension or alteration of a building provided that it does not result in disproportionate addition over and above the size of the original building*.
7. What constitutes a disproportionate addition is not defined within the Framework nor within Policy LP57 of the Kirklees Local Plan Strategy and Policies (LP). An assessment of whether the proposed extensions would be 'disproportionate' in the context of paragraph 145 is therefore a matter of planning judgement.
8. Permission was granted relatively recently for a substantial two-storey side and single storey rear extension¹. Although I have no details of this application, I am informed through the officer report that the extension constituted an increase of 51% over the original dwelling. The Council further state the footprint of the proposed garage would be 50% of the footprint of the host property, as extended, which is not disputed by the appellant. Based on all I have seen and read, there is no reason for me to disagree.
9. Based on these figures, the proposed garage would represent a significant increase in the apparent volume of the original building when taking into account the cumulative increases. I note the appellant considers the extension should be judged in terms of its increase in scale against the house as it sits today. However, both the Framework and LP Policy LP57 make clear that the proposed development must be assessed in the context of the original building. As such, the garage must be judged alongside the already permitted extension in order to determine whether it comprises a disproportionate addition.
10. Consequently, comparing the original dwelling to the dwelling that would result if the proposal were to go ahead, the outcome would be disproportionate. It would therefore be inappropriate development, which according to paragraph 143 of the Framework is, by definition, harmful to the Green Belt. The proposal would also be contrary to Policy LP57 of the LP, the aims of which align closely with the Framework with regards to maintain the qualities of the Green Belt.

Openness of the Green Belt

11. The Framework indicates that openness is an essential characteristic of the Green Belt. The development would significantly increase the scale and mass of the dwelling. As a result, in spatial terms, the openness of the Green Belt would be reduced.
12. Whilst I accept that the garage would replace a similar structure and some outbuildings, and that these collective footprints may be similar, the earlier permission for the extensions was granted on the basis of a condition which

¹ Application Ref: 2017/90385

required these structures, including the previous garage, to be removed, to ensure the openness of the Green Belt is preserved. As such, allowing the erection of new buildings would further reduce openness of the Green Belt when viewed cumulatively alongside the existing side extension. Although in isolation the loss of openness would be limited, nonetheless, there would be degree of harm arising from this, in addition to that arising from the inappropriate nature of the development.

Other considerations

13. The Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
14. The supporting information submitted with the initial planning application indicates the garage would be used to store classic cars among general household items. This is a private benefit of the proposal which attracts limited weight in favour of the proposal.
15. I noted on the site visit that neighbouring properties vary in terms of size and scale and that some have been extended. However, the fact that a neighbouring property is larger in scale than the appeal dwelling, or that the appeal dwelling was small relative to its plot prior to the construction of the two-storey extension, does not make the proposed extension acceptable in terms of impact on the Green Belt. I can only deal with the proposal on its own merits in the light of current national and local policy, both of which are clear in setting out what is considered inappropriate in the Green Belt through both paragraph 145 of the Framework and LP57 of the LP.
16. I appreciate that the garage has been designed in accordance with permitted development limits in terms of its scale. Further to this, the garage would be partially sunk into the ground to reduce its impact and would be constructed in materials to match those of the host dwelling. However, permitted development rights were removed with regards to outbuildings at this property through a condition attached to the permission for the erection of the two-storey side extension. As such, despite the sensitive approach to the designing of the garage, this carries limited weight in the decision-making process.
17. The Council has raised no objection to the development on the basis of its effect on the character and appearance of the building or wider area. In addition, it considers the proposal would not harm the living conditions of other nearby residents or highway safety. From what I have seen and read I have no reason to come to a different conclusion in this regard. Furthermore, there are no neighbour objections or opposition from the Parish Council. However, these are neutral matters rather than carrying weight in favour of the scheme.
18. I note the appellant is willing to negotiate in terms of the floor area and height of the proposal in an attempt to reach a compromise which would allow the development to proceed. However, this is a matter for the Council. I can only determine the appeal on the basis of the plans on which the Council made its decision.
19. I acknowledge the appellant believes there were difficulties in communicating with the Council during the application period. However, these are not relevant

matters for the appeal process and in determining the appeals I have only had regard to the planning merits of the proposals. Furthermore, while larger housing developments may have been approved in the Council area on greenfield land, these are assessed differently to a household scale development in the Green Belt.

Whether very special circumstances necessary to justify the proposal exist

20. To conclude, the appeal proposal would be inappropriate development in the Green Belt, which would, by definition, be harmful to the Green Belt. It would also cause limited harm to the openness of the Green Belt. The Framework requires that substantial weight is given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. Despite having regard to all the other considerations put before me, I consider that taken together, the factors cited in its favour do not clearly outweigh the harm the scheme would cause. Consequently, very special circumstances do not exist, and the proposal would conflict with the Framework.

Conclusion

22. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Recommendation

23. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

C McDonagh

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR



Appeal Decision

Site visit made on 25 November 2019

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2019

Appeal Ref: APP/Z4718/D/19/3236930

56 Upper Clough, Linthwaite, Huddersfield HD7 5PF

- 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 Gareth Pickering against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/62/91503/W, dated 2 May 2019, was refused by notice dated 28 June 2019.
 - The development proposed is the erection of a single and two storey extension to rear of house and demolition of existing garage.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. The main issue in this appeal is whether the proposed development would preserve or enhance the character or appearance of the Linthwaite Conservation Area.

Reasons

4. The appeal property is positioned within a terrace located in the Linthwaite Conservation Area (CA). Within this part of the CA the age, architectural interest and repetition of the terraced housing appears, to me, to be an important component of its significance.
5. The proposed development would result in the removal of a single storey extension and flat roof garage which projects substantially to the rear. The proposed replacement would not project as far as the existing extension. However, it would be both wider and taller and would, in my view, be a disproportionate addition to the original building.

6. The appellant has planning permission for a smaller extension which would act as a fallback and could be built by the appellant. Moreover, there are a variety of other extensions on the rear elevation of the terrace group. Be that as it may, neither the approved extension or others in the terrace group are as substantial as the proposal before me now. There are also several large detached buildings to the rear of the terrace group with garages on the ground floor. However, these are visually divorced from the terrace and are not seen as physical extensions to the group unlike the proposal before me. In any case, I have considered the appeal proposal on its own merits.
7. The proposal would, in my view, appear as an overly dominant, unsympathetic addition which would have a harmful effect on the appearance of the rear of the host property and terrace group. Due to its rear location it would not be appreciated from wider public views within the CA. However, it would be seen from private views from other properties and from the rear access and parking area. Even cumulative and incremental localised changes of this kind can erode the character and quality of an area. As such, the proposal would not preserve or enhance the character or appearance of the Linthwaite CA.
8. Although in the context of paragraph 196 of the National Planning Policy Framework (the Framework), the resulting harm to the CA would be less than substantial. Any harm to the CA is a matter that attracts great weight, having regard to paragraph 193 of the Framework and the statutory duty to preserve or enhance CA's. In accordance with paragraph 196 of the Framework I must balance that less than substantial harm against the public benefits of the proposal.
9. I accept that the appellant is seeking to make an effective use of an existing dwelling, an objective which is encouraged by the Framework. I understand that extending the property might meet the appellant's need for increased accommodation. I agree with the appellant that the existing built form already projects substantially and unsympathetically to the rear of the original property. Its removal would therefore be a public benefit.
10. However, the existing extension is single storey and narrower than the proposal before me. As such, it does not dominate to the same extent as the proposal would. I therefore afford these benefits limited weight as the benefits to the public would be low. As such, I am not persuaded that these benefits outweigh the harm to the character and appearance of the property and the Linthwaite CA. Accordingly, the proposal would conflict with the requirements of the Framework and with policies LP24 and LP35 of the Kirklees Local Plan Strategy and Policies adopted 2019 which are concerned with the character and appearance of developments and, where relevant, developments within CA's.

Conclusion

11. I have taken account of all the other matters raised including the benefits of the proposed extension. However, none changes the balance of these findings and harm I have identified to the character and appearance of the Linthwaite CA. I therefore conclude that the appeal should be dismissed.

Robert Walker

INSPECTOR



Appeal Decision

Site visit made on 26 November 2019 by L Wilson BA (Hons) MA

Decision by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/Z4718/D/19/3237184

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Shahzad Akhtar against the decision of Kirklees Metropolitan Council.
 - The application Ref 2019/62/91842/W, dated 21 June 2019, was refused by notice dated 16 August 2019.
 - The development proposed is the erection of a garage.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The appellant stated on the appeal form that the proposed floor space of the garage would be 31 square metres. The appellant has confirmed that this is incorrect and that the proposed garage would measure 8.5 x 6.9 metres with a floor space of 58.65 square metres.

Main Issue

4. The effect of the proposed garage on the character and appearance of the street scene.

Reasons for the Recommendation

5. Brigsteer is a relatively new, substantial detached dwelling which has been extended. The appeal site is located next to the Church of Jesus Christ of Latter-Day Saints. Within the street scene are mainly large detached two-storey dwellings, set back from the highway, enclosed by high boundary walls and hedges.
6. Brigsteer sits higher than the highway and although the boundary treatment, namely the fence, hedge and retaining wall, partially screen the site, the first floor is particularly visible. The Council states that Brigsteer's porch has an overall height of approximately 3.7 metres which has not been disputed by the

- appellant. This provides a useful comparison as the garage would have an overall height of approximately 4.3m.
7. The appellant has submitted massing images to demonstrate that the garage would not be seen from the highway. At my site visit, I observed that a greater proportion of the dwelling is visible from Birkby Road than what is shown on the massing images. Therefore, I am not convinced that they show a true reflection of the site. Furthermore, they only show the site from one viewpoint.
 8. It is understood that the proposal has been amended to reduce its impact upon Birkby Road, and a planning officer had implied that a standard double garage would be acceptable. The appellant has calculated the percentage plot coverage in comparison to No 408. However, whilst the garage would not be disproportionate to the size of the plot, it would be very large with considerable bulk, and would be situated to the south eastern corner of the site, forwards of the host property. A drawing showing the finished floor levels of the garage has not been included and therefore I am not satisfied that the existing or proposed boundary treatment would screen the garage because of its width, height and siting. Accordingly, given my misgivings regarding the massing images based on my observations on site, I am of the view that the garage would be harmful to the character and appearance of the street scene due to its scale and massing.
 9. It has been drawn to my attention that the site is subject to a Compulsory Purchase Order (CPO). I have had regard to the submitted drawings and the appellant's statement which detail the impact of the highway improvements upon the scheme, including new boundary treatment. However, whether the CPO goes ahead or not, the proposal would result in a dominant domestic building sited adjacent to the highway which does not reflect the character and appearance of the area.
 10. I acknowledge that there are large buildings within the street scene, including the church and Maple Garden Flats. These buildings are set back from the highway so their impact upon the street scene is limited. Whereas the scheme would be seen as a large, prominent structure within the curtilage of a residential property.
 11. The appellant has highlighted other structures along Birkby Road which they consider to be similar to the proposal. I observed on my site visit that the majority of dwellings along Birkby Road are stepped back from the highway and do not have structures adjacent to the highway. There are limited examples of properties with a carport and garages adjacent to the highway. However, these are orientated so their depth is adjacent to the highway rather than the width in contrast to that proposed. As a result, these structures do not appear dominant within the street scene. Similarly, whilst the site is not within a conservation area, the use of matching materials would assist in integrating the garage within the street and the proposal would not adversely impact residential amenity or highway safety, these considerations do not overcome the adverse effects outlined above.
 12. For these reasons, I find that the proposed development would be visually harmful to the character and appearance of the street scene. Consequently, the scheme would conflict with Policy LP24(a) of the Kirklees Local Plan: Strategy and Policies (2019) and the National Planning Policy Framework. Collectively

these seek, amongst other matters, to promote good design and prevent development which harms the character and appearance of areas.

Other Matters

13. The site is located close to the Edgerton Conservation Area (CA). The highway provides a clear separation between the site and CA. Therefore, I too agree with the Council that the proposal would preserve the setting of the CA.
14. The appellant highlights that the accommodation would meet the needs of their family. The Planning Practice Guidance sets out that there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission¹. Personal circumstances rarely outweigh general planning considerations as the occupants of a dwelling can change whereas the development would be permanent.
15. I must have due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability or age. I do not doubt that the proposals would help accommodate the needs of the family. Nonetheless, this must be balanced with the significant adverse impacts of the proposal identified earlier.
16. In support of the appeal my attention has been drawn to other developments in the vicinity. I do not have the full details of these cases and so cannot determine whether the circumstances are comparable to the scheme before me.
17. Support from residents, a tree officer and highways officer are not considerations which outweigh the harm identified above. Similarly, I recognise that a number of the objections submitted are from the same households and I have had regard only to the planning merits of the case. The investigation regarding a Councillor's objection is a matter for the Council and has little bearing on the planning merits of the case.
18. Having carefully weighed the potential benefits of the scheme, I therefore consider that dismissal of the appeal is a proportionate and necessary response having regard to the legitimate and well established planning objective of protecting the character or appearance of an area.

Conclusion and Recommendation

19. For the reasons given above I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

¹ Paragraph: 015 Reference ID: 21a-015-20140306

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree and conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR



Appeal Decision

Site visit made on 3 December 2019

by **Sarah Manchester BSc MSc PhD MIEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 17th December 2019

Appeal Ref: APP/Z4718/W/19/3238001

Land at Kiln Hill, Slaithwaite, Huddersfield HD7 5JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Pogson against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/60/90372/W, dated 06 February 2019, was refused by notice dated 03 April 2019.
 - The development proposed is residential development (outline).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal relates to an outline proposal with all matters reserved for future consideration. Nevertheless, an indicative plan (ref 17-153-01C) was submitted to illustrate how 2 dwellings could be accommodated at this site in order to demonstrate that an acceptable scheme was capable of being advanced at the reserved matters stage. Notwithstanding the illustrative nature of the plan, in the absence of any other plans to demonstrate an alternative layout, I have therefore had regard to it.

Main Issues

3. The main issues are:
 - i) Whether the proposed development would preserve or enhance the Slaithwaite Conservation Area; and
 - ii) The effects of the proposed development on the living conditions of the occupiers of neighbouring residential properties and future occupiers.

Reasons

Character and appearance

4. The appeal site is a small area of hard surfaced land used for parking to the rear of a terrace of properties, including commercial premises, which front onto Manchester Road. The site is between 7 Kiln Hill and an industrial unit in a mixed residential and commercial area. It is within the Slaithwaite Conservation Area (the CA), the significance of which derives from the 19th century stone-built mill town with significant earlier buildings. The CA includes the historic mill buildings clustered around the River Colne and the canal

- together with associated historic residential areas, which are typically formed from modest terraced properties in matching styles and materials. In this context, the vacant appeal site to the rear of the commercial premises makes a negative contribution to the significance of the CA.
5. The indicative plan illustrates a pair of 3 storey semi-detached dwellings with integral garages, with reconstituted coursed stone walls, concrete roof tiles, uPVC windows and composite doors. The building would be located immediately adjacent to the rear boundary of the site and there would be off-street parking to the front. There would be no functional private outdoor space.
 6. The nearby terraced properties on Manchester Road and Kiln Kill have 3 and 4 storey rear elevations. However, this is a result of their hillside location and from the front they are nevertheless 2 storey dwellings. In contrast, the appeal building would be on relatively flat land, resulting in an isolated and tall building that would not be in keeping with the nearby terraced built form. Moreover, by virtue of its overtly modern design and materials, it would not relate well to the surrounding historic built environment. Notwithstanding its back lane location, it would be visible from the surrounding area. Consequently, it would be a conspicuous and uncharacteristic form of development that would not make a positive contribution to local distinctiveness or place making.
 7. Paragraph 184 of the National Planning Policy Framework (the Framework) emphasizes that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. In this regard, I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
 8. I appreciate that the scheme is in outline and the detailed layout and appearance would be reserved matters. However, the proposal does not demonstrate that it would preserve or enhance the character or appearance of the designated heritage asset. Moreover, no alternative plans have been provided to demonstrate any alternative scheme that would make a neutral or positive contribution to the townscape. Therefore, taking into account the importance of the heritage asset, I must adopt a precautionary approach in determining this appeal.
 9. However, the appeal scheme would be modest in the context of the CA as a whole. Consequently, it would result in less than substantial harm to the significance of the CA as a designated heritage asset. Paragraph 193 of the Framework is clear 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 irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
 10. Paragraph 196 of the Framework states that where a development proposal would lead to less than substantial harm to the significance of the heritage asset, that harm should be weighed against the public benefits of the proposals. The Planning Practice Guidance sets out that public benefits could be anything that delivers economic, social or environmental objectives as described in the Framework, and that they should be a benefit to the public at large and not just be a private benefit.

11. In this regard, the scheme would primarily deliver private benefits. It would make a minimal contribution to the delivery of housing and there would be similarly minimal economic and social benefits associated with the construction and occupation of 2 small dwellings in this location. On that basis, the public benefits would not outweigh the harm to the CA and the proposal would therefore conflict with the Framework.
12. By virtue of the harm to the CA, the proposal would conflict with the development plan including Policy LP24 of the Kirklees Local Plan Strategy and Policies Adopted February 2019 (the LP). This requires, among other things, that proposals should respect and enhance the character of the townscape and heritage assets.

Living conditions

13. The submitted plan indicates a 3 storey building in close proximity to the rear elevations of properties on Manchester Road which are in residential use, with the exception of the commercial premises. In the absence of evidence to the contrary, I must take a precautionary approach and assume that at least some of the windows in the facing rear elevations serve habitable rooms.
14. The indicative plan illustrates that the proposal would have rear-facing windows at both first and second floor levels. Some of these windows would serve bathrooms. However, the kitchen windows would allow relatively close overlooking between the appeal scheme and the facing rear windows of the neighbouring properties. Consequently, the proposal would result in a loss of privacy. Furthermore, by virtue of its close proximity and height, the proposal would be an overbearing form of development and it would result in a poor outlook from the rear habitable room windows of the neighbouring properties.
15. The proposal would be set at an oblique angle relative to the adjacent property, 7 Kiln Hill, which is in a slightly elevated position and separated from the appeal site by a walled brook. Although the plans suggest that there would be no direct overlooking between the properties, by virtue of its height and proximity, the 3 storey blank gable end would be likely to appear overbearing and it would diminish the outlook from the rear of No 7.
16. The proposal would not provide any functional private outdoor space for future occupiers. I appreciate that traditional terraced properties in the area do not have large gardens. However, they generally have some outdoor space to meet the basic needs of occupiers. In this case, in the absence of outdoor space, the proposed modern dwellings would fail to provide an adequate standard of living conditions such as future occupiers might reasonably expect. In this regard, the presence of public open space elsewhere in the area does not meet the reasonable basic amenity needs of future occupiers.
17. I acknowledge that in the absence of detailed plans, it is not possible to fully consider the impacts of any future scheme on neighbouring or future occupiers. However, the evidence before me does not demonstrate that the proposal could be accommodated at this site without adverse impacts on the living conditions of residential occupiers. Moreover, given the constraints of the site, there is nothing before me to demonstrate that an alternative scheme could be brought forward which would not conflict with the development plan.

18. Therefore, the appeal proposal fails to demonstrate that significant adverse impacts on the living conditions of the occupiers of neighbouring properties would be avoided, with particular regard to outlook and overlooking. It has also not been demonstrated that the proposal would provide adequate living conditions for future occupiers, with particular regard to overlooking, privacy and private outdoor space. The proposal would conflict with Policy LP24 of the LP which requires, among other things, that development provides a high standard of amenity for future and neighbouring occupiers, including through maintaining appropriate distances between buildings. It would also conflict with the policies in the Framework that relate to health and well-being and standards of residential amenity.

Other Matters

19. The appeal site is in a suitable location for residential development, having regard to the accessibility of services and facilities including sustainable forms of transport. While this would be a small benefit, there are likely to be other equally accessible sites where new residential development could be delivered without conflict with the development plan. This is not therefore a matter that outweighs the harm that I have found.

Conclusion

20. I have concluded that the scheme would conflict with the development plan and there are no other considerations that outweigh that conflict. For this reason, the appeal should be dismissed.

Sarah Manchester

INSPECTOR



Appeal Decision

Site visit made on 18 September 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2020

Appeal Ref: APP/Z4718/W/19/3232185

Land adjacent to Thick Hollins Road, Meltham, Huddersfield

- 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 Turner Brothers Farm against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/93112/W, dated 23 September 2018, was refused by notice dated 6 March 2019.
 - The development proposed is the use of land for the siting of 4 log cabins to be used as holiday lets.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The site visit was unaccompanied.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies and the effect on the openness of the Green Belt;
 - whether the proposal would result in other harm, namely development in an unsuitable location given the range of transport options available to access local services; and
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal?

Reasons

The site and proposal

4. The site is located a short distance from Thick Hollins Road, to the south of Meltham. The site is within open countryside and an area of maturing plantation. Access to the site would be gained via a new access from Thick Hollins Road, which is subject to a separate approval.

5. The proposal is to site 4 log cabins within the plantation for tourist accommodation. The log cabins would be modest in appearance with timber walls, low pitched roofs and range in size between 3 and 4 bedrooms.

Inappropriate development and effect on openness

6. The site is located within the Green Belt. Paragraph 145 of the Framework sets out the exceptions under which a new building should be regarded as not comprising inappropriate development. Policy LP10 of the Kirklees Local Plan Strategy and Policies¹ (the Local Plan) does not repeat the Framework exceptions but is clear that in all cases where development is proposed in the Green Belt, regard must be had to national planning policies.
7. The Framework states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of green belts are their openness and their permanence.
8. It is not disputed that the proposal comprises inappropriate development. Although the proposed log cabins would be partially screened by the existing planting, which would be likely increase over say the next 5 – 10 years as the trees mature further, there would be a significant impact on the openness of the Green Belt in both visual and spatial terms. This would inevitably arise from the development, given the size and layout of the 4 log cabins which would significantly reduce the openness of this part of the Green Belt by introducing buildings.
9. The increased use of the access road would have an effect on openness. At the present time the approved access would permit entry to the agricultural land and the woodland for maintenance purposes. Were the appeal proposal to proceed it would allow the comings and goings of visitors using the log cabins. It is reasonable to assume that this activity would be greater than the agriculture and woodland use alone, and would require the provision of visibility splays on the main road, all with a consequent increased effect on openness.
10. The parking of visitor cars, and the normal outside paraphernalia such as barbecues and washing lines would, in addition to the cabins themselves, further erode the sense of openness at the site to a significant degree.
11. The proposal would therefore reduce openness and constitute inappropriate development, which the Framework establishes should not be approved except in very special circumstances. It would therefore also conflict with Policy LP10 of the Local Plan which requires proposals in the Green Belt to comply with national policy.

Any other harm

12. The site is not well served by public transport and it is likely that visitors to the proposed accommodation would need to use the private car for most journeys, even though some trips would be possible by other modes, for example cycling.
13. The relevant Local Plan policies are LP3 – Location of new development and LP10 – Supporting the rural economy. It is clear from the justification for Policy

¹ Adopted 27 February 2019

LP3 that it relates principally to proposals for employment and housing development, rather than tourism related accommodation. In the case of LP10, the policy justification states that it is not intended to prevent businesses, or in the case of farm diversification tourist related developments, from locating in the Green Belt where there is genuine need. Whilst the appellant states that it would be difficult to find another site not within the Green Belt for the type of development, I have no evidence before me to demonstrate that this would be impossible, therefore I do not find that genuine need has been proven.

14. Were the proposal to be for open market housing, the site would be an unsuitable location due to the lack of transport options other than using the private car. However, it is likely that the travel patterns of tourists would be very different to residents, and I am not persuaded that in principle the site would be unsuitable solely due to the limited range of transport options to access local services.

Other Considerations

15. The Framework² seeks to support a prosperous rural economy, including the development of tourism in suitable locations that respect countryside character. The proposal would allow diversification of the appellants' farm business, utilising land that currently has no usefulness for agriculture. It could also be argued that use for tourism accommodation would represent a more efficient use of the land and that the form of development proposed, log cabins, would be sympathetic to the woodland setting.
16. Tourist accommodation would be provided in an attractive countryside location and relatively close to the villages of Holmfirth and Meltham and close to the Peak District National Park. There is no good reason to take the view that the proposed accommodation would not be successful in attracting visitors although the appellants have not submitted a business plan or assessment of the demand for such accommodation in support of the proposal.
17. The opportunities to provide the form of development within the area, but not within the Green Belt, may be limited, although I am not able to say that there are no suitable sites within the settlements of Meltham or Holmfirth.
18. Furthermore, the proposed tourist accommodation would bring trade to local businesses from visitors, helping to support village centres and facilities.
19. The Council has recently consented development at the Holmfirth Winery, within the Green Belt which it is suggested has a significant effect on openness. I have no specific information on the case, however it is clear that it is a different type of development to the proposal.
20. Local Plan Policy LP10, in principle, is supportive of the development of tourist accommodation and farm diversification whilst recognising that where development is proposed in the Green Belt regard must also be had to both national and local planning policy which seeks to protect the Green Belt.

The Green Belt Balance and Conclusion

21. I have found that the proposal would be inappropriate development in the Green Belt and that it would erode the openness of the appeal site.

² National Planning Policy Framework February 2019 paragraph 83

22. The Framework sets out that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness or any other harm resulting from the proposal, is clearly outweighed by other considerations.
23. In the current case the considerations advanced in support of the scheme carry significant weight in its favour. There would be some economic benefits arising out of the proposed development, to which I attach moderate weight. However, these would not clearly outweigh its Green Belt harms, matters which attract substantial weight. For these reasons, it has not been demonstrated that very special circumstances exist which would justify the proposed development.
24. In addition, I have found conflict with the Framework and the aims of Policy LP10 of the Kirklees Local plan which taken together, and amongst other matters seek to protect the openness and permanence of the Green Belt.
25. No material considerations justify a decision other than in accordance with the development plan, with which the proposal would conflict. Accordingly, for the reasons set out above, and the appeal is dismissed.

Tim Wheeler

INSPECTOR



Appeal Decision

Site visit made on 10 December 2019

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2020

Appeal Ref: APP/Z4718/W/19/3237550

12 Clough Head Farm, Clough Head, Slaithwaite Gate, Bolster Moor, Huddersfield HD7 4NW

- 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 Coates against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/93768/W, dated 12 November 2018, was refused by notice dated 16 July 2019.
 - The development proposed is alterations and extensions to agricultural building to form dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development given on the planning application form and appeal form differs. I have used the description from the planning appeal form which more accurately describes the proposal.
3. The appeal site was the subject of a recent proposal which was dismissed on appeal¹ (the previous appeal). In determining the previous appeal, the Inspector was not satisfied that the building was of substantial construction and capable of conversion as proposed. The Inspector subsequently dismissed the appeal concluding that very special circumstances had not been demonstrated. The proposal before me is almost identical to the scheme proposed under the previous appeal. The main difference is that the current proposal has been submitted with a Structural Report and the adjacent agricultural building is proposed to be removed.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt; and

¹ Appeal Ref: APP/Z4718/W/18/3197747

- if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

5. The appeal building is a timber clad agricultural building situated in the Green Belt. A second, somewhat dilapidated, agricultural building is positioned in close proximity and would be removed as part of the application. Paragraph 146 d) of the National Planning Policy Framework (the Framework) outlines that the re-use of buildings, provided that the buildings are of permanent and substantial construction are a form of development which are not inappropriate in the Green Belt. This is provided that the development preserves the openness, and does not conflict with the purposes, of including land within the Green Belt.
6. Criterion a) in Policy LP60 of the Kirklees Local Plan Strategy and Policies (LP) document adopted 2019 has similar wording to the Framework with respect to the building's structural integrity. The Council consider that the development of the building would be inappropriate within the Green Belt because it has not been demonstrated, to the satisfaction of the Council, that the existing building is sufficiently substantial to be converted. There is no dispute between the parties that the building is permanent.
7. The proposal seeks to retain the existing timber frame, timber floor beams, brickwork pillars, concrete block external walls, timber roof trusses and timber wall cladding. The proposals seek to replace the roof and the external walls would be boarded over with new timber boarding. A new lining wall would be constructed to create a cavity wall but would not require a foundation.
8. The Structural Report submitted with the application advises that the roof is supported on king post trusses spreading the load to the two side walls. However, there is no substantive evidence regarding the condition of the timber frame. Instead the report is based on a combination of an inspection and assumptions that the timbers and joints are in a good condition or that essential repairs would be undertaken as part of the scheme.
9. The appellant suggests that the introduction of new load bearing walls being built within the existing building envelope will decrease the loads. However, if such features are necessary then this would further question the capacity of the existing structure to be converted.
10. The external timber boarding is said to contribute to the building's structural integrity. However, there is no substantive evidence before me as to whether the over-boarding of new timbers would impact upon the structural integrity of the existing timber boarding.
11. Irrespective of whether strengthening works could be undertaken as part of the maintenance of the building or whether such works are defined as development or not, the provision of internal strengthening works to the timber frame is intrinsically linked to whether the building is capable of conversion as part of the proposal in this case.

12. There appears to be agreement between the Council and the appellant's structural engineer that in order to quantify and evidence the state of the timber frame, a specialist condition report would be needed. This would consider the proposed additional loading from an intermediate floor including all dead and live loadings. I recognise that the building has been used for storage of hay which may well be of a greater loading than the proposed domestic loading. Whilst such a conclusion may give some confidence to its structural integrity, it does not, in my view, overcome the need to substantiate and provide quantifiable evidence.
13. Given that the roof is to be replaced and a new gable wall is to be erected as part of the proposal it is necessary to ensure that remaining structural elements are retained so that incrementally the works required to convert the building to a dwelling do not amount to a substantial reconstruction.
14. Based on the evidence before me, I cannot therefore be satisfied that the building is of substantial construction. The proposal would, therefore, fail to fall within the exception listed in paragraph 146 d) of the Framework which results in the proposal being inappropriate development in the Green Belt. It would also, therefore, conflict with Policy LP60 of the LP which normally accepts the re-use and conversion of buildings in the Green Belt where the building is of permanent and substantial construction.

Openness

15. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. This openness is an essential characteristic of the Green Belt and has a spatial and visual aspect.
16. The alterations proposed to the barn would result in a shortening of one end of the building and a small veranda and canopy. In determining the previous appeal, the Inspector concluded that the proposal would have a neutral effect on openness. As the current proposal also incorporates the loss of the other agricultural building, I conclude that overall there would be no impact on openness. It would therefore not undermine the purposes of the Green Belt.

Other Considerations

17. Paragraph 144 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh the harm.
18. The proposal would deliver an additional dwelling and therefore have some economic and social benefits with local employment likely to be used for the conversion work. A net gain of a single dwelling would only have a limited impact in the context of the overall housing supply, and I attach limited weight to the benefits in that regard.
19. The proposal would re-use a building, which would have environmental benefits and I note that the dwelling would incorporate sustainable features such as energy saving lights. However local and national planning policy would expect development to be built sustainably and that is not a matter that attracts substantial weight over and above what would normally be expected.
20. I recognise that there are bus connections to Huddersfield close to the appeal site. However, it is likely that there will be a general reliance on private car

trips given the location of the appeal site in comparison to services and facilities in the area.

Other Matters

21. The Council does not consider that the proposal would harm the setting of any listed building in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The nearest listed building is to the north of the appeal site on an elevated position. Although the listed building has windows facing toward the appeal site, the proposal has been designed to maintain its existing agricultural vernacular and, in this respect, it would sit comfortably in the landscape. Although visible, it would not cause harm to the setting of this listed building.

Conclusion

22. As explained above, I cannot be satisfied that the building is of substantial construction. The proposal would, therefore, fail to fall within the exceptions listed in paragraph 146 d) of the Framework which results in the proposal being inappropriate development in the Green Belt. It would also, therefore, conflict with Policy LP60 of the LP.
23. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt. Substantial weight should be given to the harm to the Green Belt by reason of inappropriateness. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
24. No other harms have been identified in this case. I give only limited weight to the benefits of this single dwelling and I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
25. I therefore conclude that for the reasons above, and having regard to all matters before me, the appeal should be dismissed.

Robert Walker

INSPECTOR



Appeal Decision

Site visit made on 17 December 2019

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2020

Appeal Ref: APP/Z4718/W/19/3238283

7 East Street, Jackson Bridge, Holmfirth HD9 1HY

- 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 Nigel Heeley against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/62/91350/W, dated 13 April 2019, was refused by notice dated 20 June 2019.
 - The development proposed is the construction of a detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The plans submitted with the planning application have formed the basis of my consideration of the appeal. However, the appellant has submitted a block plan showing parking for No 7 East Street. This seeks to address the Council's concerns regarding the parking arrangements for the proposed development.
3. I am conscious that the appeal process should not be used as a means to progress alternatives to a scheme that has been refused. However, where amendments are proposed, regard should be had to whether the amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity.
4. In this case, the amendments would alter the external layout of the site to accommodate a parking space for No 7 East Street. This relates to one of the reasons for refusal, but it has not been subject to public consultation through the application process. Taking this into account, I cannot be certain that there would not be any prejudice to any party should I accept the amended plan at this stage. As such, in the interests of fairness and natural justice, I have considered the appeal based on the plans which formed the basis of the Council's decision.

Main Issues

5. The main issues in this appeal are:
 - Whether or not the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;

- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the use of the public house garden and the quality of the community facility; and
- The effect of the proposed access and parking arrangements on highway and pedestrian safety;

Reasons

Inappropriate development

6. Paragraph 143 of the Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There are exceptions to this general restriction and paragraph 145 (e) advises that the construction of new buildings comprising limited infilling in villages should not be considered inappropriate development. Another of these exceptions is the redevelopment of previously developed land (paragraph 145 (g)).
7. Policy LP59 of the Kirklees Local Plan Strategy and Policies (LP) adopted 2019 accepts some infilling on brownfield land in Green Belts subject to a number of criteria. The appeal site appears to form part of the garden associated with No 7 East Street in Jackson Bridge. The definition of brownfield sites or previously developed land in the Framework excludes land in built-up areas such as residential gardens. The appeal site is positioned with a Public House on the upper slope to the rear. It is located within Jackson Bridge and there are a number of houses to the east, south and west of the site. It is therefore, in my view, located within a built-up area and would not constitute previously developed land. As such, the proposal would not fall to be assessed against Policy LP59 of the LP or paragraph 145 (g) of the Framework.
8. The Council considers that Jackson Bridge is not a village for the purposes of paragraph 145 (e) of the Framework. However, neither the Framework nor the LP give a definition of what constitutes a village.
9. During the site visit I was able to observe 2 Public Houses, a bowls club and graveyard. These would all be within walking distance of the development proposed. Whilst the settlement may not have a defined core in terms of its layout, that is often the case for many villages, and it is not necessarily a decisive factor. Whilst I recognise that there are no shops or schools at Jackson Bridge, given the existing facilities and number of houses, I am satisfied that it can be considered a village for the purposes of paragraph 145 (e) of the Framework.
10. I recognise that the proposal may not be within a continuously built up frontage and is set back from East Street. However, it would be located close to the end of the row of housing to the east, the public house and its garden and other residential properties and their grounds to the west. Moreover, due to the size of the site and as a single residential dwelling is sought, it would, in my view, constitute limited infilling within the village of Jackson Bridge. It would therefore accord with paragraph 145 (e) of the Framework. As such the proposal would not be inappropriate development within the Green Belt.
11. As I have found that the proposal is not inappropriate development in the Green Belt and as no other potential harm to the Green Belt has been

identified, it is not necessary for me to consider whether any very special circumstances exist.

Character and appearance

12. Jackson Bridge is characterised by stone built, predominantly 2 and 3 storey properties often in terrace groups. No 9 East Street is a 3 storey property which steps down to No 8 and 7 which are 2 storey. They are built backing on to Sheffield Road which is on a higher ground level. East Street also slopes down to Hepworth Road, and due to a combination of the scale of properties and change in topography, the built form appears generally to step down with the slope.
13. The proposed dwelling would be detached from, but adjacent to, the end of a row of properties. It would appear significantly taller than No 7 and would fail to harmonise with the prevailing pattern of the built form as it steps down the slope. Moreover, the extent and style of the proposed windows on the western and southern elevation would contrast with the fenestration associated with the housing along East Street. As such, the combination of the scale and design would appear contrived in this location. I recognise that large openings are not uncommon in agricultural and industrial buildings within the area. However, the building's form and appearance would not reflect either of this type of building and as such this does not outweigh my concerns.
14. Whilst variation can add interest to an area, in my view, the proposal would fail to reflect the architectural vernacular of Jackson Bridge and in particular the housing along East Street. It is the resulting relationship of the proposed development within the immediate street scene which leads me to conclude that the proposal would appear as a discordant feature.
15. I therefore conclude that the proposal would result in harm to the character and appearance of the area. As such, the proposal would conflict with the requirements of Policy LP24 of the LP which seeks to achieve good design in developments.
16. Policy LP24 of the LP is consistent with the provisions of the Framework. I therefore conclude that the proposal would conflict with chapter 12 and in particular paragraphs 127 and 130 of the Framework which broadly seek to secure high quality design.

Public house

17. The proposal would be positioned close to the garden of the Red Lion Public House. This lies to the north of the appeal site on a higher ground level separated from the appeal site by the public right of way (PROW). The garden includes a range of seating areas and is an attractive space which I'm advised is used to host events such as live music on occasions.
18. The proposed house would be dominant from the garden, although it would be on the lower ground level and so the full scale of the property would not be fully appreciated. In this respect, although it would alter the view, I do not consider that it would appear oppressive from the higher ground level.
19. The proposal would be to the south of the garden and I have no substantive evidence regarding the extent of any overshadowing. Considering the orientation, height of the sun, location of the PROW in between, change in

topography and height of the proposed dwelling, any shadowing effect is not likely to be substantial overall.

20. There are no other neighbouring properties that have such a close relationship to the garden at present as the proposal would. Noise from the garden would likely be evident from within the proposed dwelling due to its height, close proximity to windows and lack of buffer. This would be particularly the case in the summer when the garden would be most intensively used and when the property is most likely to have its windows open.
21. Although the Council's Environment Services did not object, at such close proximity I consider that the proposal would result in an unacceptable level of noise and disturbance to the occupants of the proposed dwelling. This would in turn have an adverse impact on the use, function and enjoyment of the Public House garden and the quality of this community facility. It would subsequently conflict with the requirements of Policy LP48 of the LP which, amongst other things, supports development that protects or enhances the quality of existing community facilities.

Highway and pedestrian safety

22. The proposal incorporates an integral garage for the occupiers of the proposed property. However, it would result in the loss of a single parking space and garage. East Street has no parking restrictions in place. Many of the properties in the village appear to have no off-street parking and park on-street. Moreover, there is no substantive evidence before me as to whether there is an existing problem with the capacity of on-street parking.
23. At the time of the afternoon site visit there was limited on-street parking occurring along East Street or the wider village. Where there were parked vehicles, the carriageways were sufficiently wide to enable other vehicles to pass. I recognise that my site visit represented a snapshot in time and the level of parking would likely be different in the evenings and weekends. Moreover, the proposal would increase on-street parking as the existing parking space and garage would not be compensated for. However, I have no substantive evidence that this would result in an adverse effect on highway or pedestrian safety.
24. The existing garage and parking space at the appeal site means that vehicles either need to reverse in or out. East Street appeared to be a reasonably quiet road with vehicles not travelling at a high speed. There is no evidence before me that the existing parking layout has resulted in any highway or pedestrian safety issues. Although it has not been demonstrated whether it is possible to enter and exit in a forward gear, given the existing parking situation and the nature of East Street I am satisfied that the proposed parking arrangements would not have an adverse effect on highway or pedestrian safety.
25. A PROW passes the site boundary and access point and the Council's Highway's Officer requested further information during the application. However, it did not object on this basis and suggested that this information could be provided by conditions. Such information included, amongst others, details of refuse collection points and measures to protect the PROW during construction. As there is an existing parking space and garage, I do not consider that there would be a significant intensification of activity along the PROW from the proposed dwelling. Moreover, I consider that if I was minded to allow the

appeal, such details could be reasonably reserved by way of a condition and I note the Council's suggested conditions on this matter.

26. I therefore conclude on this matter that the proposed access and parking arrangements would not result in an adverse effect on highway or pedestrian safety. The proposal would therefore comply with Policies LP21 and LP22 of the LP which require, amongst other things, development to achieve satisfactory access and appropriate parking arrangements. The proposal would also comply with paragraph 109 of the Framework which seeks to ensure that development does not have an unacceptable impact on road safety.

Other Matters

27. The Council does not consider that the proposal would harm the setting of any listed building in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I have no reason to disagree with this conclusion. Moreover, given my findings on the character and appearance of the area, it is the relationship with No 7 and the prevailing pattern and character of built form in the area that is of concern and not, the specific relationship to any other individual property in Jackson Bridge.
28. I recognise that the proposal would incorporate sustainable features such as a electric car charging point and would provide an additional home to the local housing market. However, planning policy expects housing to be built sustainably and that is not a matter that attracts substantial weight over and above what would normally be expected. Moreover, a net gain of a single dwelling would only have a limited impact in the context of the overall housing supply, and I attach limited weight to the benefit in that regard.
29. I have had regard to other matters raised including the effects on the living conditions of the future occupiers of the proposal and neighbouring properties, drainage, flood risk, loss of trees and any damage or disturbance during construction. However, as I am dismissing the appeal on other grounds, I have not pursued these matters further.

Conclusion

30. The proposal would represent limited infilling in a village and consequently would not be inappropriate development in the Green Belt. Moreover, I am satisfied that the proposed access and parking arrangements would not result in an adverse effect on highway or pedestrian safety. The proposal would not result in significant overshadowing of the adjacent Public House garden or appear overly oppressive from it.
31. However, the lack of harm in those respects and the limited benefit I afford to an additional residential unit does not outweigh the significant harm I have identified to the functioning of the Public House garden and harm to the character and appearance of the area.
32. For these reasons, and having had regard to all matters raised, the appeal is dismissed.

Robert Walker

INSPECTOR



Appeal Decision

Site visit made on 7 January 2020

by **E Maund BA (Hons) MSc Dip UP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th January 2020

Appeal Ref: APP/Z4718/W/3235295

Os 45-47 New Street Huddersfield HD1 2BQ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Infocus Public Networks Limited against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/91619, dated 15 May 2019, was refused by notice dated 8 July 2019.
 - The development proposed is the installation of a Communication Hub.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. In the interests of clarity and precision I have amended the description of development from that presented on the appeal form to that described by the Council in its report.
3. As an electronic communications code operator, the appellant benefits from deemed planning permission for development for the purpose 'of the operator's electronic communication network' under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), subject to prior approval by the local planning authority of siting and appearance. The provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. The appellant applied to the Council on that basis.
4. As the principle of development is established, considerations such as need for the hub are not a relevant matter. The Council determined that prior approval was required and refused. Accordingly, the main issue is set out below.

Main Issue(s)

5. The main issues in this case is the effect of the siting and appearance of the development on;
 - (a) the character and appearance of the Huddersfield Town Centre Conservation Area (HTCA);

- (b) the character and appearance of the surrounding area more generally; and
- (c) the setting of the adjacent Grade II Listed Building 42-48 New Street.

Reasons

6. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have taken account of the policies of the development plan and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance. Those relevant are policies LP21, LP24(a), LP35 of the Kirklees Local Plan February 2019, which taken together are concerned with the effect of development on the appearance, highway safety and environment of Kirklees.
7. Paragraphs 91 and 92 of the Framework seek street layouts that allow for easy pedestrian and cycle connections, are safe and accessible, have the use of clear and legible pedestrian routes with layouts that encourage walking, and which plan positively for the shared use of public space. Paragraph 112 supports the development of communications infrastructure noting "it is essential for economic growth and social well-being." However, the Framework also refers to appropriate design, character and appearance and pedestrian movement in paragraph 127 seeking to ensure amongst other things that developments add to the quality of the area, are visually attractive, are sympathetic to the local character, establish a strong sense of place and create accessible places.
8. The hub is designed as a free-standing structure 2.6m high and 1.3m wide, with a total depth of 0.9m including the glass canopy. It would comprise of a mild steel casing, powder coated in metal chain grey with a glass canopy with solar panel on the roof. This would incorporate both a telephone, LCD touch screen and other means of electronic communications.

The character and appearance of HTCA

9. The site of the proposed hub is on part of the pedestrianised street in the centre of Huddersfield. New Street is a wide pedestrianised street lined by a mixture of retail and commercial properties typical of a town centre location. The position proposed for the hub is adjacent to a litter bin but set 3.4m from the façade of the front of the buildings on the eastern side of New Street, opposite the entrance to the Imperial Arcade.
10. In the vicinity of the proposed hub whilst there is a line of bollards running parallel with the front of the adjacent properties it has a feeling of spaciousness as street furniture is largely absent in this immediate locality which I consider is a positive factor in contributing to the character and appearance of this part of the HTCA. The proposed hub at 2.6m high and 1.3m wide would introduce a large structure into the street reducing this sense of openness and as a consequence detracting from the character of the area.
11. The introduction of the proposed hub in this location would fail to preserve the character and appearance of this part of the HTCA.

The character and appearance of the area more generally

12. I do not agree with the Council that the introduction of the hub in this location would create an unsightly degree of street clutter in this particular part of New Street as referred to above in this specific location there is a sense of spaciousness due to the lack of street furniture. To this extent it is not cluttered in my view, nevertheless the proposed development would introduce a further element of street furniture into the currently spacious vista which I consider harms the character and appearance of the street to the detriment of the character and appearance of Huddersfield New Street.

The setting of 42-48 New Street

13. The spaciousness of this part of the street currently allows uninterrupted views of the façade of the 42-48 New Street a Grade II Listed Building. Whilst the hub would be outside of this property it would be set some distance away towards the opposite side of the street and would not in my view be particularly noticeable when viewing this façade and I do not therefore consider the development proposed would adversely affect the setting of this Listed Building and in this respect I do not find that the scheme would harm the setting of this Listed Building.

Planning Balance

14. The Framework at paragraph 193 requires consideration of the impact of a proposed development on the significance of a heritage asset recognising that great weight should be given to the asset's conservation. In this case I have found that the siting and the appearance of the proposed hub would lead to less than substantial harm to the conservation area.
15. Whilst the proposed hub would utilise a solar panel and has been designed to limit the potential for crime and allow easy wheelchair access, I consider that the siting and appearance of the development would harm the character and appearance of the surrounding area and fail to preserve or enhance this part of the HTCA, these benefits would not outweigh or prevent the harm identified in relation to the main issue and consequently do not meet the tests set out in paragraph 196 of the Framework.

Conclusion

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

Edwin Maund

INSPECTOR



Appeal Decision

Hearing Held on 3 September 2019

Site visit made on 3 September 2019

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2019

Appeal Ref: APP/Z4718/W/19/3229696 Land off Carr Top Lane, Golcar HD7 4JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Brierstone Carr Top Ltd. against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/61/92848/W, dated 31 August 2018, was refused by notice dated 30 November 2018.
 - The development proposed is Reserved matters application for erection of 19 dwellings pursuant to outline permission 2015/90507 for outline application for residential development (within a conservation area).
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Decision

1. The appeal is allowed and the reserved matters are approved, namely appearance, landscaping, layout, and scale, details submitted in pursuance of condition Nos 1 and 2 attached to planning permission Ref 2015/90507 dated 9 September 2016. The approval is subject to the conditions set out in the attached schedule.

Application for Costs

2. At the Hearing, an application for costs was made by Brierstone Carr Top Ltd against Kirklees Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development set out in the banner above has been taken from the appeal form rather than the original application form. This is because it is a more precise description and I note that it was amended in the same manner by the Council when determining the proposal. In making this change, I am satisfied that it does not affect the interests of the main parties.
4. Since the determination of the application, the Kirklees Local Plan, Strategy and Policies (February 2019) (LP) has been adopted and the relevant policies against which the appeal should be assessed is common ground between the parties. The appeal site is also allocated for housing within the Kirklees Local Plan Allocations and Designations (February 2019).

5. The appeal site was granted outline planning permission for residential development in 2015¹. As part of that permission, all matters other than access were reserved for future consideration. Subsequent to the outline permission, reserved matters approval was granted in 2017 for the erection of 16 dwellings² and that development has commenced. In addition, an application to remove conditions 5 and 6 from the original outline permission was made in June 2018³. These conditions relate to the provision of public open space (POS) and affordable housing, and the application sought their removal on the basis of viability. The application was accompanied with a financial appraisal which concluded that the development was unviable but the application was refused.

Background

Unilateral Undertaking

6. The proposal was partly refused due to its lack of provision of affordable housing and POS. Consequently, in advance of the hearing, it was the intention of the parties to provide a completed agreement under Section 106 of the Town and Country Planning Act 1990. The evidence suggests that this would have taken the form of 2 separate agreements. In relation to the POS, the first agreement would have related to the existing reserved matters consent for 16 dwellings and the payment of a POS contribution of £86,421. The second agreement would require the payment of a 'top-up' sum of £7,935. In total, a POS contribution of £94,356 would be paid across the 2 developments. The agreements would also have made provision for 3 affordable houses. Despite these intentions, the agreements were not completed in advance of the hearing.
7. Since the hearing, and in accordance with an agreed deadline, a draft Unilateral Undertaking (UU) has been submitted. This makes provision for the full POS contribution as well as 3 affordable houses. However, it remains in draft form due to concerns from the Council in relation to the phasing of payments for the POS contribution, as well as in relation to the proposed affordable housing units. Due to its draft form, the UU has not been afforded any weight in my assessment of the appeal.

Viability

8. As identified above, the site benefits from outline planning permission for the erection of 16 dwellings but a financial appraisal in relation to that permission concluded that the development was unviable. In addition, a further appraisal for the appeal scheme on behalf of the appellant arrives at the same conclusion.
9. Based on the evidence before me, the appellant considers the benchmark land value (BLV) of the appeal site to be £1.05 million. This value is taken directly from the DCLG document 'Land value estimates for policy appraisal' (December 2015). However, this document is clear that the values are based purely on desk-based assumptions and do not include policy compliant planning obligations. In addition, the document states that the figures provided are appropriate to a single, hypothetical site and should not be taken as appropriate for all sites in the locality.

¹ 2015/60/90507/W

² 2017/61/91173/W

³ 2018/92044

10. The DCLG document does provide some consistency in relation to levels for profit, professional fees, marketing costs and finance costs, however, the rest of the information is not site specific. Consequently, due to the desk-based approach and because development costs associated with policy compliant proposals have not been factored in, I attach very little weight to the appellant's BLV.
11. The Council's appraisal of the 16 unit scheme suggests that the BLV should be based on values of between £110,000 to £220,000 per acre. Given the size of the site at 0.72 hectares (1.78 acres), the BLV is therefore suggested to be in the region of £195,800 to £391,600. The BLVs provided by the two parties are therefore significantly removed from each other. However, despite this large divergence, both sets of evidence conclude that when factoring in policy compliant planning obligations, the residual land value (RLV) of the 16 unit scheme provides a negative value. The Council's consultant initially arrived at a figure of -£389,306 and the appellant has provided a figure of -£301,099.
12. Much of the reason for the negative RLV relates to the abnormal construction costs that are due to the sloping topography of the site. The levels are such that they require the provision of retaining walls and piled foundations, as well as increased costs in relation to drainage. When querying these costs, the Council's advisors were satisfied with the information received and as a consequence, the RLV reduced to -£426,640. Notwithstanding this advice from their independent consultant, the Council did not endorse their conclusions. In addition, the Council did not seek advice in relation to the findings of the appraisal for this development which the appellant suggests has a policy compliant RLV of -£188,454.
13. The Council consider that because the development has commenced and because the viability of the scheme was not raised at any previous stage, including when the site was promoted for allocation in the LP, the scheme is unlikely to be unviable. Moreover, it is suggested that because the current proposal would likely yield a larger gross development value, it is less likely to be unviable than the 16 unit scheme.
14. The Planning Practice Guidance (PPG) provides clear advice in relation to the viability of development. It confirms that it is the responsibility of site promoters to engage in plan making and to take into account any costs, including risk, to ensure that proposals for development are policy compliant. However, it also states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Such circumstances could include instances where further information on site costs is necessary.
15. The abnormal costs of the construction work place a financial burden on the development. Whilst such matters could perhaps have been raised earlier in the promotion of the site, there is nothing in the evidence that suggests that these abnormal costs are unreasonable. Furthermore, despite the Council disagreeing with the conclusions in relation to the viability of the scheme, no compelling evidence has been provided to support or substantiate their views. Instead, their views appear to be primarily based on assumptions and assertions that the development is viable because work is ongoing. Although work continues on site, this by itself cannot be used as a reason to ignore viability evidence that has been independently scrutinised. Development

viability is a complex matter and a commercial decision of a developer to continue work on site should not indicate that the findings of a financial appraisal should be automatically questioned.

16. The financial evidence before me has different inputs and costs and the appraisals seek to benchmark against wildly different values. However, the RLVs provided in both sets of evidence demonstrate that the proposal is not a viable proposition. The PPG is quite clear in the way that viability should be assessed. Whilst it was done later than might be expected, and despite my reservations with the BLV, based on the evidence before me, I am satisfied that the appellant has conducted their appraisal in the correct manner. Furthermore, the independent advice provided to the Council also adds weight to my findings that the development is not viable. Consequently, based on the evidence that I have before me, I am satisfied that the development is not financially viable. I have therefore assessed the proposal on this basis.

Main Issues

17. The main issues are:

- i) whether the proposal would make suitable provision for affordable housing, having regard to the requirements of the development plan;
- ii) whether suitable provision is made for POS, having regard to the financial viability of the proposed development, as well as the requirements of the development plan, and if not, the effect of any lack of provision;
- iii) whether the proposal would preserve or enhance the character or appearance of the Golcar Conservation Area (CA);
- iv) the effect of the proposal on local ecology and biodiversity.

Reasons

Affordable Housing

18. Policy LP11 of the LP states that all proposals for housing must aim to provide a mix, including size and tenure, of housing suitable for different household types, taking into account the latest evidence of the need for different types of housing. On developments of more than 10 homes, the policy also requires that 20% of the total units are made available as affordable housing. Despite 20% of 19 units being 3.8, it is common ground that to provide a policy compliant level of affordable housing, the development should provide 3 affordable houses. In addition, in advance of the hearing, it was common ground that the houses could be provided through a Starter Homes model.
19. As identified above, I have found that a policy compliant development would prove unviable for the appellant. However, notwithstanding this position, it was common ground at the hearing that 3 affordable houses would be provided on site. Indeed, from the evidence before me, the appellant has not challenged the need to provide affordable housing as part of this proposal. Moreover, although only in draft form and attracting no weight, the UU makes it abundantly clear that the appellant is willing to provide the necessary houses.
20. As identified above, despite the intentions of both parties at the hearing, a completed legal agreement or undertaking has not been presented to me.

Based on the evidence before me, this is primarily due to a disagreement between the parties in relation to the size of units that would be made available for affordable housing.

21. In advance of the hearing, it was the intention that plots 3, 4 and 5 would be provided as affordable housing. These would be 3 bedroom houses. However, following the hearing, the appellant sought to amend the provision from the 3 bedroom properties to 2 bedroom properties, specifically plots 17, 18 and 19. The Council have not agreed to this request, stating that such an approach would reduce the overall floorspace given over to affordable housing on the site. Moreover, they suggest that the tenure should be revisited due to the reduced floorspace.
22. Although the Council has been generous in their interpretation of what constitutes 20% of the units on the site, there is nothing in Policy LP11 that relates to overall floorspace. The policy simply relates to a percentage of the total units. In my view therefore, the approach advocated by the Council has no basis in policy. Moreover, the policy states that a lower proportion may be acceptable where viability evidence may prejudice the implementation of the proposal. Therefore, despite the reservations identified by the Council, I afford them little weight.
23. The provision of affordable housing is an important public benefit. Consequently, its provision is a material consideration that weighs heavily in my assessment of the appeal. Whilst I have no completed UU before me, at the hearing, the parties were of the view that in the absence of a completed legal agreement, the relevant matters could be secured through compliance with condition 6 of the outline consent.
24. Advice within the PPG states that using a condition to secure a legal agreement is unlikely to be appropriate in the majority of cases as such an approach lacks sufficient clarity for the parties as well as lacking transparency. However, in this instance, the outline consent already contains such a condition, and as a proposal to agree the reserved matters, this condition, and the principle that it establishes, cannot be revisited. Although there is disagreement in relation to the specific affordable housing offer, the number of houses to be provided is common ground. Consequently, based on the evidence before me, I am satisfied that the circumstances are such that the existing condition provides an acceptable mechanism through which to secure the necessary affordable housing.
25. I therefore conclude that the proposal would make suitable provision for affordable housing. It would therefore accord with Policy LP11 of the LP which requires development to provide affordable housing.

Public Open Space

26. Policy LP63 of the LP states that new developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area. However, the policy also confirms that evidence in relation to financial viability can affect the provision of open space. The proposal would not include any usable open space and consequently, it is the expectation of the Council that to mitigate the effect of the development, and to comply with policy, a financial contribution is necessary.

27. The policy justification for Policy LP63 states that the overall provision of open space in Kirklees is generally good, although it also suggests that the distribution of sites is not evenly spread throughout the district. At the hearing, the Council suggested that the contribution would be used to fund replacement play equipment at the nearby Two Furrows Recreation Ground. However, based on the evidence that I have before me, I am not aware of a specific scheme that the contribution would be put towards or any specific shortfall in the existing provision. In addition, the evidence is not clear how the contribution was actually derived or how it would be spent. Consequently, I have no compelling evidence before me which confirms the need for the contribution.
28. Regardless of the above, it is the position of the appellant that the current proposal provides a negative RLV, and for the reasons identified above, this is a conclusion with which I agree. Consequently, even if I found that the POS contribution was necessary to make the development acceptable, it would not be forthcoming. The policy confirms that the viability of a development can influence the requirement to contribute towards the improvement of existing provision. Therefore, whilst the proposal would not make provision for POS, this is an approach that is supported by policy. Furthermore, there is nothing in the evidence before me to confirm that by not making the contribution, the development would be so harmful as to warrant the withholding of permission on this matter.
29. Therefore, for the reasons identified above, although the proposal would not make provision for POS, I conclude that this would not give rise to any adverse impacts due to existing provision in the area. Accordingly, it would comply with Policy LP63 of the LP which requires new housing development to contribute towards new open space or the improvement of existing provision in the area, unless the development clearly demonstrates that it is not financially viable.

Effect on CA

30. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
31. Within its evidence, the Council has provided a report which analyses the CA. Whilst it is not formally identified as a conservation area appraisal (CAA), it is akin to such a document and consequently, for the purposes of this appeal, I have treated it in this manner. The CAA states that the character of the CA is largely derived from its location and setting, likening it to an Italian hill village due to its topography, and organic form. It is common ground that much of the significance of the CA derives from this location and the topography.
32. The CAA states that the urban grain of the CA is characterised by small linear plots which dictated the overall design of many of the buildings within the area. Furthermore, whilst not explicitly stated within the CAA, the Council considers that the orientation of houses following the contours of the land is another notable feature of the CA. Whilst this is indeed a notable feature, long views towards the site also demonstrate that there are examples of buildings that run perpendicular to the prevailing contours. Indeed, there are many examples of gable ends with their ridges appearing to run down the slope rather than across it, including a small residential development immediately to the south east of the appeal site. Consequently, whilst the predominant feature of the built form is buildings running with the contours, there are examples of buildings that are

- sited contrary to this. Moreover, where these buildings exist, in my view, they continue to contribute to the organic form of the village identified within the CAA. Accordingly, they do not harm or detract from the character or appearance of the CA.
33. The development would introduce 19 dwellings onto the site. The proposed access road would enter from the north east corner and run diagonally into the site. The proposed layout would see houses bounding both the northern and southern boundaries of the site and in this respect, they would follow the contours of the land. Plots 8 and 9 would follow the alignment of the proposed access road and plot 10 would be located to the south of these diagonally sited properties. The Council raises no objection to these parts of the proposed layout and they are consistent with the existing reserved matters approval.
 34. The Council's concerns relate to plot 16, a detached dwelling, and plots 17, 18 and 19 which form a terrace of 3 houses that would run perpendicular to the topography of the site. These units would be located relatively centrally within the development. Furthermore, due to the proposed road layout the units would be somewhat removed from the built form to the north and south of the site. As a consequence, they would be clearly visible when considered as part of the long views towards the CA.
 35. Despite this, plots 16 – 19 are part of a bigger development and in long views, they would be experienced as part of the broader layout. As identified above, this includes a number of houses which are sited so that they run against the contours of the land. Consequently, although plots 16 – 19 would be a clear feature of the development, due to the organic grain of the CA, they would comfortably assimilate with its prevailing character and appearance.
 36. The proposal would not include any identifiable open space. Instead, the space around the buildings would be defined by the roads, parking spaces, front and side gardens and private amenity space. Within the CA, open space is primarily incidental. Long views do not reveal expansive areas of open space, and instead the organic form of buildings and the presence of mature trees are the prevailing characteristics.
 37. The CAA confirms that the village has little formal public space but it does identify the importance of mature trees and gardens that are visible from the public realm. The proposal would retain the mature trees to the south and west boundaries of the site. Furthermore, there are landscaping opportunities to the front of the houses. Consequently, I am satisfied that the proposed layout would complement the prevailing character and appearance of the CA.
 38. For the reasons identified above, I conclude that the proposal would preserve the character and appearance of the CA. It would therefore accord with Policies LP2, LP24 and LP35 of the LP. Taken together, these policies promote good design that has regard to form, scale, layout, and details, and which protects, respects, preserves or enhances the qualities which contribute to the character of an area.

Ecology

39. Policy LP30 of the LP states that development proposals will be required to, amongst other things, minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity

enhancements and habitat creation where opportunities exist. In this respect, it is entirely consistent with the Framework which states at paragraph 170d, that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on, and providing net gains for, biodiversity.

40. However, the site already benefits from outline planning permission and condition 23 of that permission relates to biodiversity considerations. It states that no development shall take place until a Landscape Management Plan (LMP) has been approved by the Local Planning Authority. It also states that the LMP shall extend to the protected and retained tree cover to the south and west of the site and that it shall incorporate the planting of native species, the installation of a variety of bird boxes, and the installation of bat tubes. The reason given for the condition is in the interests of retaining and enhancing the biodiversity of the site, however, the condition does not require a specific net gain in biodiversity.
41. The proposal has been accompanied by a Landscape plan however, its content is limited, and the parties agreed at the hearing that it could, and should, be strengthened should the appeal be allowed. Furthermore, based on the evidence before me, the landscape plan would be unlikely to provide a biodiversity net gain. In this respect therefore, the proposal would conflict with the local and national policy.
42. Despite this, and subsequent to condition 23 on the outline permission, the extant reserved matters approval requires details of biodiversity enhancement measures to be submitted prior to the commencement of development. I have no compelling evidence before me to confirm that if the appeal proposal were to be implemented, its effect on biodiversity would be materially different to the existing reserved matters approval. The reserved matters approval therefore represents a realistic fallback position that holds a significant level of weight in my assessment of the appeal.
43. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Despite the apparent conflict with the development plan, the requirements of the outline permission and the clear fallback position provided by the existing reserved matters approval, represent material considerations of significant weight. Indeed, due to the development already taking place, I am satisfied that they outweigh the requirements of the development plan.
44. Therefore, for the reasons identified above, subject to a suitably worded condition, I conclude that the proposal would have an acceptable effect on local ecology and biodiversity.

Conditions

45. Due to my findings set out above, conditions are necessary in the interests of precision to list the approved drawing numbers. In addition, due to the location of the appeal site within a CA, conditions are necessary to agree facing materials and boundary treatments. Conditions 3, 4, and 5 are also necessary in the interests of safeguarding the existing trees on the site.

46. As identified above, a condition is necessary to ensure that the landscaping proposals are suitably robust, and therefore condition 7 replicates the requirements of the extant reserved matters approval. In addition, conditions 8, 9, 10 and 11 are necessary in the interests of highway safety.
47. Despite the concerns from the appellant in relation to condition 12, I am satisfied that the condition is necessary to promote alternative means of transport as well as the safe storage of bicycles. I am also satisfied that in light of the reserved matters that are being approved at this stage, the requirements of the condition suitably relate to matters of layout.
48. Condition 13 relates to a lighting strategy. Whilst such a condition does not exist on the extant reserved matters approval, and although a lighting scheme has been agreed through highway work approval, the condition is necessary due to the sensitivities of the site with specific regard to its location within a conservation area and its ecological value. Finally, condition 14 is necessary to ensure the development is provided with a suitable drainage scheme.
49. The relevant triggers for the conditions were all agreed at the hearing and are therefore common ground. Consequently, I have no compelling evidence before me to disagree with their requirements.

Conclusion

50. For the reasons identified above, the appeal should be allowed.

Martin Chandler

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby approved shall be carried out in accordance with the following drawing numbers: MI074 001 A; MI074-003 F; 2748/1 K; 2B-A; 2B-B; 2B-A1; 3B-A-P01; 3B-A-P02; 3B-B-P01; 3B-B-P02; 3B-C-P01; 3B-C-P02; 3B-D-P01; 3B-D-P02; 4B-A-P01; 4B-A-P02; 5B-A-P01; 5B-A-P02; Garage SG1; Garage (Plot 2); Garage DG1 except as may be required by other conditions.
2. Prior to superstructure works commencing (except in relation to those aspects of the development that also form part of the 16-unit scheme granted Reserved Matters consent ref: 2017/91173 and where relevant conditions of that scheme have been discharged) details and samples of all external facing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the details so approved.
3. The development hereby approved shall be completed in accordance with the advice and directions contained in the Arboricultural Method Statement (JCA, ref: 13478-C/AJB). These measures shall be implemented and maintained throughout the construction phase and retained thereafter.
4. No additional work, beyond that agreed under this reserved matters consent, shall be carried out on any trees within the site without the prior consent in writing of the Local Planning Authority.
5. Before any materials are brought on site or development commences (except in relation to those aspects of the development that also form part of the 16unit scheme granted Reserved Matters consent ref: 2017/91173 and where relevant conditions of that scheme have been discharged) the developer shall erect protective chestnut paling or similar fencing around all trees, shrubs or hedges to be retained, to the branch spread of individual trees or groups of trees/shrubs. The applicant shall obtain the Local Planning Authority's written confirmation that the fence is satisfactory and shall maintain such fencing unaltered until the development is completed.
6. Prior to development commencing (except in relation to those aspects of the development that also form part of the 16-unit scheme granted Reserved Matters consent ref: 2017/91173 and where relevant conditions of that scheme have been discharged) details of all boundary treatments, including those to separate the site from 1 and 1A Carr Top Lane, and those to separate the domestic curtilages of the southernmost plots from the wooded bank adjacent to Brook Lane, shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be implemented in accordance with the details so approved.
7. Prior to development commencing (except in relation to those aspects of the development that also form part of the 16-unit scheme granted Reserved Matters consent ref: 2017/91173 and where relevant conditions of that scheme have been discharged) details of biodiversity enhancement measures for the entire site, including measures that will ensure a biodiversity net gain is achieved, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with an agreed timescale, and subsequently retained for the lifetime of the development.

8. The development shall not be brought into use until all areas indicated to be used for parking on the submitted plans have been marked and laid out with a hardened and drained surface in accordance with the Communities and Local Government and Environment Agency's "Guidance on the permeable surfacing of front gardens (parking areas)" published 13/05/2009 (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 listed plans.
9. No development shall take place (except in relation to those aspects of the development that also form part of the 16-unit scheme granted Reserved Matters consent ref: 2017/91173 and where relevant conditions of that scheme have been discharged) until a scheme detailing the proposed internal adoptable estate roads has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. Before any building is brought into use the scheme shall be completed in accordance with the scheme shown on the approved plans and shall be retained thereafter.
10. Before development commences (except in relation to those aspects of the development that also form part of the 16-unit scheme granted Reserved Matters consent ref: 2017/91173 and where relevant conditions of that scheme have been discharged) details of storage and access for collection of wastes from the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.
11. Prior to the commencement of development (except in relation to those aspects of the development that also form part of the 16-unit scheme granted Reserved Matters consent ref: 2017/91173 and where relevant conditions of that scheme have been discharged) a scheme detailing the location (and including cross-sectional information together with the proposed design and construction details) of all new retaining walls adjacent to existing/adoptable highways (including any modifications to the existing highway retaining walls on C556 Brook Lane and Carr Top Lane and the supporting embankment) shall be submitted to and approved in writing by the Highway Authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.
12. Prior to the occupation of any part of the development hereby approved details of secure, covered and conveniently-located cycle parking for use by residents of the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved.
13. Prior to the commencement of superstructure works (except in relation to those aspects of the development that also form part of the 16-unit scheme granted Reserved Matters consent ref: 2017/91173 and where relevant conditions of that scheme have been discharged) a lighting strategy for the

entire site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved.

14. Prior to the commencement of works (except in relation to those aspects of the development that also form part of the 16-unit scheme granted Reserved Matters consent ref: 2017/91173 and where relevant conditions of that scheme have been discharged) a scheme detailing the location (and including cross-sectional information together with the proposed design and construction details) of all new surface water attenuation culverts/tanks located within the proposed highway footprint shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained for during the life of the development.

APPEARANCES

FOR THE APPELLANT

Carl Stott	nineteen47 Ltd
Dax Bradley	Brierstone Ltd

FOR THE LOCAL PLANNING AUTHORITY

Victor Grayson BA(Hons) MTP MAUD	DM Masterplanner
Julian Dawson BSc (Hons) MRICS	Housing Growth Manager
Tom Stephenson MSc MCIEEM	Biodiversity Officer

INTERESTED PERSONS

Cllr Richard Murgatroyd	Borough Councillor – Golcar Ward
Robert Dawson	Local Resident

DOCUMENTS SUBMITTED DURING THE HEARING

- 1) Map provided by the Council identifying long views towards the appeal site.
- 2) Map provided by the Council identifying areas within the CA that the Inspector was requested to visit as part of the site visit.

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1) Correspondence in relation to the discharge of conditions for 2015/90507 – dated 17 April 2019
- 2) GVA Viability Assessment – August 2018
- 3) Copy of correspondence referred to in Q10 of the Appeal Questionnaire
- 4) Draft Unilateral Undertaking and associated correspondence



Appeal Decision

Site visit made on 8 October 2019

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2019

Appeal Ref: APP/Z4718/W/19/3232657

Barn adjacent Hey Farm, Holt Head Road, Slaithwaite, Huddersfield, West Yorkshire HD7 5TU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr & Mrs Mark & Allison Lee against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/90967, dated 22 March 2019, was refused by notice dated 14 May 2019.
 - The development proposed is prior notification for change of use from agricultural building to one dwelling and associated operational development.
-

Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use from agricultural building to one dwelling and associated operational development at Barn adjacent Hey Farm, Holt Head Road, Slaithwaite, Huddersfield, West Yorkshire HD7 5TU in accordance with the application reference 2019/90967 made on 22 March 2019 and the details submitted with it including drawing numbers: 3265 (0-) 01, 3265 (0-) 02, 3265 (0-) 03, 3265 (0-) 04 and 3265 (0-) 05, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b), paragraph Q2(3) and subject to the following conditions:
 - 1) The dwelling shall not be occupied until 3 parking spaces are provided to serve the development. The spaces shall be provided in the same area of the site within which 2 spaces are shown on drawing. No. 3265 (0-)04 'Proposed Site Layout' and shall have minimum dimensions of 2.5 metres by 5 metres. The spaces shall be marked out and formed by a hardened and drained surface in accordance with the Communities and Local Government and Environment Agency's '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 obstruction and available for use as parking spaces thereafter.

- 2) The dwelling shall not be occupied until details of the removal/storage of and access for the collection of waste (foul sewage and domestic waste/recycling) from the dwelling have been submitted to and approved in writing by the Local Planning Authority. The works comprising the approved details shall be provided before the dwelling is first occupied and shall be so retained, free of obstruction and available for use for the removal/storage of waste thereafter.

Preliminary Matter

2. Paragraph X of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) defines the term curtilage for the purpose of Part Q. The submitted plans show an area of land immediately beside and around the building to be used as a garden area for the proposed dwelling. Parking spaces are also shown on an area of land close to the building to be created by the demolition of an implement shed. It does not appear that the curtilage areas proposed for the building exceed the land area occupied by the building itself. The proposed curtilage areas of the building therefore appear to meet the definition set out in paragraph X and I have determined the appeal accordingly.

Main Issue

3. The main issue is whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the GPDO, having particular regard to whether the proposed building operations are reasonably necessary to convert the building to a dwelling.

Reasons

Permitted Development

4. Class Q(b) of the GPDO permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a dwelling together with building operations reasonably necessary to convert the building to a dwelling. Paragraph Q.1(i) states that development is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling and partial demolition to the extent reasonably necessary to carry out permitted building operations. The Planning Practice Guide (PPG) at paragraph 105 states that it is not the intention to allow rebuilding work which would go beyond what is reasonably necessary and that it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
5. The existing building has a concrete portal frame and is enclosed on all sides, being built into the hillside at the rear. The external walls are formed by blockwork to a height of approximately 1.8 metres with a combination of corrugated fibre cement sheeting and timber boarding above. The roof is covered in corrugated fibre cement cladding and the building has a concrete floor. A Structural Inspection Report dated June 2018 concludes that the building is structurally sound and that it is suitable for conversion to a dwelling. The findings of the structural report have not been disputed by the Council.

6. The proposed change of use of the building to a dwelling would involve various works to convert it including replacement roof covering; the insertion of new windows and doors, the construction of stone walling and timber cladding; the provision of internal walls and floors and of insulation. It appears from the evidence that the concrete frame, concrete floor, blockwork and timber frame above it would all be retained. Although various alterations are proposed to the building to change its use to a dwelling, based on the evidence before me and as a matter of fact and degree, I am satisfied that the existing building is suitable for conversion, that all of the works proposed to it are reasonably necessary to convert it to a dwelling and that the works would not amount to rebuilding.
7. In reaching this conclusion I have had regard to the findings in Hibbert¹ with regard to the difference between conversion and rebuild and also to the findings of the Inspector who dismissed a previous appeal at the site (Ref APP/Z4718/W/16/3162769). It seems that, in the absence of any technical evidence, the previous Inspector considered that the building would require almost complete demolition and reconstruction to be used as a dwelling. However, as stated, the 2018 structural report has confirmed that the building is structurally sound and no substantial new structural elements are proposed. Consequently, I consider that the concerns of the previous Inspector have been satisfactorily overcome by the proposal.

Prior Approval matters

8. As I have found that the proposal is permitted development, I must now consider the conditions set out in paragraph Q.2., that is whether prior approval is required and ought to be granted in respect of the listed matters (a) to (f). When considering the application, the Council raised no objections in relation to the matters set out at Q.2 (a) to (f), subject to the imposition of conditions regarding parking and waste collection. Having regard to the evidence and from my observations on site, I see no reason to disagree with the Council's conclusions in relation to these matters.

Conditions

9. Any approval granted for the change of use of a building and any land within its curtilage from a use as an agricultural building to a dwelling under Article 3(1) and Schedule 2, Part 3, Class Q is subject to the condition Q2(3) which specifies that development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.
10. In addition to the standard condition, I have also imposed conditions regarding parking and waste collection details. This is in order to ensure that the highways and transport impacts of the development are acceptable and in order to ensure that suitable drainage and waste collection is provided having regard to the position of the building in a reasonably remote location. Where necessary the wording of the conditions suggested by the Council has been amended slightly in the interests of precision and clarity.
11. I have not imposed the conditions suggested by the Council relating to the extent of the curtilage and to an electric vehicle charging point as I do not

¹ Hibbert and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

consider that such conditions are reasonable or necessary having regard to the submitted details and nature and scale of the proposal and I have seen no policy justification for the charging points.

Conclusion

12. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed and prior approval should be granted.

Beverley Wilders

INSPECTOR



Appeal Decision

Site visit made on 13 November 2019

by **M Seaton DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 December 2019

Appeal Ref: APP/Z4718/D/19/3239716 85 Mount Avenue, Huddersfield, HD3 3XS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Asiya Ashraf against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/62/92595/W, dated 1 August 2019, was refused by notice dated 27 September 2019.
 - The development is two-storey side and rear extensions and porch to front.
-

Procedural Matters

1. In determining the planning application, I note that the Council listed the Plans and Specifications Schedule on the Notice of Decision as including Drawing Refs: MA04 Rev. B (Proposed floors) and MA05 Rev. B (Proposed elevations). However, the plans as submitted by the appellant as having been before the Council in the determination of the planning application were Drawing Refs: MA04 Rev. A (Proposed Plans) and MA05 Rev. A (Proposed Elevations), with both submitted plans indicating the porch to have been reduced in size.
2. Further to consultation with the main parties, it would appear that the Council erred in identifying Revision B within the Notice of Decision, with an acceptance that no such plans were submitted during the course of the planning application. I am therefore satisfied that the plans that were before the Council in determining the planning application were the Revision A plans identified by the Council.

Decision

3. The appeal is allowed and planning permission is granted for two-storey side and rear extensions and porch to front at 85 Mount Avenue, Huddersfield, HD3 3XS in accordance with the application Ref. 2019/62/92595/W dated 1 August 2019, and subject to the following conditions;
 - 1) The development hereby approved shall be carried out in accordance with the approved drawing numbers: MA01 (Location Plan), MA02 (Existing Plans), MA03 (Existing Elevations), MA04 Rev A (Proposed Plans), and MA05 Rev A (Proposed Elevations).
 - 2) The materials used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and the area.

Reasons

5. The appeal property is comprised of a two-storey semi-detached dwelling situated on the northern side of Mount Avenue, with Lindley Moor Road located to the north of the appeal site, beyond the extent of the curtilage and rear boundary. The appeal site is set within an established residential area.
6. Planning permission was approved for two-storey side and rear extensions (*LPA Ref. 2018/91790*) in July 2018. It was evident upon visiting the appeal site that the construction of the side and rear extensions had been externally completed, albeit that internal works to the extensions were still being undertaken, but that the porch was still under construction. However, the works undertaken exhibited some variation from those approved, thus necessitating the planning application the subject of this appeal. In particular, the setback of the side extension from the front elevation has been reduced from 0.5 metres to 0.1 metres, and a limited set-down of the ridge height has been removed with the ridge line of the extension now at a consistent height across the extent of the resultant dwelling.
7. In determining the planning application, the Council has cited Policy LP24 (parts (a) and (c)) of the Kirklees Local Plan Strategy and Policies 2019 (the Local Plan), which seek to ensure that good design should be at the core of all proposals, and that good design is promoted by ensuring the form, scale, layout and details of development respects and enhances the character of the townscape, and that extensions are subservient to the original building and in keeping with the existing buildings in terms of scale and materials. My attention is also drawn to the accompanying policy justification which sets out that extensions should seek to avoid a "terracing" effect in the streetscene, where this is incompatible with the existing character of the area.
8. The Council contends that the proposed development would, by virtue of the siting, scale and design of the side extension, result in a terracing effect within the streetscene. However, even though the Council has expressed a preference that side extensions should leave a gap of 1 metre to the boundary, it has already accepted by virtue of the 2018 planning permission a two-storey extension to the boundary in this instance.
9. I accept that the two-storey side extension no longer features the extent of set-back and subservience by a varied ridge height as originally approved. However, in the context of the street scene and the approved scheme I did not find these to ultimately be the critical factors in seeking to avoid any apparent terracing effect, in contrast with the absence of a gap to the boundary. As such, although it would undoubtedly have been preferable for the development to have retained the previous set-back and set-down, I do not find that their omission from the scheme results in a harmful effect on the streetscene or the host dwelling, or appear as uncharacteristic within the area, when considered in the context of the previously approved scheme.
10. Turning to the porch, I have considered the Council's apparent contention that as the porch would exceed the permitted development right threshold for such

development and would require planning permission, that it would have an unacceptable and overly prominent impact on the streetscene. However, I observed there to be a considerable variation of design approach and scale of front extensions and porches in the area, and in this regard I disagree with the Council's position. I am satisfied that the design of the porch would neither appear as an uncharacteristic nor obtrusive feature within the streetscene or overwhelm the existing dwelling by virtue of its scale.

11. Whilst I am not persuaded by the appellant's contention that the design is particularly innovative, I do not agree with the Council's assessment of the harm which the scheme has on the character and appearance of the streetscene, area and host dwelling. Having regard to the extant planning permission from July 2018, I am therefore satisfied that the development is not incompatible with the area and does not therefore conflict with Policy LP24 of the Local Plan.

Other Matters

12. A number of other matters have been raised by interested parties in respect of the development, including concerns over the approach taken by the appellant to procedure during the course of the development, the potential for the setting of a precedent for future similar development, and a number of concerns regarding the construction and use of a garage to the rear with access on to Lindley Moor Road.
13. I sympathise with the frustration of interested parties regarding the situation which has arisen regarding the development of the appeal site, particularly in light of the Council's previous approval of an alternative scheme on the appeal site. However, whilst I would accept that there would seem to be some procedural shortcomings in the overall approach taken by the appellant, ultimately the appellant has sought to regularise the unauthorised position created by the development as constructed through the revised planning application, and ultimately by this appeal.
14. With regards the potential for the setting of a precedent for similar development to occur within the streetscene and area, as I have set out in my reasoning, there are specific circumstances related to the development of this site which have been created by the previous planning permission, which would not create a precedent leading to the unavoidable acceptance of similar development elsewhere. I am confident that the Council would continue to be able to resist unacceptable development and extensions in the area and that this approval would not set a precedent for future development.
15. With regards to issues raised regarding the positioning, impact and use of the garage to the rear of the property, these are matters beyond the scope of the appeal which is before me, given that the garage does not form part of the development under consideration.

Conditions

16. In addition to a condition regarding the identification of plans, the Council has suggested a condition related to the use of matching materials for all external surfaces of the development. Even allowing for the completion of much of the development, I am satisfied that such a condition would be necessary in the interests of the character and appearance of the dwelling and the area.

Conclusion

17. For the reasons given above, the appeal is allowed subject to the imposition of the conditions as listed.

Martin Seaton

INSPECTOR



Appeal Decision

Site visit made on 3 December 2019

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8 January 2020

Appeal Ref: APP/Z4718/W/19/3237464

Adj 1 Spring Lane, Holmfirth HD9 2LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Cruickshank against the decision of Kirklees Metropolitan Borough Council.
- The application Ref 2018/61/93508/W, dated 19 October 2018, was approved on 29 March 2019 and planning permission was granted subject to conditions.
- The development permitted is reserved matters application pursuant to outline permission 2016/91502 for erection of one detached dwelling.
- The condition in dispute is No 2 which states that: "Notwithstanding the details shown on approved drawing no. 138/2-001H, the approval of landscape as a reserved matter does not extend to the erection of a 1.8m high timber fence or the proposed siting of such fencing as shown on the aforementioned plan. Before the dwelling is first occupied details of an alternative boundary treatment shall be submitted to and approved in writing by the local planning authority and the boundary treatment completed in accordance with the approved details. For the avoidance of doubt the revised boundary treatment shall comprise the erection of a stone wall, constructed in stone to match that of the host building, along the full length of the south western boundary of the site, to accord with the red line boundary of the outline planning permission no. 2016/91502 which is deemed to represent the shared boundary between the application site and the property named 'Somerton'. The scheme shall include details of tree root protection. The overall height of the boundary wall shall extend to 1.5m above the finished floor level of the approved dwelling's ground floor, other than the first five meters measured from the boundary to Liphill Bank Road, which shall extend 1.0m above the finished floor level of the approved dwelling. The boundary treatment along the south western boundary shall thereafter be retained in accordance with the approved details."
- The reason given for the condition is: "To ensure this landscape detail respects and enhances the character of the site and the wider townscape, where stone walls are the predominant feature. To ensure the layout and appearance of the dwelling, in particular the lounge window, do not result in an undue loss of privacy to the occupiers of Somerton. This would accord with Policy PLP24 (a) and (b) of the Kirklees Local Plan (as modified) and Policies within Chapter 12 of the National Planning Policy Framework."

Decision

1. The appeal is allowed and the planning permission ref: 2018/61/93508/W for the reserved matters application pursuant to outline permission 2016/91502 for erection of one detached dwelling at Adj 1 Spring Lane, Holmfirth HD9 2LN approved on 29 March 2019 by Kirklees Metropolitan Borough Council, is varied by deleting condition (2) and substituting for it the following condition:

2) Prior to the hereby approved development being brought into use, the 1.8m high close boarded timber fence, as shown on plan Ref 138/2-001 Rev. H.

along the full length of the site's west boundary shall be erected. Thereafter the approved boundary fencing shall be retained.

Application for Costs

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

Procedural Matters

3. The Kirklees Local Plan (KLP) was adopted on 27 February 2019 after the refusal of the application at Committee on 13 December 2018 but prior to the issue of the decision notice on 29 March 2019. The Council refers to the now adopted KLP in its Statement of Case and the relevant adopted policies have been submitted as part of the appeal. Therefore, the parties have had the opportunity to comment upon the KLP and relevant policies as part of the appeal and I have determined the appeal on that basis. I am satisfied that no interested party has been prejudiced by this approach.
4. The Council amended the development description from 'application for single dwelling dealing with layout, scale, appearance and landscaping at land adj 1 Spring Lane, Holmfirth' to 'reserved matters application pursuant to outline permission 2016/91502 for erection of one detached dwelling.' This is also the description used by the appellant on the planning appeal form. I consider this to be a more accurate description of the proposed development and have therefore considered the appeal on this basis and used it in the formal decision.

Background and Main Issue

5. The appeal site has permission for the erection of a single dwelling¹ and permission was previously granted for reserved matters². Following this, development commenced on site but not in accordance with the approved plans, the principal difference being the layout with the locations of the garage and lounge being swapped. A further application for reserved matters was submitted³ to reflect this change to the layout and was granted subject to conditions.
6. This approval of reserved matters includes condition 2, which requires the erection of boundary treatment along the full length of the south western boundary of the appeal site comprising a stone wall, constructed in stone to match that of the host building. The reason given for this is to ensure that the landscaping respects and enhances the character of the site and wider area, and that the layout and appearance of the dwelling do not result in an undue loss of privacy to the occupiers of the adjacent property of Somerton. The appellant objects to condition 2 and seeks its removal or its removal and replacement with a modified condition to permit a boundary fence.
7. There is some dispute between the parties as to whether it was valid to consider the proposed boundary treatment on the appeal site as part of the application for reserved matters, and whether it was appropriate for a condition to be imposed regarding its form, dimensions and material. One of the

¹ Ref: 2016/91502

² Ref: 2017/93648

³ Ref: 2018/61/93508/W

reserved matters applied for is landscaping which, as stated within the National Planning Practice Guidance (PPG)⁴, includes, amongst other things, 'screening by fences, walls or other means.' In this respect, I am of the opinion that boundary treatment can be considered as an element of landscaping. Therefore, given the reserved matters applied for and the proposed revision to the layout, I am satisfied that, in considering the planning merits of the detailed scheme, it was relevant and valid to assess and condition the boundary treatment on the appeal site as part of the application.

8. Taking the above into account, I consider the main issue to be, whether condition 2 is necessary and reasonable in the interests of (i) the character and appearance of the area; and (ii) the living conditions of the occupiers of Somerton, with regard to overlooking and privacy.

Reasons

9. The appeal site is a triangular shaped plot on a prominent corner at the junction of Spring Lane and Liphill Bank Road. It sits in an elevated position above the private garden and outdoor seating area of the adjacent detached property of Somerton. It is bounded by a stone wall to the east and a close boarded timber fence to the north. A temporary timber fence has been erected along part of the south western boundary. Holly trees are present along the rest of this boundary which provide some natural screening.
10. The boundary treatment to properties in the surrounding residential area is varied in terms of form and materials. I acknowledge that stone is a predominant building material in the area and that there are stone walls between the houses on an adjacent short terrace on Liphill Bank Road. However, from what I saw on my site visit, although substantial stone walls are the main boundary treatment enclosing the curtilages of dwellings along the back of pavements and roads, it is close boarded timber fences that are the primary boundary treatment which define and separate private garden areas between dwellings.
11. Furthermore, I appreciate that, given the location of the appeal site and the topography of the area, any boundary treatment along its south western boundary would be readily visible and prominent in the townscape, particularly in views looking west at the junction of Spring Lane and Liphill Bank Road. However, I consider that a high, substantial stone wall separating the garden areas of the appeal site and Somerton would be an unduly dominant structure on the boundary of the appeal site and in the street scene.
12. In these respects, with regard to the character and appearance of the area, I consider that the imposition of condition 2 is neither necessary nor reasonable, and that a plain, slim, close boarded, timber fence in this location would not appear wholly incongruous in the street scene and would be less visually dominant than a substantial stone wall.
13. I recognise that the level differences between the garden areas of the appeal site and Somerton, in conjunction with the revised layout, results in the full height windows of the habitable room of the lounge to be above, and in close proximity to, the private garden and outdoor seating area of Somerton. On this basis, I consider that some form of boundary treatment and screening is

⁴ PPG Paragraph: 006 Reference ID: 14-006-20140306

necessary to prevent any harmful overlooking and undue loss of privacy of the occupiers of Somerton. However, this can be adequately achieved by other means, and I am of the opinion that it does not have to be a substantial stone wall to the details specified in condition 2.

14. Therefore, with regard to any harm to the living conditions of the occupiers of Somerton due to overlooking and loss of privacy, I consider that the imposition of condition 2 is neither necessary nor reasonable, and that any overlooking and loss of privacy would be satisfactorily mitigated by a close boarded timber fence to the height of 1.8m as proposed.
15. Paragraph 55 of the Framework is clear in stating that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
16. I consider that the imposition of condition 2 is not necessary nor reasonable in the interests of the character and appearance of the area. In addition, although I consider that boundary treatment can be considered as part of the reserved matter of landscaping and that some form of boundary treatment along the full length of the south western boundary of the appeal site is necessary in the interests of the living conditions of the occupiers of Somerton with regard to overlooking and privacy, it is not necessary nor reasonable to require it to be of a solid stone construction to the details specified in condition 2.
17. For the reasons above, I consider substituting condition 2 for one which requires the erection and retention of a timber fence to be necessary and would be reasonable in all other respects. This would not be out of keeping with the character and appearance of the surrounding area and would ensure that the living conditions of the occupiers of Somerton, with regard to overlooking and privacy, would be protected. Thus, the new condition would ensure that the proposed development complies with the objectives of Policy LP24 (a) and (b) of the KLP which state that proposals should promote good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape; and that they provide a high standard of amenity for future and neighbouring occupiers. It would also be consistent with the objectives of Paragraph 127 of the Framework, which requires development to be sympathetic to local character and with a high standard of amenity for existing and future users.

Other Matters

18. I have given careful consideration to the representations made by the occupiers of Somerton. They consider that the removal of condition 2 or its removal and replacement with a modified condition to permit a boundary fence would breach Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. Article 1 of the First Protocol is the right to the peaceful enjoyment of possessions including property, and Article 8 is the right to respect for private and family life, home and correspondence.
19. I have concluded that a 1.8m high, close boarded, timber fence would acceptably mitigate any harmful overlooking into the private garden and outdoor seating area of Somerton. On this basis, I consider that the replacement of condition 2, with one which requires the boundary treatment to

- be a timber fence rather than a stone wall, would mean that their human rights would not be prejudiced, and so, it would not constitute a breach of Article 1 of the First Protocol or Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998.
20. I note the comments made by the occupiers of Somerton regarding the inaccuracy of the boundary as drawn on the plans. However, in terms of planning, the Council is satisfied that the red line boundary of the original outline planning permission represents the shared boundary between the appeal site and Somerton and I have no reason to disagree.
 21. I have had regard to the landscape value of the existing mature elm trees that are within the garden of Somerton but which overhang the appeal site; the assessment which concludes that the trees are in good physiological and structural condition; the recommendation that they should have a Tree Preservation Order (TPO) placed on them; and the concerns regarding works that have already been carried out which may have impacted on their roots. I agree that the trees make a positive contribution to the character and appearance of the area. However, any TPO would be issued by the Council and this, and any works that have already been carried out, are not for me to consider in the context of an appeal under Section 78 of the Act.
 22. I am aware of the offer made by the occupiers of Somerton to co-operate with the appellant and to allow the appellant access onto their land to undertake any work that complies with condition 2. However, this is a private matter and not for me to consider in the context of an appeal under Section 78 of the Act.
 23. I have had regard to the comments of the occupiers of Somerton highlighting the local significance of Somerton and that it should share some of the protection afforded to listed buildings. Although the building may be of local architectural and historic interest, as it is not statutorily listed, no additional protection can be afforded to the building or its setting in the consideration of this appeal. As such, this does not alter or outweigh my conclusion on the main issue.
 24. I note Holme Valley Parish Council's objection to the application and concerns about the loss of off-road parking and turning area for vehicles which could have implications for highway safety. Nevertheless, the Council has stated that the access has been implemented in accordance with the outline permission and it is satisfied that it is acceptable in highway terms, and there is no evidence before me which would cause me to disagree with this conclusion.
 25. I acknowledge the concerns of the occupiers of Somerton and those of Holme Valley Parish Council regarding the issue of unauthorised works carried out by the appellant and the decision of the Council to not proceed with any enforcement action. However, it is not within the remit of the appeals process to comment on the internal procedures of the Council, and so, I do not consider this to be determinative in the appeal.
 26. The occupiers of Somerton have stressed that all of the concerns could be addressed by reverting to the original proposal. Be that as it may, that is not what is before me. I have determined the appeal on its own planning merits with regard to the specific location and context of the appeal site.

27. None of the other matters raised alter or outweigh my overall conclusion on the main issue.

Conclusion

28. For the reasons given above, I conclude that the appeal should be allowed and that the planning permission should be varied as set out in the formal decision.

F Cullen

INSPECTOR

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.



Name of meeting: Planning sub-committee (Huddersfield)

Date: 30 January 2020

Title of report: Application to divert part of public footpath Holmfirth 60 at Wolfstones Heights Farm, Upperthong. Town & Country Planning Act 1990, Section 257

Purpose of report: **Members are asked to consider** an application for an order to divert part of public footpath Holmfirth 60. The public footpath route to be extinguished, and the proposed diversionary route to be created are shown on appended plans. **Members are asked to make a decision** on making the order and seeking its confirmation.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	No – council committee
Date signed off by <u>Director</u> & name	Karl Battersby 20 January 2020
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	Yes - Eamonn Croston 20 January 2020
Is it also signed off by the Service Director (Legal Governance and Commissioning)?	Yes - Deborah Wilkes on behalf of Julie Muscroft 20 January 2020
Cabinet member portfolio	Not applicable

Electoral wards affected: Holme Valley South

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

Public or private: Public

1. Summary

- 1.1. The Council received a revised application in April 2019 from Mr S Butterfield for an order, to divert part of public footpath Holmfirth 60, under section 257 of the Town & Country Planning Act 1990, to enable the development to take place to fully implement

planning permission(s). The effect of the proposed diversion is shown on appended Plan 1. The public footpath to be diverted is shown by the bold solid line A-B, and the new public footpath to be created by bold dashed line B-C.

- 1.2. The existing public footpath would be affected by the development, as shown in the planning application block plans for 2018/93277 & 2018/93302 at App A1 and A2. A location plan is at App G.
- 1.3. Any further works to provide a new public footpath are to be undertaken by the applicant to the satisfaction of the Council. Some construction works have already taken place for the proposed new route, B-C. This work by the applicant is without prejudice to the decision before members and is at his risk.
- 1.4. Over time there have been slight amendments affecting the diversion proposals and application submissions, preliminary consultation took place on the first application in September-October 2017, and took place on an amended proposal, including the proposed dedication of an additional public footpath route, in July 2018. In November 2018, the application was withdrawn. In April 2019 the council received a new application, without the earlier proposed additional public footpath dedication, and preliminary consultation on that took place in June 2019. Details of responses are at section 4 and appendix D of this report. Responses were received in favour of the proposed diversion, and there are various responses by those not in favour. Applicant's comments on responses are at App E1 and E2.
- 1.5. The applicant has been in discussion with officers about the providing, through a formal agreement with the council, improvements to construct a hard surface to the highway verge on Wolfstones Road between the current and the proposed end points of footpath 60. In terms of timing, this improvement would be required to be provided only if the public footpath diversion process is to be completed. The proposal is that the agreement would be under section 278 of the Highways Act 1980, it would be made before a diversion order is made. The details of this could be agreed by officers if authority is given to make an order.
- 1.6. If members approve the making of an order under section 257, it would be advertised and if any objections are made and not withdrawn, the council could not confirm the order. Opposed orders could only be confirmed by the Secretary of State at DEFRA, which may involve a public inquiry. The Council is not obliged to forward an opposed order.
- 1.7. The council may form a view on making an order, and also on whether to forward an order if opposed, and on what stance to take on an opposed order.

2. Information required to make a decision

An application has been received to divert part of footpath 60 at Wolfstones Heights Farm, Wolfstones Road, Upperthong under section 257 of the Town & Country Planning Act 1990. The applicant cites planning permissions 2014/92814, *“(quoting the related Decision Notice) the formation of a new access and stopping up of existing access, diversion of public right of way and related external works”*, and 2017/91374 *“(again quoting the related Decision Notice) the demolition of a garage building, the erection of garages, garden room and fuel store with associated landscaping works”*, as amended by non-material amendment permissions 2018/NMA/93302 and 2018/NMA/93277. Here are Kirklees web links:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f92814>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91374>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93302>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93277>

2.1 The Council may make and confirm a diversion order under Section 257 of the Town & Planning Act 1990 Act if it considers that it is expedient to do so when the following criteria are met:-

- a) it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted.
- b) The Council must also take into account the suitability of the proposal and the effect the change would have on those entitled to the rights that would be extinguished.

2.2 The statutory procedure is a two-stage process which involves the making of a footpath diversion order. The order would be subject to public consultation by way of statutory advertisement and notices posted on site. If no objections are received or they are resolved, the Council may confirm the order as unopposed. If the order is opposed and the objections cannot be resolved, the order could only be confirmed if submitted to the Secretary of State (at DEFRA) for determination.

2.3 Section 7 of DEFRA's circular 1/09 covers the topic of planning permission and public rights of way. Decisions on opposed orders which may be forwarded to the government to determine, are made on behalf of the Secretary of State at DEFRA.

2.4 Weblink:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69304/pb13553-rowcircular1-09-091103.pdf

2.5 At paragraph 7.11, it states: "It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or extinguishment of the right of way, will invariably be made or confirmed. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect. The requirement to keep a public right of way open for public use will preclude the developer from using the existing footpath, bridleway or restricted byway as a vehicular access to the site unless there are existing additional private rights. Planning authorities must ensure that applicants whose proposals may affect public rights of way are made aware of the limitations to their entitlement to start work at the time planning permission is granted. Authorities have on occasion granted planning permission on the condition that an order to stop-up or divert a right of way is obtained before the development commences. The view is taken that such a condition is unnecessary in that it duplicates the separate statutory procedure that exists for diverting or stopping-up the right of way, and would require the developer to do something outside his or her control."

- 2.6 Paragraph 7.15 states: “The local planning authority should not question the merits of planning permission when considering whether to make or confirm an order, but nor should they make an order purely on the grounds that planning permission has been granted. That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.”
- 2.7 Plan 1 shows the proposal and appended plan 2 shows the surroundings.
- 2.8 The applicant’s submitted supporting statement is appended at App B, along with his submitted highways survey. The proposal to develop the site affects the driveway carrying footpath 60, with the public footpath to be diverted to reach its proposed new junction with Wolfstones Road. Also at App B are photos and a photo plan submitted regarding the nearby land accessed by the public (see paragraph 2.13 below).
- 2.9 The diversion proposal would allow pedestrian rights to be stopped up on a section of public footpath and an alternative public footpath provided, to allow an improved vehicular access to be created to the property and a current driveway to be closed. The length to be stopped up is shown by the bold solid line from points A - B on appended Plan 1, whilst the path to be added is shown by the bold dashed line B-C.
- 2.10 The applications identify that as a result of the proposed diversion the terminal point of footpath 60 on Wolfstones Road would change, moving approximately 115 metres along Wolfstones Road to the north. The application submissions identify that the link between the current and proposed ends of the footpath 60 would be along Wolfstones Road, specifically mentioning the verge. Further to PROW’s consultation on the diversion proposals, separate discussions regarding works to amend this Wolfstones Road verge between points A and C have taken place, relating to improvements by the applicant to provide a hard surface to improve it for pedestrian use. (Photos of current verge at App X).
- 2.11 In report Appendix B, the applicant’s statement of 29 March 2019 in support of the diversion application, paragraph 6.3 states, “*Briefly, works that cannot be completed without the diversion of the Footpath are the current stone wall to the south of the Footpath area cannot move and the garden lawn cannot be extended northwards towards the building known as Wolfstone Heights. In addition, the engineering works, levels alterations and connecting steps to the lower garage roof terrace and establishment of parking areas, as well as underpinning engineering and retaining walls, all of which is now more particularly established through the respective NMAs, cannot be concluded. This is because all such works necessitate the removal of the access drive to Wolfstones Heights Farm, part of which is covered by the part of the Footpath intended for diversion.*”
- 2.12 Kirklees PROW did not object to the grant of planning consents. PROW Officer had met the applicant’s agent on site at an early stage, and identified areas that may be brought up as issues by the public if an application to divert the footpath was made. The PROW officer stated that Wolfstones Road had a serviceable verge between the current and proposed path ends, which was intended to convey that it was walkable without risk of injury underfoot. No relevant objections appear to have been made by

the public to early planning applications, but once PROW undertook consultation specifically on the diversion proposal, objections were raised, including those by people who had not realised that the development described in planning applications would affect the footpath 60, or require its diversion. The Council therefore had not been in a position to take these comments and concerns about the public footpath into account when considering the planning applications, where they were raised later.

- 2.13 Appended Plan 2 and the photo plan at App C include an area of land up to the Ordnance Survey 'trig' point, with a track from the road. Where footpath 60 currently meets Wolfstones Road, the land across the road from point A and stretching west is owned by the Holme Valley Land Charity, whose trustee is the Holme Valley Parish Council. This land includes a track and an Ordnance Survey trig point mentioned by the applicant and many respondents to the consultation. The use of this land is the subject of various submissions to the Council, both for and against the application proposal. The HV Land Charity's website identifies in its Approved by Trustee's Action Plan of 14 November 2016 that the land is "*reserved for use by the public for informal recreation*".
- 2.14 Officers received further clarification from the Land Charity's Management Committee, which authorised the clerk to respond as follows: "There is public access to the site. There is no public access by permission. Public access is tolerated. There is no formal public access through any other arrangement. There is also no formal public access through the Land Charity's site to get to the adjacent farmer's field. I think it is necessary to clarify that the site at Wolfstones is not designated as open access land with Natural England, but is ungated and therefore accessible by the community. Those who wish to access it can do so and don't need to keep to the footpaths, but it is not formally open access land"
- 2.15 http://www.holmevalleylandcharity.org.uk/wp-content/uploads/2012/10/14_11_16-Action-Plan-Approved-by-Trustee.pdf
- 2.16 The applicant has submitted 2019 photos of signs relating to access to this land. App C.
- 2.17 Preliminary public consultations have been held on the proposal, the latest in July 2019; the details are listed in section 4 of this report.
- 2.18 In considering this decision, members have a number of options in relation to the section 257 order.
- 2.19 Members may take into account the proposal for the applicant to enter into an agreement with the council for the improvement to provide a hard surface at the verge of Wolfstones Road.
- 2.20 Option 1 is to refuse to make the order.
- 2.21 Option 2 is to authorise the Service Director, Legal, Governance & Commissioning to make an order under section 257 of the Town & Country Planning Act 1990 **and only to confirm it if unopposed**, but for officers to report back to members for its decision on sending any opposed order to the Secretary of State at DEFRA. (See 5.4 below).
- 2.22 Option 3 is to authorise the Service Director of Legal, Governance & Commissioning **to make and seek confirmation** an order under section 257 of the Town & Country Planning Act 1990. This would authorise confirmation of the order by the council if

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

- 2.23 Option 4 is to authorise the Service Director of Legal, Governance & Commissioning **to make** an order under section 257 of the Town & Country Planning Act 1990 **and to confirm it if unopposed, and if opposed to submit it to the Secretary of State only if the applicant makes the case for confirmation** of the opposed order at hearing or inquiry. This would authorise confirmation of the order by the council if unopposed, or forwarding an opposed order to the Secretary of State to determine, where promotion of the order at inquiry or hearing may be undertaken by another party and where the council would look to fulfil its administrative role in proceedings. The Council would look to the applicant to pursue his own application. This is described in the Planning Inspectorate's rights of way section's Advice Note 1, paragraph 7.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774694/Advice_note_1_Revised_Jan_2019_PDF.pdf

“Sometimes an OMA is content to make the requested order but is not prepared to support it at an inquiry if it is opposed. This often occurs when an order is made under the Town and Country Planning Act 1990 to enable development to proceed, or an order to divert a path is made under the Highways Act 1980 in the interests of a landowner; the developer or the landowner is often asked to make the case for confirmation. The OMA may choose to remain neutral as regards confirmation of the order, to passively support it or even to oppose it if new information or objections following advertisement cause a change of mind.” Paragraph 12 continues, that in such circumstances, the Council may look to “secure the agreement of the applicant or another supporter of the order to take the lead in presenting the case.” Although not such an agreement, paragraph 5.1 of the applicant's supporting statement states, “The applicant's team would look forward to being able to formally respond to and examine any issues, at a local inquiry if necessary, following any objections to the order”.

3 Implications for the Council

3.1 Early Intervention and Prevention (EIP).

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

3.2 Economic Resilience (ER)

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

3.3 Improving outcomes for children.

3.3.1 See 3.1.1

3.4 Reducing demand for services

3.4.1 See 3.5

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

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

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

- 3.5.3 Any person may make an objection or representation to the order
- 3.5.4 The council may choose to forward an opposed order to the Secretary of State at DEFRA (“SoS”) to determine or may abandon it. If an order is forwarded, any such objection would be considered by an inspector appointed by the Secretary of State, who may or may not confirm the order. Although the applicant would be responsible for most of the costs associated with the order process and for the costs of implementation of any changes on the ground, the council may not recharge the costs incurred by it in the process of determination of an opposed order by DEFRA. The council would have to cover its own costs of forwarding the order to DEFRA and its costs associated with that decision process, potentially including a public inquiry. Under current legislation, costs incurred by the council in that determination process would not be recoverable.
- 3.5.5 If the council confirms its own order, or after an order has been confirmed by the SoS, the council may recharge its costs of concluding the order process, including bringing an order into force
- 3.5.6 Development proposals, including those given planning consent, may depend on the making and coming into force of public path orders, such as those changing or extinguishing public rights of way. Without such PROW orders, development may well be delayed, prevented or rendered unviable, with the subsequent effects on matters such as the local economy and provision of homes.

4 Consultees and their opinions

- 4.1 The public rights of way unit undertook three rounds of informal preliminary consultation which included notices posted on site and maintained for 4 weeks, information published on the Involve part of the Council’s website, and correspondence with statutory consultees, interested parties including utility companies and user groups, as well as ward councillors.
- 4.2 Ward councillors: Cllr Patrick, initially raised concerns then, in October 2017, wrote “I think the amended route, as discussed, is acceptable to me given that the development will (as explained) affect some of the route between the two houses. Not perfect, but on balance ok. If the additional route across the fields were possible that would be an added benefit.”
- 4.3 Cllr Patrick in response to consultation in July 2018, wrote, “I think with the additional path this is a much better proposal and I have no objections.” **Officers note** that the additional path proposed in the second consultation, is not part of the current proposal before sub-committee.
- 4.4 Cllr Patrick offered no comment in the 2019 consultation.
- 4.5 Other ward councillors have offered no comment to date.
- 4.6 Holme Valley Parish Council supports the application.

4.7 Responses have been received indicating support for the application and are shown at App D (App D lists responses by each round of consultation undertaken). These supportive comments concern:

- New pathway a huge improvement to the old pathway
- The pathway as you will have seen is fenced at both sides allowing my dogs to run freely without the fear of them heading off into the private drive ways of their home
- The new pathway is gated and joins the original further down the track which is perfect not just for my dogs but also when I walk with young children allowing them to run freely
- The proposed route is wide and level, it has wonderful views over the duckpond to lands far far away
- current path loses all views as it goes between two buildings
- dedicated walkers route which isn't shared with vehicles
- from a Health and Safety point of view it's far far safer than negotiating the tarmac drive, as this becomes slippery especially in winter
- obvious issue that it's a driveway so we often have to get out of the way of vehicles without much warning! Why would people want to walk up a drive?? It's stressful
- the new path is much more scenic and relaxing to use
- spectacular view offered by the instated new route
- top of the original route (up the driveway of the property, comes out at a highly dangerous bend
- new paths exit point provides visibility each way
- The new route avoids the main drive way and as I turn right slightly shorter
- visual view is hugely improved on exit from the new pathway easier to spot cars coming either down the hill or up the hill before joining the road
- always felt that I am being intrusive and nosey, I have had to keep my dogs on their leads to stop them running into the Butterfield's garden and parking area
- always had to be aware of cars leaving the house with the risk of both the dogs and myself being knocked down
- ourselves and other walkers are doing so for leisure, therefore it enhances our walking experience
- impressed with the landscaping of the new path
- fantastic stone work, drystone walls repaired properly, good path, benches to use
- I prefer the less claustrophobic open path
- children / grandchildren could run freely on the path without fear of vehicles / or farm machinery coming down the very narrow driveway
- usually parked cars on the left (due to dog walkers coming up to the trig point) parking and then walking their dogs the rest of the way
- The proposed diversion would offer so much more privacy for everybody and it would feel alright to stay for a while and enjoy the scenery
- the diversion offers great improvement from running on a semi private drive which we invariably have to share with cars
- The new route adds to my regular running route by just six minutes, taking into account running back up the road from the new exit point towards the trig point land, before turning around at the trig point and going back along the same route
- existing route offers a tarmac driveway sandwiched between two extremely high stone walls which act as a very unpleasant wind tunnel

- we felt nervous of potentially bumping in to animals who reside at the house as we are aware how territorial even the softest animals can be
- it is a much better surface to run on before joining the tarmac road
- The new path is easier on the joints. The substrate and gradient have made it possible for me join Wolfstones road without the deep mud which plagued the original route when the surface water following heavy rainfall would flow from the highest point (trig point,) directly down the path and inevitably down the driveway route into the soft ground
- The aforementioned drive is also extremely challenging when wet or icy
- The exit point of the diversion provides a wide exit point with views up and down the road and a large area for our walking group to congregate before moving on
- using a neat grass verge down the side of the road at the side of the house and linking the old and new paths
- also the tarmac ground is much better for my youngest who is only 2

4.8 The Council's Highways Safety engineer's comments are in full at App D. Conversion of the verge to a formal footway was identified as the only suitable mitigation measure for the change of the terminal point for Holmfirth 60 on Wolfstones Road. When queried by the applicant's agent, Highways Safety noted that the "*primary concern is the safety of pedestrians on the blind bend between the 2 access points (approx. 100m of verge).*" (See paragraph 2.10 above). **Officers note** proposals for improvement works to the verge to form part of a formal agreement under section 278, Highways Act 1980.

4.9 The Ramblers, a statutory consultee on orders, objects to the diversion proposal. Its grounds stated in 2019 are at Respondent ZH in App D. The Ramblers objected at earlier consultation stages.

4.10 The Peak & Northern Footpath Society, a statutory consultee, objects to the proposal. Grounds stated in June 2019 are shown at respondent ZD in App D, and PNFS objected at earlier consultation stages. As well as objections based on the changed path, PNFS queried the spending of public money on pursuing an opposed order.

4.11 Local running group, the Holmfirth Harriers object to the proposal, and objected at earlier consultation stages. June 2019 grounds at Respondent U at App D.

4.12 Responses were received that may be identified as being against the application diversion proposal and are also shown at App D. (App D lists responses by each round of consultation undertaken). These negative comments concern:

- Footpath coming out on dangerous bend
- Without a pavement
- Existing path is straight line between Netherthong and Wolfstones Heights
- the diversion would involve taking an unnatural line around two sides of a triangle and would significantly increase (almost double) the distance they would have to walk on the road
- The 'trig point' is NOT "relatively recently constructed". The programme to install Triangulation pillars began in the 1930s with the vast majority in place in the post war late 1940s. Locals have walked to this point over the unimproved/unused land since time immemorial. This practice has then been formalised under the stewardship of the

Holme Valley Land Charity

- Any conflict which may have existed between vehicles and pedestrians are eliminated by the creation of the new vehicle access drive and keeping pedestrians on the existing line
- The surveys do not take into account any usage after 1600
- survey seems to assume people only walk at weekends
- The original footpath is safer having been in large groups of walkers
- little threat to the security or privacy of the householder
- established path is a broad track, not a dark, narrow 'pinch point'
- diverted path takes the route needlessly northwards, interrupting the smooth, direct climb from Netherthong and adding unnecessary distance.
- new path's junction with Wolfstones road means that the walker is inconvenienced by having to climb the hill on the road
- emotional connection that local walkers feel with historic paths such as this one
- part of local culture and heritage woven together with ancient dwellings such as Wolfstones Heights
- narrow road and a quite dangerous
- current route is on the lane down to the stables which is access for vehicle use so can't be closed
- divert the existing driveway in order to fulfill planning permissions and facilitate access for emergency vehicles. I have no objection whatsoever to the driveway and vehicle access being diverted but I dispute this being a necessary justification for the diversion of the footpath
- the diversion would mean having to walk the last part along a road to get to the trig point at Wolfstones
- Kirklees and Holme Valley Parish Council are signed up to the Climate Change Emergency and this proposal goes against encouraging and supporting that ethos
- Holme Valley Neighbourhood Plan (in preparation) ,the number one priority requested in feedback by local residents was to support the maintenance and improvement of footpaths in the area
- planning consent does not divert or close public rights of way
- potential conflict between pedestrians and vehicles' on a very lightly used driveway (the only vehicles I have ever encountered have been involved in the building works at Wolfstones Heights), where vehicles travel at around walking pace, be improved by forcing pedestrians along 120 meters of public highway, which has no public footpath and a speed limit of 60 mph
- Part of the pleasure of using a footpath is passing by and through building and hamlets and having "the opportunity to experience the immense variety of English landscape and the settlements within it
- most users approaching the proposed diversion from the direction of Netherthong continue to the Wolfstones trig point
- surveys were undertaken in winter
- A memorial, with seating, has recently been constructed immediately to the west of the Wolfstones trig point and the landowner has erected a sign giving permission to cross the land at this point
- not sufficient justification for the loss of amenity and increased safety risk to the many local walkers using this footpath
- alternative route will be much less convenient & significantly less enjoyable

- verge is not suitable for walking on as there are too many obstructions
- Why should one person's benefit outweigh the public's loss of this path
- proposal seems to suggest that the building of garages cannot go ahead unless the path is diverted as of today the garages seem to be almost complete
- the current path does not cause any particular issues of overlooking or invading privacy the domiciles are situated well back from the current path
- no way be beneficial to myself or others members of the public to move the path
- proposed diversion ruins the continuity of the beautiful walk from Wolfstones Heights to Netherthong
- The many "green lanes" within the Holme Valley are a unique feature of the Valley, characterised by dry stone walls and grass verges on either side of the lane, often with grass in the centre, providing an invaluable habitat for wild life
- Approval of this diversion will set a dangerous precedent for other residents throughout the valley who feel that they can change established footpaths simply for their own personal benefits
- new path comes out at a blind corner, there are no paths nearby to connect to it, only road walking
- entirely traffic free route using rural paths including Holmfirth Footpath 60 to reach the viewpoint at Wolfstone Heights
- proposed new route is therefore less commodious
- never met a vehicle on there in 25 years
- no direct evidence in the report that the burglary at the property was as a result of the use of the footpath
- clearly sufficient room for walkers to use the footpath without coming into conflict with visitors to the property
- difficulties the fire engine encountered accessing the property has nothing to do with the public right of way
- argument that access to the heights may not always be the case is a smokescreen
- Pedestrians would then still have to cross the road in a potentially more dangerous position to walk facing oncoming traffic
- The fact that there has been no accident in the location with the current route in place is evidence of the safety of the current exit point
- The design of the garage and other features would appear to be a deliberate attempt to create an excuse for the 'need' for a change, and could have been designed not to impede the present route
- the present route has far less impact on those living in the development than the average pavement does on any village, town or city
- The footpath was known about when the property was purchased and any development should have taken the route into account. Not deliberately sought to change it
- With the newly constructed access driveway there is no reason why walkers and cars (or other vehicles) should cause an increased risk to pedestrians
- recreational walkers, from dog-walkers to committed hikers, do not like walking on public tarmac roads for longer than they need to, however quiet they are
- To allow the diversion would, we feel, be against the interests of users of the footpath
- At the Netherthong end, the path passes through a property with no problem
- To divert it would lose its essential character
- (I) use the path to connect to and from the one adjacent to Carr Farm on Wolfstones

Road. This change will mean more time spent on the road and having to negotiate the brow of the hill

- The entrance to the proposed footpath from Wolfstones Road is currently rutted and uneven. If this re-routing is to take place the landowner should be obliged to make improvements
- Kirklees planners granted planning permission 2014/62/92814/w without properly considering the effects on Holmfirth Footpath 60 and how this popular public footpath is used
- The proposed new route has several sharp turns on it which are not acceptable
- proposed new route for Holmfirth Footpath 60 is therefore considerably less commodious
- The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered
- diversion would reduce the amount of road walking for those using the path. However, this would only be the case for those coming from/going towards the north (Honley direction)
- the latest planning application that there is no necessity to divert the path in order to construct the garages
- The current path does not interfere with the privacy of Wolfstone Heights farm nor does it appear to do so should it remain
- no more than 20% of users of Holmfirth 60 turn right onto Wolfstones Road towards Honley

4.13 The applicant's comments on consultation responses are shown at App E1 and E2. The applicant considers that he has addressed and rebutted the negative comments on the proposed diversion.

4.14 Atkins Global, Northern Gas Networks, Cadentgas, Open Spaces Society, Auto Cycle Union, Cycle Touring Club, Huddersfield Rucksack Club, West Yorkshire Police Crime Prevention, Kirklees Bridleways Group, YEDL, National Grid, West Yorkshire Fire Service, NAVTEC, West Yorkshire Ambulance, BT, NTL, Yorkshire Water, MYCCI, Freight Transport, Passenger Transport Executive, RAC, KCOM and Road Haulage Association offered no response or no objection.

4.15 Notices were posted on site for 28 days.

5 Next steps

5.1 If an order is made, it would be advertised and notice served. There will be a statutory 28 day (minimum) notice period during which time the public may make representations and objections.

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

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

- 5.4 If members authorise the making of an order, but do not authorise officers to seek confirmation by the Secretary of State of an opposed order, a further decision would then be required on:
- 5.4.1 Considering objections that are received, and
 - 5.4.2 The potential referral of an opposed order to the Secretary of State, or
 - 5.4.3 Abandonment of an opposed order
- 5.5 If sub-committee refuses the application, the order is not made, the public footpath would remain on its current alignment and the planning permissions could not be fully implemented as granted. There is no statutory appeal right for the applicant against a council refusal to make a section 257 order.

6 Officer recommendations and reasons

- 6.1 **Officers ask** members to make a decision on whether to make an order, choosing one of the options regarding that decision identified in paragraphs 2.20 to 2.23 above.
- 6.2 There are many points raised with the Council both for and against the proposal, with views on the perceived advantages and disadvantages.
- 6.3 Officers consider that, after assessing the information, it would be reasonable for members to decide to make an order, or to decide to refuse to make an order.
- 6.4 Members may consider whether the diversion is required to fully implement relevant planning permission.
- 6.5 Members may consider whether there is good reason to refuse the diversion application despite the grant of planning permission, including consideration of the guidance of DEFRA in paragraphs 7.11 and 7.15 of circular 1/09. Officers consider that the information available to the Council now, that was not available to the Council when deciding the planning applications, may also be taken into account and, on balance, for members, the information as a whole may weigh sufficiently to lead to a refusal, e.g. if they consider that the negative effect of the proposal on public path users outweighs the positive effect of the development and that confirmation should not or would not be sought, so no order ought be made.
- 6.6 Alternatively, in considering this merits test, members may decide that the diversion might be acceptable. This test is described in the judgements in Vasiliou v SoS Transport [1991] 2 All ER 77 and in R (Network Rail) v SoS Environment, Food and Rural Affairs [2017] EWHC 2259 (Admin). Members may resolve that, in taking into account any significant disadvantages or losses flowing directly from the order, for the public generally and also considering any countervailing advantages to the public, along with the degree of importance attaching to the development, any such disadvantages or losses are not of such significance or seriousness that they should not make the Order.
- 6.7 If members decide to authorise the making of an order, then the council's stance on that order and on any objections or representations it may attract, and what to do next would be determined by which option they choose.
- 6.8 Although not formally forming part of the order, provision of improvement works, for the benefit of pedestrian users of Wolfstones Road between the existing and proposed

ends of footpath 60, may be considered by members, along with other factors, in the decision of whether to make the Order.

6.9 Officers recommend members to

- 6.9.1 **Choose option 4** at 2.23 above, that the Service Director of Legal Governance and Commissioning be authorised to make an Order under Section 257 of the Town & Country Planning Act 1990 to divert Holmfirth 60 (part) as shown on report Plan 1 and to confirm the order if unopposed, and to forward an opposed order for determination whilst not actively promoting its confirmation, if the applicant makes the case for confirmation in DEFRA's determination; **and to**
- 6.9.2 **require** the making of a relevant formal highway verge improvement agreement before the section 257 order is made **and to**
- 6.9.3 **require** the coming into force of a relevant formal highway verge improvement agreement before the section 257 order comes into force.

6.10 With the options available to members, this recommended approach appears to officers, on balance, to be appropriate, given the previous grant of planning consent, the content and timing of consultation comments and submissions received, the nature of the specific development work that requires the diversion, and that a refusal at this stage could not be appealed. It would allow the diversion proposal to move forward and potentially enable the applicant to pursue the desired diversion through DEFRA if an order is opposed. That may result in a public inquiry, where this finely balanced matter and the many arguments received may be presented and considered in person, with opposing views on this contentious matter open to examination before the determining DEFRA inspector. If the footpath diversion process were to be completed the recommendation would lead to securing the works for pedestrian verge improvements between points A and C on Plan 1. The nature and delivery of those verge works would be the subject of further discussion and formal agreement through appropriate Kirklees highways officers before an order is made.

7 Cabinet Portfolio Holder's Recommendations

7.1 Not applicable.

8 Contact officer

Giles Cheetham Definitive Map Officer, Public Rights of Way
01484 221000 giles.cheetham@kirklees.gov.uk

9 Background Papers and History of Decisions

9.1 PROW file 872/DIV/6/60 Wolfstones: Rights of Way Improvement Plan

9.2 Planning consents – website links shown at Section 2 above.

9.3 Appendices

<https://democracy.kirklees.gov.uk/ecSDDisplay.aspx?NAME=SD2037&ID=2037&RPID=507121906>

- 9.3.1 Plan 1 - diversion proposal plan
- 9.3.2 Plan 2 – plan of the nearby area (including trig point)
- 9.3.3 App A1 & A2 - planning application block plans 2018/93277 & 2018/93302
- 9.3.4 App B1 - applicant's supporting statement
- 9.3.5 App B2 - applicant's highways survey
- 9.3.6 App C – applicant 2019 photos and photo plan of HVLC land etc.
- 9.3.7 App D – consultation comments on the proposals

- 9.3.8 App E1 – applicant comments on the 2019 diversion consultation comments
- 9.3.9 App E2 – applicant comments on previous diversion application consultation comments
- 9.3.10 App F - Aerial photo 2014
- 9.3.11 App G - location plan
- 9.3.12 App W1 – photos of path 60 proposed to be diverted - Plan 1 A-B
- 9.3.13 App W2 – photos of proposed diversionary path - Plan 1 B-C
- 9.3.14 App X – 2019 photos of grass verge/Wolfstones Road - Plan 1 C – A.

10 Service Director responsible

10.1 **Sue Procter** Service Director, Environment; Economy & Infrastructure Directorate

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 30-Jan-2020

Subject: Planning Application 2019/92164 Erection of 17 dwellings Land off Parkwood Road, Golcar, Huddersfield, HD3 4TT

APPLICANT

Parkwood Ventures LLP
and Sir Robert Ogden
Estates Ltd

DATE VALID

15-Jul-2019

TARGET DATE

14-Oct-2019

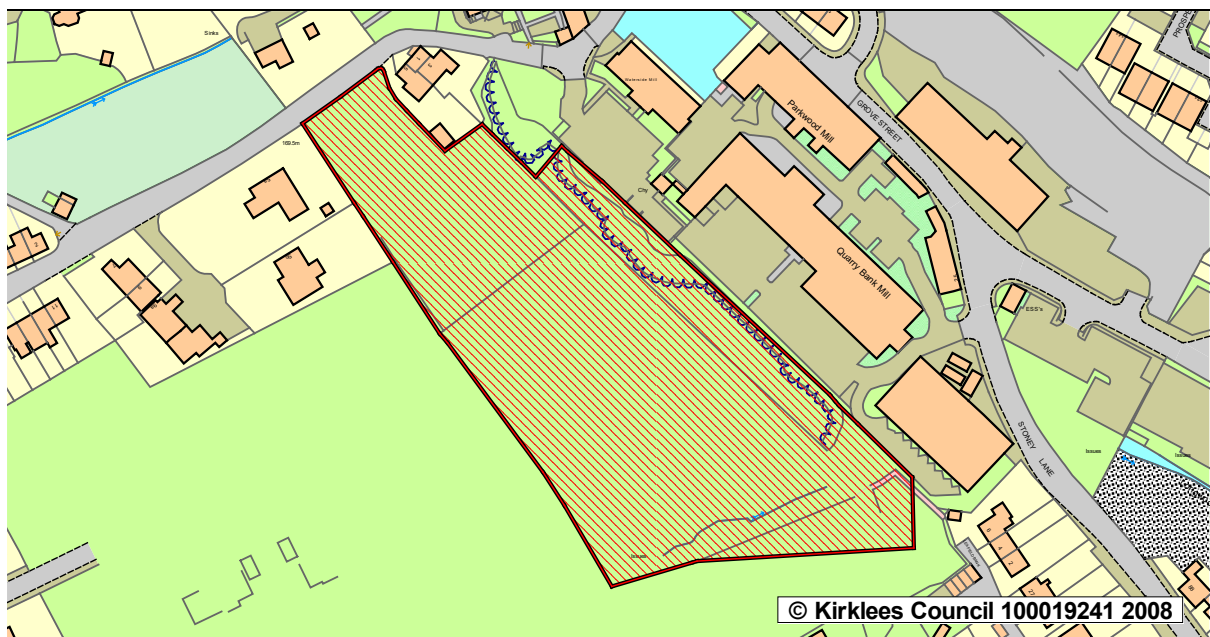
EXTENSION EXPIRY DATE

15-Nov-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 Ward Affected: **Golcar**

Yes

Ward Members consulted

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – Three affordable housing units (social or affordable rent) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £7,727 to address shortfalls in specific open space typologies.
- 3) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including Travel Plan monitoring arrangements and fees.
- 4) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee’s resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission, for a residential development of 17 dwellings.
- 1.2 The application is presented to the Huddersfield Sub-Committee as the site is larger than 0.5 hectares in size.
- 1.3 The application was previously considered by the Huddersfield Sub-Committee on 07/11/2019, when 27 dwellings were proposed. The Sub-Committee deferred determination to allow an opportunity for the applicant to consider the option of omitting from the proposed development the 10 units located at the northwestern part of the site in order to undertake a further comprehensive bat activity survey that meets national good practice guidance. The follow report is based on the amendments/information received.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is 1.16 hectares in size, has previously been in agricultural use, and is located to the southeast of Parkwood Road. To the southwest and southeast is a residential development (Weavers Chase) currently being constructed by Barratt Homes. To the northeast is the Parkwood Mills residential development (where converted former woollen mill buildings are Grade II listed) and the Longwood Edge Conservation Area. To the north and northwest, either side of the application site's short frontage to Parkwood Road, are residential properties 1, 3 and 5 Parkwood Road (which are Grade II listed and within the conservation area) and the more recent detached dwellings at 5a and 5b Parkwood Road.
- 2.2 The application site generally slopes downhill from its southwest edge (approximately 170m AOD where the new east-west estate road of the Weavers Chase development meets the site boundary) to the northeast (the site's lowest point is below 160m AOD). There is a significant drop in levels and a bare rock face of a former quarry to the rear of the Parkwood Mills site. A partly-culverted watercourse runs roughly east-west along a depression close to the south edge of the site.
- 2.3 The application site is previously undeveloped (greenfield) land, was previously in agricultural use, and is grassed. Ordnance Survey maps dated 1955, 1965 and 1980 annotate a tennis court (and, in 1955, a pavilion) close to the centre of the site, however this use has ceased.
- 2.4 There are trees and shrubs along the edges of the application site. No trees within or near to the site are protected by Tree Preservation Orders, however the conservation area status of part of the site and land to the northeast bestows protection on trees.
- 2.5 No public rights of way cross the application site, however there is a pedestrian entrance at the north end of the site at Parkwood Road, and evidence of well-trodden pedestrian routes from this entrance and across the site towards Grange Road.
- 2.6 The application site is part of a wider site allocated for residential development in the Local Plan (site allocation HS148). A Biodiversity Opportunity Zone (Built-up Areas) and an SSSI Impact Risk Zone covers the site. The 250m buffer zones of landfill sites to the east and west cover the site.

3.0 PROPOSAL:

- 3.1 The applicant seeks full planning permission for the erection of 17 dwellings in the larger, southeastern part of the site (phase 1 area). No dwellings are proposed in the northwestern part of the site which meets Parkwood Road – this is annotated as “phase 2” on the applicant's drawings, and a separate application for this area (for 10 dwellings) is expected later this year, once adequate ecological survey work has been carried out by the applicant.

- 3.2 Dwellings would be arranged around a new estate road running approximately northwest-southeast and which would be accessed from the northernmost east-west road of the Weavers Chase development (which is itself accessed from Thorpe Green Drive). A shared drive would extend from the new estate road to serve units 11 to 13, while other units would have private drives.
- 3.3 Publicly-accessible open space is proposed above attenuation tanks at the south end of the estate road, and along the site's south and northeast boundaries where the land slopes downhill away from the proposed dwellings. A footpath is proposed around the site's developable area.
- 3.4 Of the 17 dwellings proposed, six would be semi-detached, eight would be detached, and three would form a short terrace. Three two-bedroom, 11 three-bedroom and three four-bedroom dwellings are proposed.
- 3.5 Three of the 17 residential units would be provided as affordable housing. This represents a 17.6% provision.
- 3.6 Four house types are proposed. All dwellings would be two storeys in height. Artificial stone elevations (with natural stone jambs, lintels and cills), concrete roof tiles and UPVC windows are proposed.
- 3.7 All dwellings would have off-street parking, with the larger dwellings having attached or integral garages.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 The application site itself has no recent, relevant planning history.
- 4.2 Red line boundaries for some of the applications relating to the adjacent Parkwood Mills site (refs: 2003/93173, 2003/94668 and 2013/90821) overlapped with the red line boundary of the current application site.
- 4.3 The adjacent development site (Weavers Chase) to the south and southeast was the subject of several applications, including:
- 2013/91987 – Outline permission granted 19/06/2014 (subject to a Section 106 agreement) for the erection of 96 dwellings.
 - 2014/92021 – Reserved matters consent granted 13/11/2014 for the erection of 94 dwellings.
 - 2015/90470 – Modification of Section 106 obligation relating to previous application 2013/91987 approved 14/12/2015.
 - 2015/92302 – Non-material amendment to previous reserved matters consent (ref: 2014/92021) approved 27/07/2015.
 - 2015/91118, 2015/91119, 2015/92690, 2016/93928, 2017/93592 – Discharge of conditions applications pursuant to previous approvals 2013/91987 and 2014/92021.
 - 2017/92093 – Reserved matters consent granted 22/08/2017 for the erection of 96 dwellings.
- 4.4 The Weavers Chase site is currently being developed, and some dwellings are already occupied. Two vehicular access points are to be provided – Thorpe Green Drive would carry the majority of the development's traffic, and Grange Road would carry traffic from the southeast part of the site. The Barratt Homes website indicates that the 96-unit scheme is being built.

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

5.1 Written pre-application advice was provided on 21/12/2018 (ref: 2018/20346) in relation to a 27-unit residential scheme with a similar layout to that previously proposed under the current application. The main points made in that written advice were:

- The principle of housing development at this site is acceptable.
- Buffer between heritage assets and proposed development preferred. Site to southwest of listed cottages should be retained as open space. Development should be set back from listed mill. Units 5 and 6 would not be respectful to the local vernacular in terms of character and scale. Heritage statement required.
- Properties which turn their side to the estate road are of concern. Query if units 11 to 17 could face the estate road. Unit 18's gable end would abut the open space and may suffer nuisance – reorientation or buffer space recommended.
- Garages to units 9 and 15 appear too close to the estate road.
- Natural stone walling and blue slate roofing required, given adjacent conservation area.
- Boundary treatments visible from the street should be walls of sympathetic materials. Landscaping can be used to reduce the prominence of walls.
- Proposed public open space at site's southern boundary provides opportunity for improved connectivity, green and habitat links, with connection to open space on the adjacent site.
- Footpath between proposed open space and Stoney Lane and Grove Street would provide easier, more direct access to the existing Spark Street Recreation Ground.
- Relationship between trees at 5a Parkwood Road and proposed gable end needs reviewing to ensure there would be no adverse impact upon these trees.
- 73 units of the Weavers Chase development (units 1 to 71, 95 and 96) would be accessed from the western side of that development. Proposals for 27 units would result in 100 units requiring access from this western side. Transport Assessment required, including assessment of impacts on Leymoor Road / Stoney Lane, Stoney Lane / Grove Street and Thorpe Green Drive / Leymoor Road junctions.
- Site is unsuitable for soakaways, therefore potential for connection to a local watercourse should be explored. Watercourse to the south of the site has a culverted section beneath the adjacent mills that is in a poor condition, and connection to it would be objected to. A new sewer connection (that bypasses the culverted watercourse) is being provided as part of the Weavers Chase development, and connection to it should be explored. If northern part of the site cannot be so connected, connection to the Yorkshire Water sewer to the north should be explored.
- On-site open space and a Local Area of Play (LAP) required. This can be natural playable space, but an equipped playspace should be off-site as minimum stand-off distances could not be achieved on-site. Off-site contribution towards a LAP would be approximately £44,000.
- Tree planting required.

- Site's constraints include the area's general suitability for foraging and roosting bats, and the site's proximity to areas within the Kirklees Wildlife Habitat Network. Ecological appraisal required to establish baseline ecology across this site.
 - Site is potentially contaminated, and conditions relating to site contamination would be recommended.
 - Electric vehicle charging points required.
 - Section 106 obligations required in relation to affordable housing (20% provision (six units) required), open space, education (subject to officer advice), Travel Plan and Metro cards.
- 5.2 At pre-application stage former Cllr Hilary Richards expressed concern regarding additional traffic to Parkwood Road, and requested the provision of safety measures.
- 5.3 As set out in the applicant's Statement of Community Involvement, the applicant sent letters dated 23/05/2019 to the occupants of 148 surrounding properties, and to Members for Golcar ward. The letters included a proposed layout plan and asked for comments by 07/06/2019. Four responses were received.
- 5.4 During the life of the current application, the applicant submitted two amended versions of a Flood Risk Assessment and Drainage Strategy, an amended drainage layout drawing, a ground gas risk assessment, four amended versions of a site layout plan, a minor change to the site's red line boundary, information regarding the site's developable area, revised house type drawings, and information related to biodiversity and trees.
- 5.5 Following the Sub-Committee's decision of 07/11/2019 to defer determination of the application, the applicant deleted units 1 to 10 from the proposed development, and now proposes 17 units (units 11 to 27) on part of the site. Additional information relevant to biodiversity has also been submitted.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

Kirklees Local Plan (2019):

- 6.2 The site forms part of site allocation HS148 (formerly H116). HS148 relates to 4.53 hectares (gross), however its net site area is identified in the site allocation as 4.48 hectares, taking into account the watercourse that runs across the site. The site allocation sets out an indicative housing capacity of 125 dwellings, and identifies the following constraints:
- Third party land may be required to access part of site
 - Improvements to local highway links may be required
 - Additional mitigation on the wider highway network may be required
 - Watercourse crosses the site
 - Site close to a Conservation Area

6.3 Of note, not all of the above-listed constraints apply to the part of the allocated site to which the current planning application relates.

6.4 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP23 – Core walking and cycling network
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic environment
- LP47 – Healthy, active and safe lifestyles
- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP50 – Sport and physical activity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP65 – Housing allocations

Supplementary Planning Guidance / Documents:

6.5 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highways Design Guide (2019, to be modified following Cabinet resolution of 08/10/2019)
- Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
- Green Street Principles (2017)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)

National Planning Policy and Guidance:

- 6.6 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:
- Chapter 2 – Achieving sustainable development
 - Chapter 4 – Decision-making
 - Chapter 5 – Delivering a sufficient supply of homes
 - Chapter 8 – Promoting healthy and safe communities
 - Chapter 9 – Promoting sustainable transport
 - Chapter 11 – Making effective use of land
 - Chapter 12 – Achieving well-designed places
 - Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
 - Chapter 15 – Conserving and enhancing the natural environment
 - Chapter 16 – Conserving and enhancing the historic environment
 - Chapter 17 – Facilitating the sustainable use of materials.
- 6.7 Since March 2014 Planning Practice Guidance for England has been published online.
- 6.8 Relevant national guidance and documents:
- National Design Guide (2019)
 - Technical housing standards – national described space standard (2015, updated 2016).

Climate change:

- 6.9 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised as a major development and a development that would affect the setting of a listed building and a conservation area.

- 7.2 The application has been advertised via five site notices posted on 24/07/2019, an advertisement in the local press dated 26/07/2019, and letters delivered to addresses adjacent to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 16/08/2019.
- 7.3 Three representations were received from occupants of neighbouring properties. These have been posted online. The following is a summary of the points raised:
- Tree impacts. Proposed unit 6 would be close to adjacent trees and boundary hedge. Excavation and works may damage trees. Applicant's consultant recommended preparation of an Arboricultural Implications Assessment, however this has not been submitted. Monitoring recommendations regarding trees have been made by the applicant's consultant without reference to the tree owner. Application is incomplete. Tree matters require further investigation.
 - Adjacent former quarry face wall (to rear of Parkwood Mills) is unstable in areas, and rock from the quarry face has fallen into the car park below, causing damage to vehicles. Rock falls may have been caused by development of the Weavers Chase site, as the ground has been disturbed by the excavation of foundations and utilities. Any future building work involving ground works would further weaken the wall. Residents of Parkwood Mills would be put in danger. Proposed development should not be approved until an assessment of the former quarry face, and risk of further rock falls, is carried out. If permission is granted, developers should indemnify adjacent resident against damage, injury and cost of remediation work to former quarry face.
- 7.4 Amendments made to the proposals during the life of the current application, including the deletion of units 1 to 10, did not necessitate reconsultation.
- 7.5 Responses to the above comments are set out later in this report.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Yorkshire Water – Condition recommended, requiring implementation in accordance with drawing 0001 (rev B). No objection to the proposed separate systems of drainage on site and off site, the proposed amount of domestic foul water to be discharged to the public foul water sewer, the proposed amount of curtilage surface water to be discharged to the public surface water sewer (at a restricted rate of 3.5 (three point five) litres/second), or the proposed points of discharge of foul and surface water to the respective public sewers. Advice provided regarding sewer adoption and diversion.

KC Highways – Applicant's anticipated trip generation figures are considered to be low, and 21 two-way vehicle movements would be a more robust estimate. However, given that the applicant's modelling demonstrates that the Leymoor Road / Stoney Lane, Stoney Lane / Grove Street and Thorpe Green Drive / Leymoor Road junctions would operate comfortably within capacity, it is accepted that the impact of the proposed development can be accommodated.

Regarding the proposed layout, gradients to new roads are required, longitudinal sections along new roads are required, double-width driveways for the semi-detached houses should be increased to 5m in width, three off-street parking spaces should be provided for unit 8, kerb lines need to be parallel and carriageway width needs to be a consistent 5.5m, bin collection points should be shown, turning heads and junction splays need to be amended to provide comfortable turning and manoeuvre for refuse vehicles, pedestrian access is needed between the parking spaces of units 11 to 13, and the parking spaces of units 9 and 10 obstruct access to the parking space of unit 11.

Any retaining features affecting the highway will require formal technical approval from the council.

As noted in the committee update issued on 06/11/2019, further comments were received from Highways Development Management officers, confirming that the proposals were acceptable except in respect of the refuse vehicle swept paths which still appeared tight. It was recommended that this outstanding matter be addressed at conditions stage.

KC Lead Local Flood Authority – Risk of flooding from watercourse (resulting from blockage to culvert adjacent to unit 18) should be considered, as should works to mitigate risk to the proposed development. Ownership of the watercourse and culvert should be confirmed. If the landowner is responsible, information on future maintenance arrangements should be provided. Watercourse survey should be provided.

Flow routing analysis required. Water from short, intense storms may bypass road gullies and flow routes should avoid property curtilages where practicable, utilising roads and open spaces. Flow routing from attenuation tanks should also be considered.

Further, detailed comments made regarding applicant's surface water drainage strategy.

As noted in the committee update issued on 06/11/2019, the Lead Local Flood Authority commented on the applicant's further information, requesting a revised Flood Risk Assessment that collated the applicant's earlier information. Further investigation relating to flow and overflow routing, an existing watercourse, and other matters requested. The LLFA have advised that a suitable drainage strategy has been demonstrated, and that the site can be developed, however the LLFA's objection would be maintained until the revised Flood Risk Assessment is provided. On 05/11/2019 the applicant provided a revised Flood Risk Assessment. The comments of the LLFA on this revised document are awaited.

8.2 **Non-statutory:**

KC Biodiversity Officer – Proposed development currently shows a measurable biodiversity net loss, which is not acceptable. Errors in applicant's biodiversity metric calculation highlighted. Concern regarding applicant's assertion that the inclusion of bat and bird boxes would affect the metric score – this is a fundamental misunderstanding of how the metric works. The metric is based

on habitat area, and retaining or enhancing habitats and creating features such as ponds are possible options for improving the score. The council can also consider collecting a commuted sum to offset the loss, however this is not the preferred option. Further work is needed.

KC Conservation and Design – No objection. Overall the design and layout comply with pre-application advice of the Conservation and Design team.

KC Education – No primary or secondary school contribution required.

KC Environmental Health – Agree with conclusions set out in Phase I and II contaminated land reports and ground gas risk assessment. Conditions recommended relating to site contamination, electric vehicle charging points, and Construction Environmental Management Plan. Advice provided regarding construction noise.

KC Landscape – Developments of 10 to 50 dwellings require a Local Area of Play (LAP). This could be incorporated at the application site's open space as a series of well-designed features and playable elements or equipment within a natural playable space, or as an off-site sum towards an existing equipped facility in the vicinity, or a mix of both. The proposed layout does not include a playable space, and the proposed attenuation tanks may make this unfeasible. Golcar ward is deficient in all six open space typologies in terms of quantity. Due to size of proposal, contributions towards parks and recreation, and natural and semi-natural open space, are required. No LAP is indicated, therefore an off-site contribution of £12,273 is required. This could be spent at Spark Street Recreation Ground, which is within the recommend walking distances from the site.

Proposals involve good inclusion of tree planting to front gardens. Full hard and soft landscaping details required. Use, design, management, furnishing and landscaping of open space queried. Detail, gradients, handrail and construction method of footpath through open space requested. Proposed open space would provide a good buffer, however some dwellings abutting it may require defensible space against it. Details of bin storage and collection needed, and each dwelling will require space for two 240 litre bins and an option for a third bin for garden waste. Grit bin locations should be confirmed. Landscape and ecological design strategy, and landscape management plan, needed. Streets should be designed to Green Streets principles. Tree planting and street lighting should be designed together.

KC Planning Policy – (based on the original layout) Site allocation HS148 sets out an indicative site capacity of 125 dwellings. 31 dwellings should be provided at the application site (based on the 35 units per hectare set out in Local Plan policy LP7). 20% affordable homes required, and the proposed five affordable units complies with policy LP11. Noted that all affordable homes would be located together in one part of the site, and that some would be one-bedroom units. Query if proposed open space could be more overlooked in accordance with policy LP24. Open space assessment provided for wider HS148 site with regard to six open space typologies.

KC Strategic Housing – 20% affordable housing required, split 55% social or affordable rent / 45% intermediate. On-site provision preferred. Affordable homes must be evenly distributed throughout the development, and not provided in a single cluster. Affordable homes must be indistinguishable from market housing in terms of quality and design.

In Kirklees Rural West there is a significant need for affordable one- and two-bedroom properties. Five affordable dwellings are required from this development (three social or affordable rent and two intermediate units), and at this site the affordable housing provision can comprise one- and two-bedroom homes.

KC Trees – The revised layout and levels information is an improvement and through there is still likely to be some impact on roots the changes are sufficient to make these acceptable. Arboricultural Method Statement and Tree Protection Plan still required, preferably upfront but could be conditioned as pre-commencement.

West Yorkshire Police Crime Prevention Design Advisor – No objection in principle. Applicants are encouraged to apply for Secured by Design accreditation. Overall, the proposed site layout is well designed with plenty of natural surveillance across the properties. The proposed footpath will require good lighting to discourage anti-social behaviour. Further advice provided regarding public footpaths, boundary treatments, lockable gates, publicly-accessible areas, lighting, trees and vegetation, doors and windows, garages, cycle storage, parking, bin stores, alarms and CCTV.

Yorkshire Wildlife Trust – Insufficient information to properly assess the proposed development's impacts. Errors and confusing statements in applicant's submission, and reports fall short of industry standards. Bat survey inadequate. No assessment made of impacts upon nearby bat roosts. Ecological Impact Assessment (EclA) should be submitted, including all survey information, methodologies and assessments, with corrections and clarifications. EclA should show how a biodiversity net gain would be achieved, and should include statements enabling the conditioning of a Construction Ecological Management Plan, Biodiversity Enhancement and Management Plan and a sensitive lighting scheme.

9.0 MAIN ISSUES

- Land use, sustainability and principle of development
- Design and conservation
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Trees and ecological considerations
- Environmental and public health
- Ground conditions
- Representations
- Planning obligations
- Other matters

10.0 APPRAISAL

Land use, sustainability and principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The application site forms part of a wider site allocation (ref: HS148), to which full weight can be given. The rest of the allocated site has full planning permission for residential development, and is being developed – the proposed development would complete the development of site HS148.
- 10.4 The site is not designed as Urban Green Space or Local Green Space in the Local Plan, but is greenfield land, and was previously in agricultural use and designed as Provisional Open Land in the superseded Unitary Development Plan. Allocation of this and other greenfield sites by the council was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some development on greenfield land was also demonstrated to be necessary in order to meet development needs.
- 10.5 The 17 dwellings proposed would contribute towards meeting housing delivery targets of the Local Plan.
- 10.6 The applicant's Planning Statement only refers to climate change when quoting relevant planning policies, and does not explain how the proposed development would help to address or combat climate change effects. Officers note, however, that measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage for residents), electric vehicle charging points, and a Travel Plan would be secured by condition or via a Section 106 agreement, should planning permission be granted. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures will need to account for climate change.
- 10.7 The application site is a sustainable location for residential development, as it is relatively accessible and is within an existing, established settlement that is served by public transport and other facilities.
- 10.8 Golcar and Longwood currently have a number of pubs, schools, churches, eating establishments and other facilities, such that at least some of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

- 10.9 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

Design and conservation

- 10.10 Chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP7, LP24 and LP35 are relevant to the proposed development in relation to design and conservation, as is the National Design Guide.
- 10.11 The site is subject to constraints relevant to design and conservation, namely the ten nearby listed buildings and the Longwood Edge Conservation Area to the east and northeast. The site is visible from higher ground (including from Longwood Edge Road and Bull Green Road) to the east, and in these views the effect of any adjacent development upon the setting of the listed buildings and conservation area will be particularly evident.
- 10.12 Permissions relating to the adjacent Weavers Chase were issued prior to the adoption of the council's masterplanning policy (Local Plan policy LP5), and the design and access statements submitted with applications 2013/91987, 2014/92021 and 2017/92093 did not include a masterplan for the wider site, or indicative proposals for the land that is now the subject of the current planning application. However, the approved layouts allowed for future development of the current application site, by way of an east-west estate road (from Thorpe Green Drive) that is to extend to the site boundary.
- 10.13 The proposed 17 dwellings would be arranged around a new estate road. Some rear gardens of the new dwellings would back onto the rear gardens of existing or yet-to-be-completed dwellings, completing perimeter blocks. This approach to layout has not been possible for all dwellings, however, due to the site's topography and width, and the location of open space in the adjacent Weavers Chase development. Several proposed dwellings would have their rear and side gardens exposed to public access, and although this is considered unavoidable, this is a shortcoming of the proposed development that would need addressing (as far as is possible) with careful design of boundary treatments and defensive planting between garden curtilages and publicly-accessible open spaces. A condition related to crime and anti-social behaviour prevention measures is recommended.
- 10.14 The proposed development's main open space is appropriately proposed at the south end of the site, and would be reasonably well overlooked from the front habitable room windows of units 16 to 21. The sloped open space and footpath proposed along the site's northeastern edge would need to be carefully landscaped so that sufficient natural surveillance can be maintained, and smaller outdoor spaces around the site will also need to be defined, landscaped and managed to ensure they do not become ambiguous, leftover spaces at risk of anti-social behaviour such as fly-tipping.
- 10.15 Off-street car parking is proposed in front or side driveways, or in integral or attached garages, in similar arrangements to those of the adjacent Weaves Chase development. With appropriate landscaping, the proposed car parking would not have an overdominant or otherwise harmful visual or streetscape impact.

- 10.16 Flood risk (and flood routing) has informed the proposed layout. The development's main estate road would have a gradient and orientation that would help prevent surface water running into or pooling within residential curtilages, and section 8 of the submitted Flood Risk Assessment and Drainage Strategy (revision 05) states that external ground levels will be designed to direct any surface water flow away from building thresholds.
- 10.17 To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.
- 10.18 The application site area is 1.16 hectares (corrected by the applicant from the 1.24 hectares referred to in the previous committee report) Phase 1 would occupy 0.85 hectares of the application site. With 17 units proposed in this area, a density of approximately 20 units per hectare would be achieved. With a further 10 units to be proposed later in the northwestern part of the application site, a density of approximately 23 units per hectare would be achieved.
- 10.19 These density figures, however, are based on the gross (red line boundary) site area figure, which includes some of the land identified in site allocation HS148 as being deductible from the gross site area, and also includes sloped land along the site's northeast boundary and land close to nearby heritage assets. It is accepted that these constraints reduce the site's developable area, and in an email dated 27/09/2019 the applicant suggested that only 0.95 hectares of the application site are in fact developable. Were a total of 27 units to be proposed in these 0.95 hectares, a density of approximately 28 units per hectare would be achieved. This would still fall short of the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7, however it is noted that with 96 units under construction at the adjacent site and a total 27 units proposed (and to be proposed) at the application site, there would be a shortfall of only two units against the indicative site capacity (125 units) for site allocation HS148. Furthermore, adjacent densities to the west must also be noted – with 96 units being developed in 3.5 hectares, the Weavers Chase development will achieve a density of approximately 27 units per hectare. Finally, it is noted that greater density at the current application site would be at odds with the patterns of development commonly found in urban areas (where there is normally a crescendo of density towards centres and street frontages), and that an increase in dwelling numbers would result in more massing and hard surfaces (and less opportunity for greenery) within the context of the nearby listed buildings when they are viewed from higher land to the east. Given all these considerations, it is recommended that the proposed quantum of development, and its density, be accepted.
- 10.20 Four house types are proposed, all of which would be two storeys in height with conventional massing, roof forms and elevational treatments similar to those used at the adjacent Weavers Chase site and other sites nearby. Pitched roofs, front gables and windows with vertical emphases within window openings with horizontal emphases are proposed. A further house type is to be proposed later for the northwestern part of the application site, bringing further variety to street scene.

- 10.21 Artificial stone elevations (with natural stone jambs, lintels and cills), slate effect concrete roof tiles, UPVC windows, UPVC downpipes and GRP doors are proposed. While artificial stone would normally be of concern at such a site adjacent to heritage assets, it is noted that such a material (Forticrete Black Old Weathered artificial stone walling material with a pitched finish) was approved for the adjacent Weavers Chase development (ref: 2017/93592) and the proposed use of artificial stone at the current application site has not attracted an objection from the council's Conservation and Design team. A condition requiring the submission of details and samples of all external materials is recommended.
- 10.22 Notwithstanding the applicant's proposal to erect 1.8m high close boarded timber fences around all rear gardens (which would be unacceptable in several locations around the site, including along the site's northeastern edge and along the new estate road), a condition requiring details of boundary treatments is recommended.
- 10.23 Subject to recommended conditions, given the proposed layout, scale of development, spacing of buildings away from the site's northeastern boundary, and opportunities for soft landscaping, it is considered that the proposed development would not cause unacceptable harm to the significance of heritage assets. The applicant's Heritage Statement arrives at a similar conclusion, and additionally notes that the footpath proposed along the site's northeastern edge would open up views of the rear of the adjacent listed mill, while the proposed layout (and the east-west estate road through the Weavers Chase site) would frame and maintain a longer view of the mill's chimney. Regarding the Grade II listed buildings at 1, 3 and 5 Parkwood Road, the applicant's Heritage Statement asserts that there would be less than substantial harm to their setting, but that – having regard to NPPF paragraph 196 – this harm is outweighed by the proposed development's public benefits. This is accepted.
- 10.24 In light of the above assessment, it is considered that the relevant requirements of chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP7, LP24 and LP35, would be sufficiently complied with. There would also be an acceptable level of compliance with guidance set out in the National Design Guide.

Residential amenity and quality

- 10.25 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.26 Acceptable separation distances are proposed between the proposed dwellings and existing and yet-to-be-constructed neighbouring properties. The proposed distances would ensure existing neighbours would not experience significant adverse effects in terms of natural light, privacy and outlook.
- 10.27 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed relative to that already being delivered at the adjacent Weavers Chase site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses.

- 10.28 A condition requiring the submission and approval of a Construction Management Plan (CMP) is recommended. The necessary conditions-stage submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of temporary drainage arrangements would need to be included in the CMP.
- 10.29 The quality of the proposed residential accommodation is also a material planning consideration.
- 10.30 Although the Government's Nationally Described Space Standards (March 2015) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed. Following amendments made during the life of the current application, all of the proposed dwellings would meet the minimum unit size figures set out in this guidance, which is welcomed.
- 10.31 All of the proposed dwellings would benefit from dual aspect, and would be provided with adequate outlook, privacy and natural light. Adequate distances would be provided within the proposed development between new dwellings.
- 10.32 All dwellings would have WCs at ground level, providing convenience for visitors with certain disabilities. No dwellings would have ground floor bedrooms, although the largest units would have habitable rooms at ground floor level that could be converted to bedrooms.
- 10.33 All of the proposed dwellings would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents.
- 10.34 The proposed open spaces would go some way towards meeting the relevant requirements of a 17-unit (and, indeed, a 27-unit) residential development in Golcar ward, which is deficient in all six open space typologies in terms of quantity. The size of the proposed development triggers the need for a Local Area of Play (LAP), and contributions towards parks and recreation, and natural and semi-natural open space, are required. With no LAP indicated on the applicant's drawings, an off-site contribution of £12,273 would be required for a 27-unit development, however there may be an opportunity for the applicant to reduce this requirement if a LAP was provided on-site as a series of well-designed features and playable elements or equipment within a natural playable space. If no such on-site provision is made, the required off-site contribution could be spent at Spark Street Recreation Ground, which is within the recommend walking distances from the site.
- 10.35 As 17 units are now proposed, it is recommended that £7,727 (of the £12,273 required for 27 units) be secured under the current application, with the remaining £4,546 to be secured in connection with the applicant's future application for the remaining 10 units.
- 10.36 Although some details of landscaping proposals have been shown on the applicant's drawings, a condition is recommended, requiring further details of the development's outdoor spaces and their purpose, design, furnishing, landscaping and management. Details of the proposed footpath through the open space (including details of gradients, any handrails, and construction methods) would also be required.

Affordable housing

- 10.37 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.
- 10.38 When 27 units were previously proposed, five were to be affordable. In terms of unit numbers, this represented an 18.5% provision, which fell slightly short of the requirements of Local Plan policy LP11 due to rounding down. The 20% policy requirement would be equivalent to 5.4 affordable units, therefore it was previously recommended that five affordable units be accepted and that this be secured via Section 106 agreement.
- 10.39 In the 27-unit scheme, units 9 to 13 were to be affordable. The proposed affordable housing was to be provided as two one-bedroom and three two-bedroom units. This proposed unit size mix would have assisted in meeting known need as set out in the 2016 Strategic Housing Market Assessment.
- 10.40 The applicant did not confirm the tenure the affordable housing units. The council's preferred tenure mix is 55% social or affordable rent / 45% intermediate.
- 10.41 The proposed locations of the affordable housing units were considered acceptable. Although not spread across the development (they were proposed in a pair or semi-detached properties and a short terrace, either side of a shared drive), their locations were considered acceptable given the size of the site and the development. Although the proposed affordable provision would have included the development's smallest units (the one- and two-bedroom units), the same detailing and materials were proposed for all dwellings, which would have helped ensure the affordable units would not be visually distinguishable from the development's market units.
- 10.42 17 units are now proposed, of which three would be affordable. This represents a 17.6% provision. The three units (11, 12 and 13) would have two bedrooms. Their proposed location has not changed.
- 10.43 It is recommended that these three units be secured as social or affordable rent units via a Section 106 agreement. The two other affordable units (previously proposed as part of the 27-unit scheme) can be secured as intermediate 1-bedroom units as part of the future 10-unit phase 2 scheme.

Highway and transportation issues

- 10.44 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport, and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

- 10.45 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.46 The only highway that the application site meets is Parkwood Road, however no vehicular connection is proposed here. Parkwood Road lacks footways, and has narrow widths and poor forward visibility in some locations, such that a new vehicular access from Parkwood Road would not be considered acceptable.
- 10.47 Instead, all 17 units (and the 10 units of the future phase 2 scheme) would rely on vehicular access from the adjacent Weavers Chase site, which in turn connects to Thorpe Green Drive and Leymoor Road. 73 units of the Weavers Chase development (units 1 to 71, 95 and 96) are to be accessed from this western side of that development, and the proposed development for 17 units, plus the 10 units to be proposed later, would result in 100 units requiring access from this western side. Although the applicant's anticipated trip generation figures for 27 units (16 two-way movements in the morning peak, and 15 two-way movements in the afternoon peak) are considered to be low (Highways Development Officers have advised that 21 two-way vehicle movements would be a more robust estimate), given that the applicant's modelling demonstrates that the Leymoor Road / Stoney Lane, Stoney Lane / Grove Street and Thorpe Green Drive / Leymoor Road junctions would operate comfortably within capacity, it is accepted that the impact of the proposed development can be accommodated.
- 10.48 It is recommended that the submission and implementation of a Travel Plan be secured via a Section 106 agreement, to ensure the use of sustainable modes of transport is encouraged and enabled. Travel Plan monitoring fees would also need to be secured.
- 10.49 Pedestrian infrastructure surrounding the site is mixed, with some streets having footways on both sides, and others having none. There is no pavement for users of the bus stop outside 152 Leymoor Road. The proposed footpath around the site's southern and part of its northeastern edges, and the retention of the existing pedestrian access on Parkwood Road, would help create an appropriately connected, walkable, permeable neighbourhood in compliance with Local Plan policies LP20, LP24dii and LP47e. All residents of the proposed development would be able to walk (without significant detours) from their homes to existing public transport and other facilities available on Leymoor Road, which is served by the 301 and 302 buses. While it is noted that a pedestrian connection between the development's main open space and Stoney Lane or Grove Street would provide easier, more direct access to the existing Spark Street Recreation Ground, this connection would need to cross challenging topography and intervening third party land. As there is no footway along the site's northern edge along Parkwood Road, a new inset refuge (to

improve sight lines for pedestrians, and space off the carriageway where pedestrians can wait for traffic to pass and not have to step directly out onto the carriageway) should be provided at the point where the retained pedestrian access meets Parkwood Road. Details of this provision can be secured via the recommended landscaping and boundary treatment conditions.

- 10.50 Regarding the proposed development's internal arrangements, the applicant's amended drawings have addressed most of the concerns of Highways Development Management (HDM) officers. As reported in the previous committee update, HDM officers have advised that the proposals are now acceptable except in respect of the refuse vehicle swept paths which still appear tight. It is recommended that this outstanding matter be addressed at conditions stage.
- 10.51 Acceptable off-street parking is proposed for the proposed residential units in accordance with council's Highways Design Guide. Details of secure, covered and conveniently-located cycle parking for residents would be secured by a recommended condition.
- 10.52 Storage space for three bins is proposed for dwellings, and refuse collection points are proposed throughout the proposed development. Further details of waste collection, including details of management to ensure waste collection points are not used for fly-tipping or permanent bin storage, are required by recommended condition. The same condition would require refuse collection points in locations that would not obstruct access to private driveways.

Flood risk and drainage issues

- 10.53 The site is within Flood Zone 1. The site generally slopes downhill from its southwest edge to the northeast. Part of the site drains to the partly-culverted watercourse (a tributary of Longwood Brook) which runs roughly east-west along a depression close to the south edge of the site, while other parts of the site are in a different catchment falling more to the north towards Clay Wood Brook.
- 10.54 As the application site is larger than 1 hectare in size, and is within Flood Zone 1, three versions of a site-specific Flood Risk Assessment and Drainage Strategy (FRADS) were submitted by the applicant. These related to the 27 units previously proposed, and it is accepted that this document did not need to be revised following the deletion of units 1 to 10 from that scheme. The applicant's FRADS states that the post-development surface water run-off rate should be restricted to a discharge rate of 3.5 litres per second, provides for extreme rainfall events, and ensures that the quality of any receiving water body would not be adversely affected by the proposed development. Two attenuation tanks are proposed towards the south end of the proposed development's new estate road, and from these water would discharge to an existing surface water pipe at the site's southeast corner. Soakaways are not proposed, nor is discharge of surface water into the existing watercourse that runs along the southern edge of the application site.
- 10.55 The proposed surface water discharge arrangements are considered acceptable in principle. The proposal not to discharge to the existing watercourse is appropriate, given the known condition of the culverted part of this watercourse.

- 10.56 As reported in the previous committee update, the Lead Local Flood Authority (LLFA) have advised that a suitable drainage strategy has been demonstrated, and that the site can be developed, however the LLFA's previous objection will be maintained until a revised FRADS is provided. It is considered that this outstanding concern (which can be addressed with the submission of an appropriate consolidated FRADS) can be addressed at conditions stage, if not addressed prior to the determination of the current application. A consolidated version of the FRADS has been submitted, and the comments of the LLFA regarding the acceptability of this are awaited.
- 10.57 Details of temporary surface water drainage arrangements would be secured via the recommended condition requiring the submission and approval of a Construction Management Plan.
- 10.58 Foul water from the proposed development would discharge to an existing sewer at the southeast corner of the site. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.

Trees and ecological considerations

- 10.59 The application site is previously undeveloped (greenfield) land, was previously in agricultural use, and is grassed. There are trees and shrubs along the edges of the site. No trees within or near to the site are protected by Tree Preservation Orders, however the conservation area status of part of the site and land to the northeast bestows protection on trees. A Biodiversity Opportunity Zone (Built-up Areas) and an SSSI Impact Risk Zone covers the site.
- 10.60 Regarding bats, the applicant's biodiversity consultant, JCA, carried out three activity surveys in August and September. These confirmed that the site is used by common pipistrelle bats and is a noctule bat foraging area. The applicant has also submitted an up-to-date data search, which returned records of common pipistrelle, soprano pipistrelle, brown long-eared, noctule, Leisler's, whiskered and Natterer's bats, all within 1km of the current application site. This is a high number of species for a site in West Yorkshire, however these findings are not surprising, given that – for the adjacent (Weavers Chase) site and application 2013/91987 – that applicant looked at an area 2km from that site, and noted records of whiskered, Leisler's, common pipistrelle, brown long-eared, and pipistrelle bats and several indeterminate species records. The current application site has, or is adjacent to, trees, water bodies, rough grass, dark areas, historic buildings and a former quarry face, all of which have potential for bats. Of particular interest is the sheltered, dark area at the north end of the site, and its rough grassland in close proximity to the Wildlife Habitat Network. This area has conditions suitable for a noctule bat feeding site.
- 10.61 As noted in the previous committee report regarding the potential for bats being present on site, although some information had been submitted by the applicant, this was the result of survey work that had not been undertaken in line with national good practice guidelines. Bat activity survey methods should include survey visits across spring, summer and autumn, and should be supplemented by periods of automated survey with static recording devices.

- 10.62 These concerns were central to the Sub-Committee's decision (on 07/11/2019) to defer their decision on the current application. Following the Sub-Committee's decision, the applicant deleted units 1 to 10 from the proposed development, and now proposes 17 units (units 11 to 27) on part of the site. This means that, currently, no development is proposed for the part of the application site that potentially has the greatest ecological interest. This is a positive step, and allows for adequate ecological survey work to be carried out before proposals for the northwestern part of the site are brought forward at a later date.
- 10.63 Additional information relevant to biodiversity has also been submitted by the applicant, including a revised Ecological Impact Assessment, and initial biodiversity metric calculations. These identified a 9% net biodiversity loss resulting from the proposed development (which means the development would not comply with relevant planning policies), and the applicant is currently formulating compensatory measures to address this loss. These may include on-site measures, and/or a commuted sum for off-site works. A further calculation, demonstrating how these proposals would achieve the required net gain, is expected. Further information will be provided in the committee update.
- 10.64 The proposed development is considered acceptable in relation to trees. As set out in the previous committee report, the applicant amended the proposed layout of the 27-unit scheme, pulling unit 6 away from the edge of the site to reduce likely impacts on adjacent trees, however that amendment related to a part of the site where development is no longer proposed under the current application. The applicant also adjusted ground levels and hard surfacing adjacent to tree T13. These were considered to be improvements, and although there is still likely to be some impact on tree roots, the applicant's amendments are sufficient to make these acceptable.
- 10.65 A condition is recommended, requiring the submission of an Arboricultural Method Statement and Tree Protection Plan.

Environmental and public health

- 10.66 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of electric vehicle charging points. In addition, a Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies, should be secured via Section 106 obligations.
- 10.67 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the proposed dwelling sizes, open space, affordable housing, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.

- 10.68 Regarding the social infrastructure currently provided and available in Golcar and Longwood (which is relevant to the public health impacts and the sustainability of the proposed development), and specifically local GP provision, there is no policy or supplementary planning guidance requiring the proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice, and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

Ground conditions

- 10.69 Regarding neighbouring residents' concerns relating to rock falls from the adjacent former quarry face to the northeast of the application site, Local Plan policy LP53 states that development on land that is unstable will require the submission of an appropriate land instability risk assessment. For developments identified as being at risk of instability, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the instability does not have the potential to cause harm to people or the environment. Such developments which cannot incorporate suitable and sustainable mitigation measures which protect the wellbeing of residents or protect the environment will not be permitted. Paragraph 179 of the NPPF states that, where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 10.70 There is currently no evidence before the council to suggest that the proposed development would result in increased risk of damage or injury at the adjacent Parkwood Mills site, and maintenance of the former quarry face is the responsibility of the landowner. Damage to vehicles or adjacent property resulting from the implementation of the proposed development is a civil matter to be resolved between the relevant parties (with recourse to the law, if necessary), and is not a reason for withholding planning permission. That said, Local Plan policy LP53 places a responsibility upon the current applicant to demonstrate that the proposed development would not cause harm to people or the environment, and it is noted that significant works and the creation of a new footpath are proposed relatively close to the top of the former quarry face. The applicant has been asked to address these concerns, and has stated:

"The nearest house to the edge of the former quarry face is Plot 11 which is 7m from the top of the quarry wall.

The intrusive site investigation information indicates firm to stiff clay overlying sandstone rock at between 1.3m and 2.0m. It is therefore envisaged that the foundations for the new two-storey dwellings will be simple strip footing founded on the clay or sandstone and will be constructed using trenching techniques.

It is not expected that significant percussive methods will be required to break out sandstone rock. Rather, foundations will bear onto the exposed rock surface where encountered.

Based on the above the construction methods to be adopted and proximity of the closest excavations to the former quarry face, it is highly unlikely that these would cause failure of the rock face or dislodging material".

- 10.71 Regarding potential site contamination, the findings of the applicant's contaminated land report and ground gas risk assessment are accepted. Conditions regarding site contamination remediation are recommended.
- 10.72 The site is within a wider mineral safeguarding area relating to sandstone. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.
- 10.73 The 250m buffer zones of landfill sites to the east and west do not prohibit approval of planning permission for residential development at this site.

Representations

- 10.74 A total of three representations were received from occupants of neighbouring properties. The comments raised have been addressed in this report.

Planning obligations

- 10.75 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:
- Affordable housing – Three affordable housing units (social or affordable rent) to be provided in perpetuity.
 - Open space – Off-site contribution of £7,727 to address shortfalls in specific open space typologies.
 - Sustainable transport – Measures to encourage the use of sustainable modes of transport, including Travel Plan monitoring arrangements and fees.
 - Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
- 10.76 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and although the proposed development does not meet the relevant threshold (housing developments which would deliver 60 dwellings or more), any agreement by the applicant to provide a training or apprenticeship programme to improve skills and education would be welcomed. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided.

Other planning matters

- 10.77 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree. Removal of permitted development rights from dwellings adjacent to the site's northeastern edge is also considered necessary, as extensions and alterations under permitted development allowances here could be harmful to the significance of the adjacent heritage assets.

11.0 CONCLUSION

- 11.1 The application site is allocated for residential development under site allocation HS148, and the principle of residential development at this site is considered acceptable.
- 11.2 The site has constraints in the form of adjacent residential development (and the amenities of these properties), adjacent heritage assets, topography, drainage, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or can be addressed at conditions stage. Approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.3 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

12.0 CONDITIONS (summary list – full wording of conditions, including any amendments/ additions, to be delegated to the Head of Planning and Development)

1. Three years to commence development
2. Approved plans and documents
3. Construction Management Plan
4. Arboricultural Method Statement and Tree Protection Plan
5. Temporary surface water drainage
6. Flood risk and drainage
7. Site contamination
8. Internal adoptable roads
9. Refuse vehicle swept paths
10. Crime prevention
11. External materials
12. Boundary treatments
13. External lighting
14. Landscaping
15. Biodiversity enhancement, net gain and Ecological Design Strategy
16. Removal of permitted development rights
17. Cycle parking
18. Electric vehicle charging points
19. Waste storage and collection

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/92164>

Certificate of Ownership – Certificate B signed

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 30-Jan-2020

Subject: Planning Application 2019/92240 Change of use of land to pub garden and play area The Sun, 137, Highgate Lane, Lepton, Huddersfield, HD8 0HJ

APPLICANT

D Brayshaw

DATE VALID

04-Jul-2019

TARGET DATE

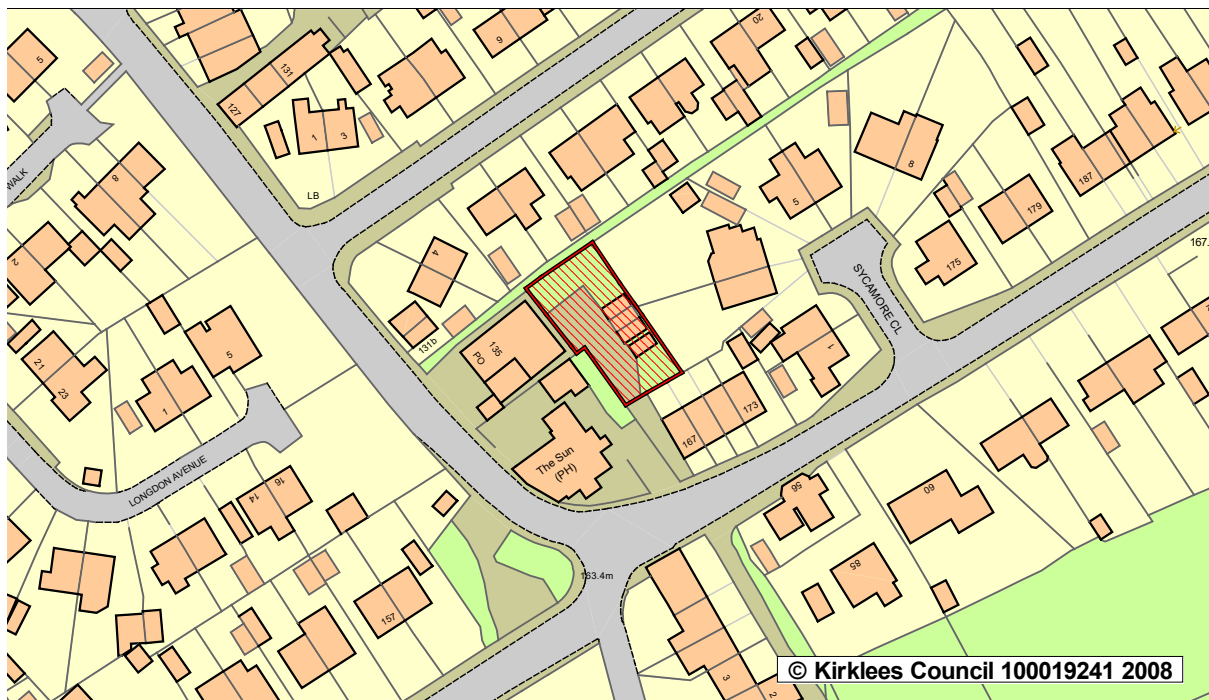
29-Aug-2019

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: Almondbury

No

Ward Members consulted

RECOMMENDATION: Refuse planning permission and authorise the Head of Planning and Development to take enforcement action to cease the use of the land ancillary to the drinking establishment and remove associated garden furniture, tables, golf and play equipment.

Reason for Refusal:

1. The proposed pub garden and play area, by reason of its proximity to surrounding residential dwellings and the nature of the operation of the development, would lead to occupiers of these dwellings being subjected to unacceptably high levels of noise and disturbance for extended period of times throughout the day, to the detriment of residential amenity. To approve such an application would be contrary to Policies LP24 and LP52 of the Kirklees Local Plan and guidance contained within Chapters 12 and 15 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to Sub-committee following its deferral from the meeting on 7th November 2019. Members deferred consideration of the application “to allow an opportunity for officers to work with the applicant to explore further mitigation measures, including hours of use, to reduce noise within the proposed play area and pub garden”.

1.2 The application was originally brought before sub-committee for determination for the following reason:

The previous permission 2018/92785 was determined by the Huddersfield Planning Sub Committee on 13 December 2018 where a temporary permission was granted for 6 months to assess the impact of the development on residential amenity. It was requested at the time that the application was brought back to sub-committee after the 6 months permission had expired to consider the impact.

The temporary permission expired on 17 May 2019 and the current application was submitted on 4th July 2019.

1.3 The Chair of Sub-committee confirmed that for the above reason for making the request was valid having regard to the Councillors’ Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to The Sun in Lepton, which is a public house. It forms a traditional two storey stone-built property, with a number of alterations and extensions having taken place. The site as existing has a landscaped and equipped play and seating area to the north to which the current application relates. The Sun also currently hosts two council computer terminals under 'the pub is the hub' initiative and provides a community library.
- 2.2 The site is surrounded by primarily low-density residential development, of mixed design and character. The site is semi-rural in character with large swathes of Green Belt in close but not immediate proximity to the site. The building itself is adjacent to a convenience store and first floor flat at 135/135a Highgate Lane, and is surrounded on all other sides by residential properties along Rowley Lane, Sycamore Close and Highgate Avenue.

3.0 PROPOSAL:

- 3.1 The application seeks to retain a seating area and equipped play area associated with The Sun.
- 3.2 Works to the land subject of this application were completed last year and have been in use since. The land now presents landscaped and sectioned floor areas consisting of wood chip, Astroturf and soft surfacing associated with a children's play area. The area is well provisioned with a timber climbing frame, swings and a mini-golf course. Boundary treatment consisting of a 2m high close boarded timber fence encloses the site while access is offered via a timber swing gate complete with locking mechanism.
- 3.3 Since the original application was brought to sub-committee the applicant has put forward details for the installation of an additional 2 metre high close boarded acoustic fence along the north eastern boundary of the site with noise buffer to adjacent existing fence line. The proposal has also been amended to retain the hours of use previous granted as part of the temporary planning permission. These for a period between 9am - 8pm on any day of the week.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

Planning Application History

- 4.1 89/01687 – Dormer kitchen extension to public house (Granted Conditionally)
- 89/05573 – Variation of Condition 2 of planning permission no. 89/01687 (Granted Conditionally)
- 86/03984 – First floor extension to dining/kitchen (Granted Conditionally)
- 2017/91862 – Erection of two storey side extension with balcony and formation of new car park (Conditional Full Permission and extant until March 2021)
- 2018/92785 - Change of use of land to pub garden and play area (Decision by Sub Committee Full Conditional Permission for temporary trial period of 6 Months [contrary to Planning Officers Recommendation])

Relevant Committee Minute:

Reason for Decision Contrary to Recommendation: The committee considered that the benefit to the community of the development, subject to conditions, outweighed the harm to the residential amenity of occupiers of surrounding dwellings. Therefore in accordance with the resolution of committee, the application is to be give 6 months temporary permission in accordance with the submitted specification and subject to the following conditions:

1. Temporary planning permission for a 6 month period
2. Restriction on hours of use between 9am - 8pm
3. Submission of a management strategy detailing methods of supervision, monitoring, dealing with complaints and mitigation of noise and disturbance from uses of the beer garden and play area
4. Erection of signs reminding customers to be considerate of neighbouring residential properties.

2019/90679 – Details submitted to discharge condition regarding noise management strategy (condition 4) on previous permission 2018/92785 for change of use of land to pub garden and play are - details approved – the following controls were approved

- The applicant will monitor noise level in the garden every hour within the agreed opening times and noise levels will be monitored by a decibel metre.
- Any breaches in noise levels will be addressed by informing patrons to reduce noise levels. Should a breach occur 3 times in an hour then patrons will be asked to leave the area.
- Each noise instance and any times that there are 3 instances within 1 hour will recorded on a log sheet. The log sheets will be available on request by Environmental Health.
- Should patrons continue to breach noise levels the management will close the garden area for a period of time.
- Signage will request patrons to respect neighbours at all times.
- The management will liaised directly with any complaints and devise a course of action to ensure that noise levels are reduce.
- If a complaint is escalated to the Local Authority the monitoring sheets will be made available will details of the actions taken to reduce noise levels.

Enforcement History

- 4.2 COMP/18/0183 – Complaint received 23 July 2018 for the alleged unauthorised change of use and formation of beer garden/play area. The 2018/92785 planning application was submitted to regularise this matter and was granted a temporary planning permission with additional conditions to assess the impact. The current application seeks to retain the change of use on a permanent basis.

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

- 5.1 The applicant has provided the following information in seeking to address the matters raised by Members at the November planning sub-committee meeting:
- an amended plan detailing the provision of a 2 metre high close boarded acoustic fence along the north eastern boundary, to create a noise buffer between the new and existing fence.

- an agreement to restrict the hours of use of the garden/play area from 9am 8pm any day of the week,
- an agreement not to implement the extensions approved under application 2017/91862 through completion of a Unilateral Undertaking
- submission of noise logs, completed by the applicant, which set out noise levels in the garden and the number of users at any given point, monitored on an hourly basis.
- a petition has been submitted via 'change.org' with 237 signatures in support of the application.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (KLP):

- 6.2 The site is unallocated on the Kirklees Local Plan Proposals Map.

- 6.3 Kirklees Local Plan Policies:

- **LP1** – Achieving Sustainable Development
- **LP24** – Design
- **LP48** – Community facilities and services
- **LP52** – Protection and improvement of environmental quality

- 6.4 National Planning Policy Framework:

- **Chapter 1** – Achieving Sustainable Development
- **Chapter 4** – Decision-making
- **Chapter 8** – Promoting healthy and Safe Communities
- **Chapter 12** – Achieving well-design places
- **Chapter 15** – Conserving and Enhancing the Natural Environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by site notice and letter to the occupants of neighbouring dwellings. The initial public consultation period expired on 27th August 2019. However the further information detailed in paragraph 5.1 was re-advertised, this period of publicity expired on 20 January 2020.

- 7.2 A total of 23 public representations were received to the initial period of publicity, 6 object to the proposal and 17 support the proposal. Comments has also been received from ward member Cllr Munro.

- 7.3 In summary the Objections raise the following concerns:

- The development creates noise which at times of good weather is increased when local residents wish to enjoy their own gardens. The disturbance caused has an adverse impact on the amenity of adjacent residential properties. Additional noise has also been created by the playing of music.

- The site is large and can generate large numbers of visitors to the area. It is used by children who can create additional noise which can be difficult to adequately control in an area which is residential and where residential properties back on to the application site.
- The works were carried out without planning permission and no acoustic barriers have been provided to limit the impact on adjacent properties. The existing fencing has been used which further adds to the concerns in terms of noise pollution.
- The application seeks a later use of the site until 9.30pm from the trial period of 8pm, an increase in use would further adversely impact on residential amenity.
- Limited weight should be attached to letters of support as they do not live adjacent to the site nor have to experience the disturbance caused by the development. A consideration of the number of comments in support should also not be afforded additional weight as only so many people live next to the site.
- The pub is a commercial venture and not a community one, and it is not fair to state that the whole community support it, as not all of the community use the facility or have to live next to it.
- The control pressures approved in the trial period have not provided sufficient mitigation to prevent harm to residential amenity and it is considered no adequate control measures could be provided which sufficiently protect local amenity.
- It is noted that the pub has been in place for a long period of time, it has been stated for 300 years, however the site of the pub garden was never part of the original pub and provided a buffer to most houses for a long time. There is no objection to the pub and its operation. It is the use of the land for a pub garden which has caused the harmful impact to the residential amenity.
- Environmental Health have assessed the merits of the scheme and advised in their professional opinion that the proposal should not be supported. What evidence is there that such an opinion should be discounted?
- The pub garden has been formed on an area which has approval as a car park, parking in the local area is in short supply and the pub garden has increased the need for parking which can no longer be provided. The proposal would therefore be detrimental to highway safety.
- The proposal prevents access to the maintenance of fencing which surrounds the pub garden. Furthermore the fencing which surrounds the site has not been installed by the applicant and should not be used to attach signs or additional paraphernalia too.
- It is not correct to state that there is no other park or recreational facility in Lepton as there is an equipped play area the north west of the site which also provide a skate park.

7.4 In summary the support comments raise the following points:

- There has been a great improvement in community spirit in and around the pub with the addition of the beer garden.
- Children often visit and enjoy the facilities and it is a safe and clean place to visit.
- Staff from the pub enter the pub garden regularly to monitor noise levels and excessive noise has not been witnessed.
- The site of the pub garden was previously waste land and was an eyesore and the development has improved the character of the area.

- The pub garden is well sheltered from adjacent properties by existing boundary treatments.
- Any music played is generally children's music played at a low level.
- The 8pm finishing time is strictly enforced and any extension to this time would be rigorously adhered to. Signage around the area also advises customers to be considerate.
- The pub supports a variety of community activities and includes a library and computer station in the pub. It is therefore considered that the pub represents a community facility which should be supported.

7.5 Cllr Munro has stated:

- I have now read the report from environmental services and wondered if a condition be made that the applicant files a report from an acoustician as recommended by environmental services and the matter be deferred to be dealt with at a later date.

7.6 At the time of writing 20 further representations had been received to the application; 17 in support and 3 in objection. The further representations are summarised below:

7.7 In objection:

- How can an application for a pub garden be considered when there are residents on 4 sides. The people for this application do not live next door to the garden.
- The proposal has led to local residents having to deal with additional noise, extra parking issues in the local area.
- How can the noise monitoring and the submitted noise logs of the garden be given much weight in the decision as these are not independent readings and it would not be in the applicant's interest to report instances of excessive noise.
- How were the applicant's even allowed to construct the garden without planning permission?
- How is an additional fence in front of a fence going to stop any noise from the garden when the existing fence does not? At 2 metres high it would also not stop overlooking from the raised play equipment.
- How will access be maintained to the existing fence for maintenance if a new fence is going to be erected?
- There are concerns that the hourly monitoring is not accurate as the pub can often be busy and how can noise levels be accurately recorded when running a busy pub?
- Children are often left unsupervised in the play area which can lead to noise levels increasing significantly.

7.8 In support

- The land before the application was an eyesore, the improvement needs to be seen and the applicant can only be praised for the improvements. The pub is a local hub for the village and it would be a disgrace to see it lost.
- Noise is a fact of life and there are a number of other noise sources that people experience such as local schools, buses, cars and other local pubs which generate noise. As a pub there is always going to be noise in and around the pub.

- If the application is refused there will still be tables and chairs and people will still want to sit outside, will this be banned?
- The garden is there for all to use and the play equipment is fabulous for children to use as is the mini golf course.
- The pub is a community hub that allows people to access books and the internet, the applicants should be supported in works and activities which they undertake.
- Locals are respectful of surrounding residents and noise levels are kept to an acceptable level.
- The pub is always kept locked when not in use and is always kept clean and tidy. The fence around the site protects residential amenity.
- The public park in Lepton can be subject to anti-social behaviour and the proposal has provided a clean and safe place to play, especially for younger children.

7.9 The applicant has also submitted an online petition in support of their application with 237 signatures seeking support for the retention of the garden.

7.10 Kirkburton Parish Council – no comment

8.0 CONSULTATION RESPONSES:

8.1 Non-statutory:

KC Environmental Health – Maintain objection to the proposal (formal consultation)

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 The application site is unallocated on the Local Plan and therefore Policies LP1 and 2 are relevant which support sustainable development. The proposed development seeks retrospective permission for the formation of a pub garden and play area, following on from a 6-month trial permission (2018/92785) to assess the impact of the development on residential amenity. The temporary permission application was approved subject to the following conditions:

1. *Temporary 6 month permission, expired on 17 May 2019.*
2. *Restriction on hours for its use between 9am to 8pm any day of the week.*
3. *Provision of additional signage within the site instructing customers to be considerate to neighbours.*
4. *Submission of a noise management plan, (details submitted on 4th March 2019 under 2019/90679 approved 8th April 2019)*

- 10.2 The key consideration now is whether the continuation of the use would retain a good standard of amenity for nearby residents, taking into account the potential for noise and disturbance. Other matters to consider in the balance of planning issues include any community benefits brought about by the development, the design of the works, the impact on highway safety, ecology along with all other material planning considerations and representations received.
- 10.3 As detailed above the application was deferred from the November sub-committee meeting in order to allow the applicant time to provide further information and address the points raised by members. This further information will be considered in the report below.

Community Benefit

- 10.3 The Sun is a longstanding Public House in Lepton. As well as this principal function it also hosts two Kirklees Council computer terminals under 'the pub is the hub' initiative and provides a community library. All these facilities are provided in an accessible location in Lepton which minimise the need to travel. The outdoor garden and play are provide further facilities in a sustainable location. The wider community benefit from the development needs to be considered against Policy LP48 of the Local Plan and Chapter 8 of the NPPF. The applicant has also submitted a petition in support of the application which has 237 signatures in total and which the applicant considers highlights the wider community support for the proposal.
- 10.4 Chapter 8 of the National Planning Policy Framework (NPPF) advises that planning decisions should aim to achieve healthy, inclusive and safe places which:

'a) Promote social interaction, including opportunities for meetings between people who might not otherwise come into contact'.

It goes on that to provide the social, recreational and cultural facilities and services the community needs, planning...decisions should:

a) plan positively for the provision and use of shared spaces, community facilities (such as...public houses...) and other local services to enhance the sustainability of communities and residential environments;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community;

- 10.5 This is also reflected in Policy LP48 of the Local Plan which advises that proposals which protect, retain or enhance existing community facilities will be supported.
- 10.6 It is noted that previous planning permission 2017/91862 for the erection of a two storey side extension with balcony and formation of a new parking area was identified as promoting The Sun as a community facility. This application served to increasing the capacity of the pub in a sustainable way and offering additional parking, making the pub more accessible. This permission, while not implemented, remains extant until March 2021. However the applicant has advised that they do not intend to implement the extension and are willing to sign a Unilateral Undertaking to that effect setting out that the permission will not be implemented.

- 10.7 With regard to the play area and pub garden subject to this application, no information has been submitted to detail any specific need or benefit that the facilities would provide to the public house or wider community. It is acknowledged that the applicant has provided a petition with a significant number of signatures in support of the proposal. The weight of support, or opposition, to a proposal is not in itself a material consideration. The impact of the development on all material planning considerations still needs to be assessed. The matters contained within representations, where raising material planning issues regarding the development proposed, are taken into account below.
- 10.8 Furthermore the play area is not freely accessible to the wider public and can only be used by patrons to the pub. Notwithstanding this it is acknowledged that it would develop and enhance the offer provided by the Public House and improve its longer term viability. In principle a Public House is a community facility and the development would enhance the facility. The principle of the use is therefore acceptable in accordance with LP48 of the Local Plan and policies in Chapter 8 of the NPPF.
- 10.9 Although the principle of development is accepted, there are specific concerns regarding the impact of the use of the garden/play area on the amenities of nearby residents; hence the 6-month trial period previously granted. The potential impact of this use on highway safety and all other material planning considerations including visual amenity are assessed below.

Urban Design issues

- 10.10 The application proposes the change of use of land described as being derelict to a seating and equipped play area associated with The Sun. As development has already been completed a full consideration and assessment can be made.
- 10.11 The change of use of the land would not introduce additional built form associated with The Sun but would rather create a landscaped area hosting equipment associated with a beer garden: child's climbing frame, seating area and an area for crazy golf. Landscaping materials, although vibrant in colour (green and blue) are not considered to create an overly prominent feature and in any case much of the floor area is covered in wood chippings creating an overall neutral colour scheme. As such the proposed is believed to offer a refreshed look, creating an attractive play and outdoor recreational area.
- 10.12 Furthermore, it is noted that the play area is well delineated from residential properties by a close boarded timber fence. The new 2 metre high close boarded timber fence along the north eastern elevation would be of an appropriate design and scale for the site and the proposed use. In terms of wider impact the gardens position to the rear (north) of The Sun, would limit direct views of the area. As such, the scheme is not considered to create an intrusive development that would harm the visual amenity enjoyed by the residents of surrounding dwellings. In this respect the application is considered to comply with Policy LP24 of the Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework (NPPF).

Residential Amenity

- 10.13 Consideration needs to be given to the impact of the proposed development on the residential amenity enjoyed by neighbouring dwellings. It is noted that the previous temporary permission was granted to allow time to assess the impact of the development on adjacent residents and added further control in the form of a noise management plan and a restriction on the hours of use from 9am to 8pm. The noise management plan has again been submitted in support of this application, and the applicant has now agreed to restrict opening times 9am to 8pm the same as the temporary permission. The noise management plan states:
- The applicant will monitor noise level in the garden every hour within the agreed opening times and noise levels will be monitored by a decibel metre.
 - Any breaches in noise levels will be addressed by informing patrons to reduce noise levels. Should a breach occur 3 times in an hour then patrons will be asked to leave the area.
 - Each noise instance and any times that there are 3 instances within 1 hour will be recorded on a log sheet. The log sheets will be available on request by Environmental Health.
 - Should patrons continue to breach noise levels the management will close the garden area for a period of time.
 - Signage will request patrons to respect neighbours at all times.
 - The management will liaise directly with any complaints and devise a course of action to ensure that noise levels are reduced.
 - If a complaint is escalated to the Local Authority the monitoring sheets will be made available with details of the actions taken to reduce noise levels.
- 10.14 The applicant has also provided noise logs over a 20 week period which set out the noise level and the number of people in the garden at that particular time. A 2 metre high close boarded acoustic timber fence is also proposed on the north eastern boundary to provide a further sound mitigation measure. This would be set slightly away from the existing fence with a small 'noise buffer' in between.
- 10.15 Environmental Services previously confirmed that complaints have been received to the development, one in July 2019 and then again on 25th August 2019 and 20th September 2019, although Environmental Services Officers have advised that they did not witness the noise disturbances themselves. Notwithstanding this, given that noise complaints are still being received this highlights that there remains a conflict between the use of the pub garden and amenities of the neighbouring residential property.
- 10.16 The proposed use of land is a considerable intensification of the original low key parking area of a garage court, or indeed the car park approved within the 2017/91862 permission. It has greater potential to create noise nuisance over a sustained period of time. This is particularly pertinent given that the application site is bounded to all sides by residential properties.
- 10.17 Environmental Services have again assessed the application and the further information provided by the applicant but maintain their concerns with the proposal.

- 10.18 Environmental Services consider that the proposed additional 2m fence and small buffer zone are unlikely to provide any significant additional noise mitigation compared to the existing fence. A taller acoustic barrier and a larger buffer zone would be required to provide any significant improvement to the acoustic protection to neighbouring properties. The applicant has advised that they would be willing to provide a taller fence but could not increase the buffer zone. They have advised that a wider buffer zone is impossible as the children's play equipment is concreted in to the ground and the equipment needs to be a safe distance from boundary fences for the safety of the children using it and for it to conform to British Safety standards for children's play equipment in public areas. With respect to increasing the height, whilst the applicant is willing to increase the height, a higher fence would add limited additional mitigation and would not protect first floor bedrooms from noise from the garden. Furthermore a balance has to be struck between noise mitigation and a potential overbearing or overshadowing impact from occurring to neighbouring properties. Therefore Planning Officers have advised that a 2 metre height would be more appropriate if positioned on the shared boundary, the applicant has therefore proposed the 2 metre high boundary fence.
- 10.19 Environmental Services consider that it is not possible to place significant weight to the submitted noise logs. The applicant has confirmed that noise levels were recorded by a specific noise metre reader a "Cadrim digital decibel noise meter reader." Whilst this is noted, the reports just provide a single sound pressure level at hourly intervals; in reality the sound level will vary continuously and to assess the noise levels more accurately the L_{Aeq} , L_{Amax} , L_{Amin} and L_{A90} measurement parameters would be ideally required. The measurement location is not recorded; there is therefore potential for noise levels to be higher at some parts of the area than were actually measured.
- 10.20 The measurements do however provide some information. In particular there is a general trend for the sound levels to be higher as numbers increase which would be expected. Also the measurements show that there is a wide variation in levels on different occasions when there the same number of people present, again not unexpected; some people are noisier than others. Whilst the accuracy of the levels cannot be guaranteed there are many occasions when the measured levels exceed 60dB and a few over 70dB which, if these are accurate, are a measurement of noise levels would be likely to be intrusive at neighbouring properties.
- 10.21 There is no proposal to remove the climbing frames which allow children to be elevated higher above ground level. This results in there still being a direct line for any noise from children in these areas to pass straight over the top of the fencing (or any proposed acoustic barriers) directly into neighbouring gardens.
- 10.22 In light of the above, Environmental Services have concluded that from the assessment the applicant's information and noise mitigation proposals, that they do not provide a convincing argument that the potential noise from the development will be, or can be, effectively controlled and that it will not cause a loss of amenity to neighbouring properties. Therefore they consider that the application should be refused.

- 10.23 In conclusion, on balance, whilst noting that the Sun does provide a community benefit when this is weighed against the harm that accrues to neighbouring residents the proposal is considered to be inappropriate development resulting in unacceptable harm to the residential amenity. As such the application fails to improve the existing environment in respect of residential amenity, thereby falling short of the guidance offered in Policy LP52 of the Local Plan and guidance contained within Chapters 12 and 15 of the National Planning Policy Framework (NPPF).

Highway issues

- 10.24 A previously approved planning application (2017/91862) granted permission for the conversion of the site to a car parking area offering a total of 12 spaces inclusive of one disabled parking bay. This was part of a wider application to extend the building.
- 10.25 Within the 2017 officers report it was noted that the increase in available floor space, approximately 121 sq m, would be to a certain extent be offset by the net gain of 7 parking spaces. However, this current permission conflicts with the 2017 permission in that the play area is located on land previously approved for the car park. This permission remains extant until March 2021. As part of this application the applicant has offered to sign a Unilateral Undertaking to revoke the 2017 permission removing a potential conflict with the proposed use and would address concerns raised by Highways.
- 10.26 In light of the above the application is considered to accord with Policy LP21 of the Local Plan and guidance contained within the National Planning Policy Framework (NPPF).

Other Matters

Biodiversity and Ecology

- 10.27 Although the application site is located within a bat alert area, it is not identified on the maps as having a bat roost. Equally neither the pub or equipped play area is identified as having any significant bat roost potential and indeed all works have been completed. The proposal is therefore considered to have a neutral impact on biodiversity and local ecology.

Enforcement

- 10.28 As detailed above there is an ongoing enforcement complaint (COMP/18/0183) in relation to the unauthorised works which have taken place at the site and which are subject to this application. Given that the proposal is not considered acceptable it is considered appropriate and necessary to take enforcement action to cease the use of the land ancillary to the drinking establishment and remove associated garden furniture, tables, golf and play equipment. This is therefore included in the recommendation to Members.

Representations

- 10.29 In total 23 representations were received to the initial period of publicity 6 in objection and 17 in support. A comment from ward member Cllr Munro has also been received.

10.30 In summary the objections raise the following concerns, with a response to the points raised.

- The development creates noise which at times of good weather is increased when local residents wish to enjoy their own gardens. The disturbance caused has an adverse impact on the amenity of adjacent residential properties. Additional noise has also been created by the playing of music.
- The site is large and can generate large numbers of visitors to the area. It is used by children who can create additional noise which can be difficult to adequately control in an area which is residential and where residential properties back on to the application site.

Response: This is noted and has been assessed in the residential amenity section above.

- The works were carried out without planning permission and no acoustic barriers have been provided to limit the impact on adjacent properties. The existing fencing has been used which further adds to the concerns in terms of noise pollution.

Response: This is noted and no further mitigation measures have been proposed through boundary treatments.

- The application seeks a later use of the site until 9.30pm from the trial period of 8pm, an increase in use would further adversely impact on residential amenity.

Response: This is noted and has been assessed above.

- Limited weight should be attached to letters of support as they do not live adjacent to the site nor have to experience the disturbance caused by the development. A consideration of the number of comments in support should also not be afforded additional weight as only so many people live next to the site.

Response: The number or location of comments does not discount from the fact that all material planning considerations need to be considered as part of the planning application. The weight attributed to the comments made in representation submitted as part of this application is for the decision maker.

- The pub is a commercial venture and not a community one, and it is not fair to state that the whole community support it, as not all of the community use the facility or have to live next to it.

Response: As set out above the Sun is considered to provide a community asset and whilst it may not support all of the community it is considered that weight can be attached to the wider community benefits which the pub provides.

- The control pressures approved in the trial period have not provided sufficient mitigation to prevent harm to residential amenity and it is considered no adequate control measures could be provided which sufficiently protect local amenity.

Response: Noted and these have been assessed in detail in the residential amenity section of the report.

- It is noted that the pub has been in place for a long period of time, it has been stated for 300 years, however the site of the pub garden was never part of the original pub and provided a buffer to most houses for a long time. There is no objection to the pub and its operation. It is the use of the land for a pub garden which has caused the harmful impact to the residential amenity.

Response: Noted, it is acknowledged that the application site did not form part of the public house until the development proposed by this application was formed.

- Environmental Health have assessed the merits of the scheme and advised in their professional opinion that the proposal should not be supported. What evidence is there that such an opinion should be discounted?

Response: The comments of Environmental Health have been considered above.

- The pub garden has been formed on an area which has approval as a car park, parking in the local area is in short supply and the pub garden has increased the need for parking which can no longer be provided. The proposal would therefore be detrimental to highway safety.

Response: The highway impact of the proposal has been assessed above. The provision of the car park would have been in conjunction with an extension to the pub, which whilst extant has not been implemented.

- The proposal prevents access to the maintenance of fencing which surrounds the pub garden. Furthermore the fencing which surrounds the site has not been installed by the applicant and should not be used to attach signs or additional paraphernalia too.

Response: The use/maintenance of the fence is a private legal matter between those interested parties

- It is not correct to state that there is no other park or recreational facility in Lepton as there is an equipped play area the north west of the site which also provide a skate park.

Response: It is noted that Lepton Recreation Ground is located to the north west of the site which provides recreational facilities for local residents.

10.31 In summary the support comments raise the following points, with a response to the points raised:

- There has been a great improvement in community spirit in and around the pub with the addition of the beer garden.
- Children often visit and enjoy the facilities and it is a safe and clean place to visit.

Response: Noted

- Staff from the pub enter the pub garden regularly to monitor noise levels and excessive noise has not been witnessed.

Response: Noted, but as set out above complaints have still been received.

- The site of the pub garden was previously waste land and was an eyesore and the development has improved the character of the area.

Response: No weight is afforded to the appearance of the land before the works were carried out. From a review of aerial photographs and available historic imagery the site has not appeared to be overly unkempt over an extended period.

- The pub garden is well sheltered from adjacent properties by existing boundary treatments.

Response: Noted, however the boundary treatments are not considered to provide robust noise mitigation measures to all properties.

- Any music played is generally children's music played at a low level.

Response: Noted, however the playing of music could cause a disturbance to local residents.

- The 8pm finishing time is strictly enforced and any extension to this time would be rigorously adhered too. Signage around the area also advises customers to be considerate.

Response: Noted

- The pub supports a variety of community activities and includes a library and computer station in the pub. It is therefore considered that the pub represents a community facility which should be supported.

Response: Noted, it is acknowledged that the pub provided a wider community benefit.

10.32 Cllr Munro has stated the following which Officers have considered and provided the response below:

- I have now read the report from environmental services and wondered if a condition be made that the applicant files a report from an acoustician as recommended by environmental services and the matter be deferred to be dealt with at a later date.

Response: It is not considered that a report from acoustician would adequately address the issues raised above in the main body of the report. The temporary permission included controls in terms of hours of use and a management plan but these have not sufficiently prevented complaints from occurring and the proposal is still considered to cause a detrimental impact to residential amenity.

10.33 20 further representations have been received to the application; 17 in support and 3 in objection. The further representations are summarised below along with a response to the points raised:

10.34 In objection:

- How can an application for a pub garden be considered when there are residents on 4 sides. The people for this application do not live next door to the garden.
- The proposal has led to local residents having to deal with additional noise, extra parking issues in the local area.

Response: This is noted and has been considered in the main body of the report.

- How can the noise monitoring and the submitted noise logs of the garden be given much weight in the decision as these are not independent readings and it would not be in the applicant's interest to report instances of excessive noise.

Response: The contents of the noise logs have been considered above and whilst they provide some information it is considered that they do not demonstrate that the impact would be acceptable.

- How were the applicants even allowed to construct the garden without planning permission?

Response: Work was carried out without planning permission an enforcement complaint was received. This subsequently led to an application for retrospective planning permission for the development undertaken.

- How is an additional fence in front of a fence going to stop any noise from the garden when the existing fence does not? At 2 metres high it would also not stop overlooking from the raised play equipment.

Response: Comments noted and as detailed above it is not considered that the additional fence would provide adequate mitigation.

- How will access be maintained to the existing fence for maintenance if a new fence is going to be erected?

Response: This would be a private legal matter between the interested parties.

- There are concerns that the hourly monitoring it not accurate as the pub can often be busy and how can noise levels be accurately recorded when running a busy pub?

Response: these comments are noted and consideration of the submitted noise information has been assessed above.

- Children are often left unsupervised in the play area which can lead to noise levels increasing significantly.

Response: This is noted.

10.35 In support

- The land before the application was an eyesore, the improvement needs to be seen and the applicant can only be praised for the improvements. The pub is a local hub for the village and it would be a disgrace to see it lost.

Response: The comments are noted, however it is not considered that they outweigh the harm to the amenity of local residents

- Noise is a fact of life and there are a number of other noise sources that people experience such as local schools, buses, cars and other local pubs which generate noise. As a pub there is always going to be noise in and around the pub.

Response: the application seeks specific permission for an equipped play area close to unconnected residential property. The application has not demonstrated that this can be undertaken without undue detriment to occupiers of residential property.

- If the application is refused there will still be tables and chairs and people will still want to sit outside, will this be banned?

Response: If the application were to be refused it would subject to appropriate enforcement action, where expedient, to rectify the breach of planning control.

- The garden is there for all to use and the play equipment is fabulous for children to use as is the mini golf course.

Response: Noted

- The pub is a community hub that allows people to access books and the internet, the applicants should be supported in works and activities which they undertake.

Response: Noted.

- Locals are respectful of surrounding residents and noise levels are kept to an acceptable level.

Response: Noted, however it is also noted that other representations object to noise levels from the garden.

- The pub is always kept locked when not in use and is always kept clean and tidy. The fence around the site protects residential amenity.

Response: Noted.

- The public park in Lepton can be subject to anti-social behaviour and the proposal has provided a clean and safe place to play, especially for younger children.

Response: Noted

10.36 The applicant has also submitted an online petition in support of their application with 237 signatures seeking support for the retention of the garden.

Response: Whilst a petition has been provided only limited weight can be given to the number of signatures as there is no information regarding where those in support live or what information has been provided to those who have signed. Furthermore the number of signatures does not outweigh the concerns raised above.

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 whole constitute the Government's view of what sustainable development means in practice.

11.2 While the proposed change of use to a pub garden and play area provides guests the opportunity to enjoy what is considered to be a well finished area and would support the viability of this community facility, the intensification of use would be harmful to residential amenity. Given the proximity of surrounding residential dwellings, on balance, officers are unable to support the proposed use.

11.3 Members are requested to accept the officer recommendation and authorise the Compliance Team to take action to cease the use of the land ancillary to the drinking establishment and remove associated garden furniture, tables, golf and play equipment.

Background Papers:

Website link to be inserted here: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92240>

Certificate of Ownership –Certificate A signed.

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 30-Jan-2020

Subject: Planning Application 2018/90208 Erection of 18 dwellings (within a Conservation Area). Land at 172 Gillroyd Lane, Linthwaite, Huddersfield, HD7 5SR

APPLICANT

Steve Byram, SB Homes
Ltd

DATE VALID

16-Jan-2018

TARGET DATE

17-Apr-2018

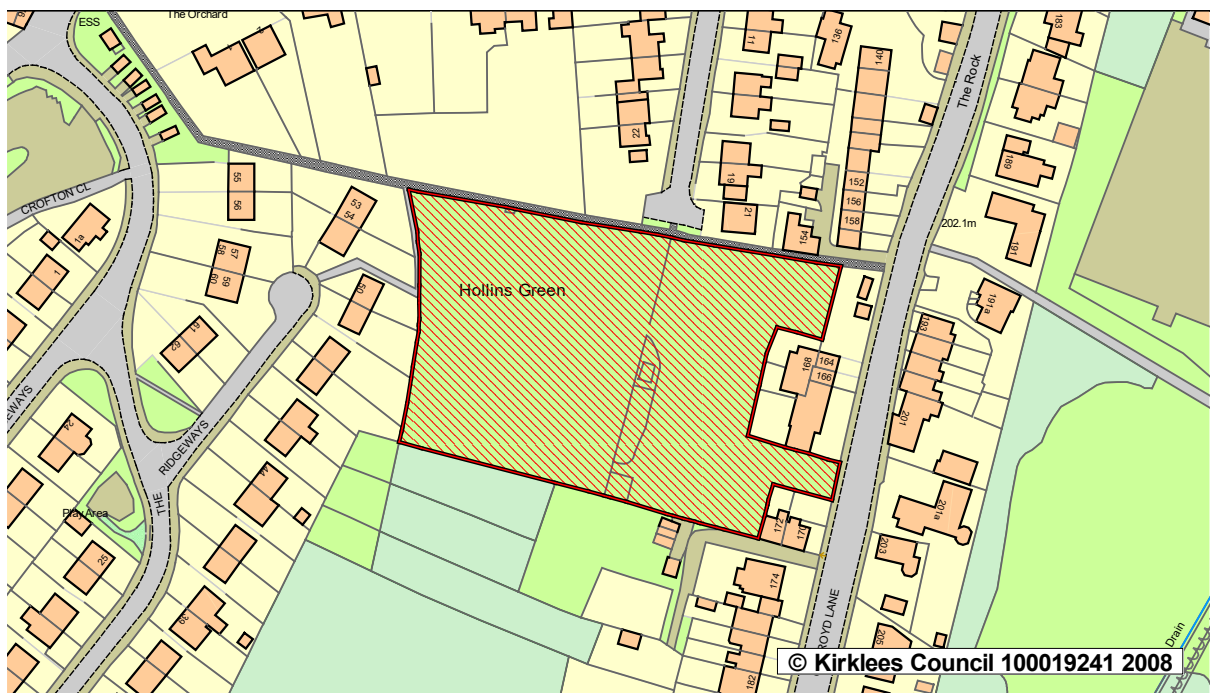
EXTENSION EXPIRY DATE

28-Jun-2018

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Ward Affected: Colne Valley

Yes

Ward Members consulted

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – Three affordable housing units (Discount Market Sale) to be provided in perpetuity.
- 2) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including the submission of a Travel Plan, and Travel Plan monitoring arrangements and fees.
- 3) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
- 4) Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent allocated land to the south without unreasonable hindrance.

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission, for a residential development of 18 dwellings.
- 1.2 The application is presented to the Huddersfield Sub-Committee as the site is larger than 0.5 hectares in size.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is 0.77 hectares in size, has previously been in agricultural use, and is located south of Hillside View, east of The Ridgeways, and behind (to the west of) 164 to 172 Gillroyd Lane. Surrounding uses are residential, however there is previously-undeveloped (greenfield) land to the south.

- 2.2 The application site generally slopes downhill from its site entrance on Gillroyd Lane (approximately 202m AOD) to its westernmost point (approximately 180m AOD). The slope is not uniform from east to west – gradients vary across the site.
- 2.3 The site is within the Linthwaite Conservation Area.
- 2.4 There are trees and shrubs along the edges of the application site, and at its centre. No trees within or near to the site are protected by Tree Preservation Orders, however the conservation area status of the site northeast bestows protection on trees. Trees outside the application site, to the northwest, are protected by Tree Preservation Orders 53/91/g1 and 53/91/g2. A dry stone wall runs north-south across the middle of the application site.
- 2.5 No public rights of way cross the application site, however public footpath COL/69/30 runs along the site's north edge, providing an east-west pedestrian connection between Gillroyd Lane and Causeway Side.
- 2.6 The application site is part of a wider site allocated for residential development in the Local Plan (site allocation HS126). A Biodiversity Opportunity Zone (Valley Slopes), an SSSI Impact Risk Zone, and a twice buffer zone covers the site.

3.0 PROPOSAL:

- 3.1 The applicant seeks full planning permission for the erection of 18 dwellings.
- 3.2 A serpentine estate road is proposed from the site's Gillroyd Lane entrance. This would sweep downhill (coming close to the point where Hillside View meets the public footpath) and would continue towards the site's southwest corner, terminating with a private drive. Dwellings would be arranged along this new estate road and private drive. A pedestrian connection is proposed between the estate road and the adjacent public footpath.
- 3.3 Four semi-detached and 14 detached dwellings are proposed. Three of the semi-detached dwellings would be affordable, representing a 16.7% provision. Dwellings would have 2- and 3-storey elevations, and pitched roofs. Six house types are proposed. All 18 dwellings would have three bedrooms.
- 3.4 No publicly-accessible open space is proposed. An attenuation tank is proposed beneath the private drive.
- 3.5 All dwellings would have off-street parking, with the detached dwellings having attached or integral garages.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2014/93289 – Outline planning permission granted 26/01/2016 for a residential development of up to 20 dwellings.

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

5.1 During the life of the current application, the applicant has added one residential unit close to the site's northwest corner (increasing the number of units from 17 to 18), increased the proposed affordable housing provision from no units to three 3-bedroom units, and amended the elevations of the proposed dwellings. Additional information related to highways, drainage and flood risk has also been submitted.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

Kirklees Local Plan (2019):

6.2 The site forms part of site allocation HS126 (formerly H712). HS126 relates to 2.07 hectares (gross and net), sets out an indicative housing capacity of 65 dwellings, and identifies the following constraints:

- Site is partly within a Conservation Area

6.3 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP4 – Providing infrastructure
LP5 – Masterplanning sites
LP7 – Efficient and effective use of land and buildings
LP9 – Supporting skilled and flexible communities and workforce
LP11 – Housing mix and affordable housing
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP23 – Core walking and cycling network
LP24 – Design
LP26 – Renewable and low carbon energy
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP49 – Educational and health care needs
LP50 – Sport and physical activity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP63 – New open space
LP65 – Housing allocations

Supplementary Planning Guidance / Documents:

6.4 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highways Design Guide (2019, to be modified following Cabinet resolution of 08/10/2019)
- Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
- Green Street Principles (2017)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)

Climate change

- 6.4 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

National Planning Policy and Guidance:

- 6.5 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of materials.

- 6.6 Since March 2014 Planning Practice Guidance for England has been published online.
- 6.7 Relevant national guidance and documents:
- National Design Guide (2019)
 - Technical housing standards – national described space standard (2015, updated 2016)

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised as a major development and a development within a conservation area and that would affect a public right of way.
- 7.2 The application has been advertised via three site notices posted on 07/02/2018, an advertisement in the local press dated 02/02/2018, and letters delivered to addresses adjacent to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 28/02/2018.
- 7.3 22 representations were initially received from occupants of neighbouring properties. The following is a summary of the points raised:
- Previous outline permission does not dictate that current application should be approved.
 - Loss of green belt land.
 - Brownfield sites should be developed instead. Other sites with permission should be developed first.
 - Lack of affordable housing.
 - Highway concerns. Unsafe to provide site entrance on busy road where speeds exceed 40mph. Visibility at site entrance would be limited by parked vehicles. Entrance would not be wide enough for a refuse vehicle. Thorough traffic audit of Gillroyd Lane has not been carried out. Impact on pedestrian safety. Danger to children attending nearby schools. Accidents have already occurred. Causeway Side is already dangerous. Damage to roads. Inadequate visitor parking. Lack of electric vehicle charging points. No vehicular access should be allowed onto Hillside View. Parking spaces adjacent to footpath should be relocated.
 - Drainage concerns. Natural springs at bottom of site should not be built on. Increased flood risk. Site regularly floods. Adjacent properties have flooded. Drainage system shouldn't be provided in the middle of the site. Query as to how discharge can be limited to 5 litres per second. Query as to what happens in excessive rain. Attenuation tank will fill and overflow.
 - Loss of light to neighbouring properties. Proposed trees would block light. Winter heating bills will increase.
 - Loss of privacy. Trees and bushes could be removed from west end of site, resulting in loss of privacy.

- Loss of outlook. Adjacent residential property is single-aspect, with all windows facing the application site. Landscaping at east end of site will need to be managed, and boundary treatments should be designed, to avoid amenity impacts.
- Loss of views.
- Headlights will shine into neighbouring windows.
- Noise and disturbance. Disruption during construction work.
- Air quality impacts.
- Lack of open space. Loss of children's play space. Loss of dog walking area.
- Development does not cater for needs of disabled or elderly residents.
- Loss of wildlife. Habitats of endangered species would be destroyed. Site has significant ecological value. Query if applicant's recommendations regarding bird and bat boxes would be implemented. Bat survey not carried out at the right time of year.
- Loss of mature trees from middle of the site.
- Damage to planet. Increased carbon emissions due to children travelling to school. Development is contrary to Kirklees climate plan.
- Design concerns. Proposed dwellings are not in keeping with surroundings. Concern regarding urban layout. Special attention needs to be paid to height, massing, scale, design and materials. Objection to timber cladding, metal cladding and balconies. Concern regarding greater spread of development across the site. Objection to 3-storey dwellings.
- Harm to Linthwaite Conservation Area. Public benefit balance must be revisited. Viability concerns do not justify this harm. Conservation area would be hidden, not enhanced. Less development at east end of site would allow views of the conservation area from Gillroyd Lane.
- Harm to character of Linthwaite.
- Harm to surrounding area.
- Loss of existing dry stone walls. Wall on south side of public footpath should be rebuilt.
- Objection to quantum of development. Less development would be appropriate. Overcrowding and overpopulation. Cramming of site. Overdevelopment.
- Impact of Black Rock Mills development would be added to.
- Local infrastructure and amenities inadequate. Schools are full. Residents already experience long waits for doctor appointments. Area will experience more power cuts.
- Adjacent property will be damaged.

7.4 Amendments made to the proposals during the life of the current application necessitated reconsultation. Three further site notices were posted on 30/12/2019, a further press notice was published on 03/01/2020, and letters were again delivered to addresses adjacent to the application site and to those who had previously commented. The end date for publicity is 24/01/2020 (additional time has been allowed as reconsultation letters were sent out shortly before Christmas).

7.5 13 further representations were received. These have been posted online. The following is a summary of the additional points raised:

- Reconsultation was badly timed over Christmas.
- Colne Valley has deteriorated and is now dirty, littered and polluted, with higher crime rates, violent attacks, car crime and burglaries. Cramming more people into developments exacerbates these problems.
- Unique and attractive villages are merging into each other.
- Character and appearance of conservation area would not be preserved or enhanced.
- Amended designs of dwellings are still not appropriate to Linthwaite. Quickly-built houses look cheap and nasty.
- Highways concerns have not been addressed. Speed limit on Gillroyd Lane could be reduced. Farm lanes are now rat runs. Colne Valley roadworks recently demonstrated that the valley can't handle any more congestion.
- Drainage concerns have not been addressed. Applicant hasn't provided for exceedance events, blockage scenarios or flood risks associated with overland flows. Increased flood risk at The Ridgeways.
- There will soon be no green spaces left.
- Empty, abandoned and derelict properties should be converted instead.
- Affordable homes would be more appropriate in another part of the village.
- Local living conditions would be adversely affected for three years during works.
- Area lacks places for teenagers and young people to hang out.
- Developer has not proven that the site is sustainable in relation to highways, drainage, site layout, house design, utilities and services.
- Unclear how the remainder of the allocated site could be developed. Adjacent landowner unwilling to sell, therefore proposals for 19 units are unsustainable.
- Concern regarding 1,700 additional dwellings proposed in and around Linthwaite.
- Previous outline permission is no longer valid. Conditions of outline permission have not been discharged.
- Concern regarding how the land was purchased, and where that money has been spent.

7.6 Responses to the above comments are set out later in this report.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Yorkshire Water – Objection. 300mm diameter public combined sewer crosses the site. This infrastructure must be taken into account in the proposed development's design, however buildings will be sited over the sewer, which could jeopardise Yorkshire Water's ability to maintain the sewer network. This is not acceptable. Site layout should be amended to include stand-off distance of 3m either side of the sewer centre-line.

Further comments will be reported in the committee update.

KC Highways – Swept path plans required. Gradients and other details of the proposed estate road are required. Footways should be 2m in width. No pedestrian crossings are shown across the estate road. Insufficient manoeuvring space for some plots. Garages should be 3m x 6m. Retaining features affecting the highway would require formal technical approval.

Further comments will be reported in the committee update.

KC Lead Local Flood Authority – Objection and request for further information regarding culvert investigations and management during construction, flow routing, and health and safety.

Details of depth of culvert investigations required. No transects have been dug, and it is possible that culvert runs between the inspection pits. As an alternative to further inspections, a watching brief can be adopted. Should a culvert be found during excavations, a suitable management plan would then need to be developed and agreed with the LLFA.

Applicant's flow route around plots 12 to 15 could impact private dwellings, and applicant's management proposals should be shown on flow routing plans to indicate that flows will principally be diverted between plots 15 and 16 and safely off-site. Landscaping to be secured by condition.

Several smaller structures would be preferable to the proposed attenuation tank, although it is accepted that this may be difficult due to site constraints. Tank may require personnel to enter for cleansing and maintenance, and hazard (of deep drainage and confined space) should be recorded and signed on drawings. Applicant should demonstrate that due consideration of the safest design options has been undertaken.

Details of management and maintenance of drainage and attenuation required.

8.2 **Non-statutory:**

KC Biodiversity Officer – No objection subject to conditions. The applicant's Preliminary Ecological Appraisal (PEA) indicates that the site supports predominantly habitats of site-level importance only. PEA's recommendations for ecological enhancement and mitigation are reasonable.

KC Conservation and Design – No objection. Land remodelling will in some respects alter the character of the Linthwaite Conservation Area. Proposed dwellings are 3-storey to allow for gradients, and would be of stone and slate – these aspects would not harm the setting or significance of the conservation area. Development of open land would cause less than substantial harm to the setting of the conservation area. This impact should have been assessed during Local Plan preparation and at outline stage. Proposed layout is a fair response to topographical constraints and would reduce harm. Use of traditional materials and landscaping would assist assimilation within the conservation area. NPPF paragraph 196 requires the harm to be balanced against the development's public benefits (in this case, provision of housing and the opportunity to deliver well-designed dwellings with appropriate landscaping). NPPF has been successfully addressed, as has Local Plan policy LP35, and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is complied with.

KC Education – No education contribution required.

KC Environmental Health – Accept applicant's contaminated land findings. Recommend conditions regarding site contamination and electric vehicle charging. Advice provided regarding construction noise.

KC Landscape – For a 17-unit scheme, on-site open space including a Local Area of Play required. With no on-site provision proposed, a £89,066 contribution towards off-site provision (amenity greenspace and children and young people's space) would be required. Money could be spent at Causeway Crescent, or at Fieldhead Recreation Ground. Larger contribution, including for a Locally Equipped Area of Play, would be required if the entire site allocation was assessed. Colne Valley ward is deficient in parks and recreation, natural and semi-natural greenspace and amenity greenspace. Further advice provided regarding bin storage, landscaping, lighting and treeplanting.

KC Strategic Housing – 20% affordable housing provision required. On-site provision is preferred. In the Kirklees Rural West area there is a significant need for affordable 1- and 2-bedroom homes, as well as 1- and 2-bedroom affordable homes specifically for older people. Four of the 18 units should be affordable. Although there is significant need for 1- and 2-bedroom affordable homes in the area, 3-bedroom dwellings are welcomed. Affordable dwellings should be distributed evenly throughout the development (and not in clusters), and must be indistinguishable from market housing in terms of both quality and design. Kirklees works on a 55% social/affordable rent / 45% intermediate split – two social/affordable rent and two intermediate units would therefore be appropriate.

KC Street Lighting – The proposed access would affect the position of an existing street lighting column.

KC Trees – No objection. General principle of development is acceptable. Existing trees on site do not meet criteria for a new TPO to be served. Retention of trees along the western boundary is welcomed. Conditions recommended regarding landscaping and an Arboricultural Method Statement.

Peak and Northern Footpaths Society – Objection. Proposed development would adversely affect the amenity and public enjoyment of a public footpath. The footpath currently overlooks a green field with views of the Colne Valley below – this would be lost, and the path would be further urbanised and squeezed between two built-up areas.

West Yorkshire Police Crime Prevention Design Advisor – Details of boundary treatments required. These should provide privacy and security for dwellings abutting existing footpaths, and should maintain some surveillance of them. Detailed guidance provided regarding fencing, lighting, doors and windows.

9.0 MAIN ISSUES

- Land use, sustainability and principle of development
- Design and conservation
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Trees and ecological considerations
- Environmental and public health
- Ground conditions
- Representations
- Planning obligations
- Other matters

10.0 APPRAISAL

Land use, sustainability and principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The site forms part of a wider site allocation (ref: HS126), to which full weight can be given.
- 10.4 The site is not designed as Urban Green Space or Local Green Space in the Local Plan, but is greenfield land, and was previously in agricultural use and designed as Provisional Open Land in the superseded Unitary Development Plan. Allocation of this and other greenfield sites by the council was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some development on greenfield land was also demonstrated to be necessary in order to meet development needs.
- 10.5 The 18 dwellings proposed would contribute towards meeting the housing delivery targets of the Local Plan.
- 10.6 The applicant's Supporting Planning Statement does not explain how the proposed development would help to address or combat climate change effects. Officers note, however, that measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage for residents), electric vehicle charging points, and a Travel Plan would be secured by condition or via a Section 106 agreement, should planning permission be granted. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures will need to account for climate change.

- 10.7 The application site is a sustainable location for residential development, as it is relatively accessible and is adjacent to an existing, established settlement that is served by public transport and other facilities.
- 10.8 This part of Linthwaite currently has pubs, a convenience store, churches, a cricket ground and Colne Valley High School, in addition to the many facilities available on Manchester Road, such that many of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.9 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

Design and conservation

- 10.10 Chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP24 and LP35 are relevant to the proposed development in relation to design and conservation, as is the National Design Guide.
- 10.11 The application site is subject to constraints relevant to design and conservation, namely the Linthwaite Conservation Area which includes the site and much of the rest of Linthwaite. The site is visible from the opposite side of the Colne Valley. The nearest listed buildings are at 126 to 132 Gillroyd Lane and 257 and 259 Gillroyd Lane.
- 10.12 The council's character appraisal of the Linthwaite Conservation Area identifies the application site as land that traditionally would have enhanced the setting of the formal house (Rock House) to the north, and also notes the prevalence of natural stone and slate, and the common weavers' cottages and mill workers' cottages.
- 10.13 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the council to pay special attention to the desirability of preserving or enhancing the character or appearance of the Linthwaite Conservation Area.
- 10.14 Other constraints and considerations that affect site layout include topography and flood routing. The site's significant westwards downhill slope is particularly relevant, and has resulted in the applicant's proposal for a serpentine estate road layout. The applicant has also advised that providing vehicular access to the site from Hillside View would not be possible, due to third party land at the terminus of that street, and Hillside View being unsuitable for additional traffic due to its gradients, width (the carriageway lacks central white line markings), bends, and on-street (and on-footway) parking.
- 10.15 Due to the application site's topography, some levelling will be necessary to enable the creation of development platforms and to the provision of acceptable gradients along the estate road. While developers would normally be expected to work with a site's existing topography, it is accepted that some reshaping of this site would be necessary to accommodate development. It is noted that the applicant does not intend to import material to the site, and proposes dwellings that respond to the site's slope (with two storeys on one elevation, three on the opposite elevation) to help reduce the need for levelling and retaining walls.

- 10.16 Combined public sewers run beneath the application site. These were identified as a significant constraint on layout at outline application stage – the indicative layout submitted with application ref: 2014/93289 showed dwellings arranged to avoid the sewers. Under the current proposals, however, these sewers would be diverted, enabling a more appropriate layout and more efficient use of land.
- 10.17 Local Plan policy LP5 (regarding masterplanning) is relevant to this application, not least given that land immediately to the south of the application site is within the same site allocation. Local Plan policy LP7 is also relevant, and states that, to ensure the best use of land and buildings, proposals must allow for access to adjoining undeveloped land so it may subsequently be developed. Paragraph 6.41 of the Local Plan states that the council will continue to positively support measures to ensure the best use of land and buildings, including through the application of relevant policies to ensure land is not sterilised for development.
- 10.18 Paragraph 4.1.4 of the applicant's Supporting Planning Statement stated that "The road alignment ensures that access to the remaining POL/Housing allocation is not prejudiced". Officers were concerned, however, that the proposed development would prevent vehicular access to the adjacent, allocated land to the south, as an unadoptable private drive (above an attenuation tank) is proposed at the end of the new estate road, and the only other options for accessing this land would have relied on the purchase and demolition of a house or houses on Gillroyd Lane, intrusion into the green belt, and/or access points where acceptable gradients could not be achieved.
- 10.19 To address these concerns, the applicant added an extension to the proposed estate road (in front of units 1 and 2), to ensure land to the south can be accessed and developed in the future. The applicant has also agreed to not create a ransom strip scenario in the event that the adjacent land is brought forward for development, and an appropriate obligation (to be secured via a Section 106 agreement) is recommended. Advice from the council's Highway Development Management team, regarding the geometry and gradients of this extension to the estate road (and whether this extension and the proposed site entrance on Gillroyd Lane can indeed accommodate the traffic of as many as 65 residential units) has been sought and will be reported in the committee update.
- 10.20 An unadopted pedestrian access to the adjacent land can be provided over the private drive at the end of the new estate road.
- 10.21 The proposed 18 dwellings would be arranged around the new serpentine estate road. Most rear gardens of the new dwellings would back onto existing or proposed rear gardens, completing (or partly completing) perimeter blocks. Careful design of boundary treatments and defensive planting will be necessary where existing or proposed side and rear garden boundaries would be exposed to public access. Outdoor areas that are not proposed within garden curtilages would need to be defined, landscaped and managed to ensure they do not become ambiguous, leftover spaces at risk of anti-social behaviour such as fly-tipping. A condition related to crime and anti-social behaviour prevention measures is recommended.

- 10.22 Off-street car parking is proposed in front driveways, or in integral or attached garages. With appropriate landscaping, the proposed car parking would not have an overdominant or otherwise harmful visual or streetscape impact.
- 10.23 The proposed development's serpentine estate road would help prevent surface water running into or pooling within residential curtilages, and ground levels and kerbs will need to be designed to direct any surface water flow away from building thresholds. These details would also need to address the LLFA's comments regarding flood routing around plots 12 to 15.
- 10.24 To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.
- 10.25 With 18 units proposed in a site of 0.77 hectares, a density of only 23 units per hectare would be achieved. It is noted, however, that the proposed number of units (18) is close to the number ("up to 20") for which outline planning permission has previously been granted. Furthermore, the site's constraints limit its developable area – space needs to be left undeveloped at the east end of the site where existing neighbouring properties are located close to the site boundary, and the amenities of existing dwellings to the west of the site must similarly be protected. The proposed development must also take its cue (at least partly, in terms of quantum, density and layout) from existing adjacent development and the character and appearance of the Linthwaite Conservation Area, and it is noted that surrounding densities to the north are not high, with many residential properties having large gardens which provide space for soft landscaping that helps to enhance the conservation area. With all these matters taken into account, although the proposed density falls well short of the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7, it is recommended that the proposed quantum of development, and its density, be accepted.
- 10.26 Six house types are proposed, all of which would present two or three storeys to the new estate road. Although 2-storey elevations predominate in this part of Linthwaite, the proposed 3-storey elevations are considered acceptable in the context of the 3-storey elevations that already exist nearby at Hillside View and elsewhere on the east slope of the Colne Valley. Conventional massing, roof forms and elevational treatments are proposed. The proposed elevations have been improved during the life of the application, and variations to house types have added interest to the proposed street scenes. Some of the proposed details, such as the small catslide roofs and areas of timber cladding, are not typically found in this part of Linthwaite, but are considered acceptable. Pitched roofs, front gables and windows with vertical emphases within window openings with horizontal emphases are proposed, and these details are considered acceptable

- 10.27 Regarding materials, section 9 of the applicant's application forms indicates that slate roofs are proposed, while stone and timber is proposed for the walls. Natural stone and slate would be required for this site within the Linthwaite Conservation Area, and a condition requiring details and samples of these and other materials is recommended.
- 10.28 The proposed perimeter block layout will reduce the prominence of rear garden fencing, which is welcomed, however in other locations careful design of boundary treatments will be necessary, given the site's location in a conservation area, and its visibility. A condition requiring details of boundary treatments is recommended.
- 10.29 The applicant's supporting Heritage Statement concludes that the proposed development (in its pre-amendment iteration) enhances the setting of listed buildings, the conservation area and views to and from the green belt. This is not accepted – elevational amendments to the proposed dwellings were considered necessary to ensure the development was more reflective of its context. Furthermore, development of this greenfield site in itself would be harmful to the setting of the conservation area, as it would occupy the land that traditionally would have enhanced the setting of the formal house (Rock House) to the north, and would expand the settlement beyond its historic edges into the rural surroundings that help define the conservation area. These impacts, however, are limited by the fact that 20th century development already exists to the north and southwest, and the proposed layout and materials would further limit the proposed development's impacts. Therefore, the harm caused would be less than substantial, and paragraph 196 of the NPPF requires this harm to be weighed against the proposed development's public benefits. In this case, the provision of housing carries significant weight, and outweighs the less than substantial harm caused by the development. It is further noted that assessments of the impact of development upon the conservation area were carried out during the preparation of the Local Plan (and its allocation of the site for residential development) and the consideration of the previous application for outline planning permission (ref: 2014/93289).
- 10.30 It is considered that the proposed development would not cause unacceptable harm to the significance of listed buildings.
- 10.31 In light of the above assessments, it is considered that the relevant requirements of chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP24 and LP35, would be sufficiently complied with. Paragraph 196 in particular would be appropriately addressed, and the proposed development is considered compliant with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. There would also be an acceptable level of compliance with guidance set out in the National Design Guide.

Residential amenity and quality

- 10.32 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.

- 10.33 Acceptable separation distances are proposed between the proposed dwellings and existing neighbouring properties. The proposed distances would ensure existing neighbours would not experience significant adverse effects in terms of natural light, privacy and outlook.
- 10.34 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the site's location on Station Road (which is already used by through-traffic) it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently incompatible with existing surrounding uses.
- 10.35 A condition requiring the submission and approval of a Construction Management Plan (CMP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures and temporary drainage arrangements would need to be included in the CMP. An informative regarding hours of noisy construction work is recommended.
- 10.36 The quality of the proposed residential accommodation is also a material planning consideration.
- 10.37 The applicant proposes:
- 2x A1 house types (units 4 and 14)
 - 3x A2 house types (units 3, 5 and 13)
 - 1x B3 house type (unit 7)
 - 2x B4 house types (units 8 and 10)
 - 2x D house types (units 9 and 11)
 - 3x E house types (units 6, 12 and 15)
 - 1x F house type (unit 18)
 - 3x S1A house type (units 1, 16 and 17)
 - 1x S1B house type (unit 2)
- 10.38 All units would have three bedrooms. This is unfortunate, as a more varied unit size mix would have catered for a wider range of household sizes, would have helped create a mixed and balanced community, and would have helped to avoid visual monotony across the site. Furthermore, it is noted that Local Plan policy LP5e requires masterplanned developments to provide for a mix of housing that addresses the range of local housing needs and encourages community cohesion (although specific proportions of units sizes are not set out in the policy). While this aspect of the proposed development is a shortcoming that attracts negative weight in the balance of planning considerations, it is not recommended that planning permission be withheld on these grounds.
- 10.39 Although the Government's Nationally Described Space Standards (March 2015) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed. The applicant's floorspace figures (in metric) are awaited, and further information will be provided in the committee update.

- 10.40 All of the proposed dwellings would benefit from dual aspect, and would be provided with adequate outlook, privacy and natural light. Adequate distances would be provided within the proposed development between new dwellings.
- 10.41 Most dwellings would have WCs at their entrance level, providing convenience for visitors with certain disabilities. No dwellings would have bedrooms on their entrance level, although several units would have habitable rooms at ground floor level that could be converted to bedrooms.
- 10.42 All of the proposed dwellings would be provided with adequate private outdoor amenity space.
- 10.43 Regarding open space, it is accepted that on-site provision would not be suitable for this sloped site. A financial contribution would instead be required, based on what would be required for the entire allocated site, with the proposed 18-unit development's requirement apportioned accordingly.
- 10.44 Although some details of landscaping proposals have been shown on the applicant's drawings, a condition is recommended, requiring further details of the development's outdoor spaces and their purpose, design, furnishing, landscaping, boundary treatment and management. Details of the proposed pedestrian connection to the adjacent public footpath (including details of gradients, any handrails, and construction methods) would also be required.

Affordable housing

- 10.45 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.
- 10.46 Three of the proposed 18 units would be affordable. In terms of unit numbers, this represents a 16.7% provision, which falls short of the requirements of Local Plan policy LP11. The 20% policy requirement would be equivalent to 3.6 affordable units, therefore this 18-unit development would normally necessitate the provision of four affordable units.
- 10.47 Earlier in the life of the current application, when 17 units were proposed, the applicant submitted financial viability evidence which stated that the proposed development could not provide any affordable housing or financial contributions related to Section 106 planning obligations. This evidence was reviewed by the council's viability consultant, Avison Young, who advised that the 17-unit scheme could, in fact provide one social rent dwelling (but no other contributions) and remain viable. The applicant then considered alternative affordable housing provision options, including the provision of additional affordable flats at the applicant's Marsden Fire Station site, however officers advised that the affordable housing required of the proposed development should be provided on-site. A confidential paper relating to the viability of residential development at this site has been prepared for Members to consider alongside this committee report.

- 10.48 With the increase in unit numbers from 17 to 18, the applicant has now agreed to provide three of the units as affordable homes. These would be 3-bedroom semi-detached properties (units 1, 16 and 17) located close to the northwest and southeast corners of the site.
- 10.49 Regarding the tenure the affordable housing units, the applicant proposes Discounted Market Sale (DMS) units, with freeholds sold at 80% of market value. This proposal is not in accordance with the council's preferred tenure mix of 55% social or affordable rent / 45% intermediate, however there is some merit in the argument that DMS units enable already-local people to get on the property ladder in locations where options may be limited – it is accepted that providing housing of specific tenures can foster social sustainability by enabling existing residents to stay local and maintain community. It is also noted that starter homes are indeed a form of affordable housing. The applicant's proposed deviation from the council's preferred tenure mix therefore only attracts limited negative weight.
- 10.50 Within the Kirklees Rural West area there is a significant need for affordable 1- and 2-bedroom homes, as well as 1- and 2-bedroom homes specifically for older people. Notwithstanding these needs, KC Strategic Housing have welcomed the provision of 3-bedroom dwellings
- 10.51 The proposed locations of the affordable housing units are considered acceptable, given the size of the site and the proposed development, and the proposal to provide the affordable units in two locations (rather than grouping them together). Although the proposed affordable provision includes three of the development's four semi-detached units (while all other units would be detached), all units in the proposed development would have three bedrooms, and the same materials and similar detailing is proposed for all dwellings, which would help ensure the affordable units would not be visually distinguishable from the development's market units.
- 10.52 Given the above assessment and the viability evidence provided by the applicant (and considered in the above-mentioned confidential paper), it is recommended that the proposed three affordable units be accepted and that this be secured via a Section 106 agreement.

Highway and transportation issues

- 10.53 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport, and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.54 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

- 10.55 A single vehicular access point is proposed off Gillroyd Lane. In order to gain improved visibility at the proposed access and to comply with the relevant recommended standards for the recorded approach speed, it is proposed to realign the near kerb line of Gillroyd Lane and to widen the footway. This would reduce the carriageway width of Gillroyd Lane from approximately 8.5m to 7.75m. These works would enable the provision of 2.4m x 50m (to the south) and 2.4m x 41m (to the north) visibility splays at the site's entrance, which is considered acceptable.
- 10.56 The applicant's Transport Technical Note predicts trip generation of nine additional vehicle movements in the a.m. peak period (08:00 to 09:00) and nine additional vehicle movements in the p.m. peak period (17:00 to 18:00). This is not considered significant in the context of local highway capacity. The concerns of residents regarding existing congestion are noted, however the local highway network nonetheless would not be severely impacted by the anticipated number of additional vehicle movement.
- 10.57 The applicant additionally predicts five pedestrian and two bus trips in the a.m. peak period, and three pedestrian and two bus trips in the p.m. peak period. This trip generation is considered low, and can be accommodated by the existing pedestrian and public transport infrastructure. Pedestrian infrastructure surrounding the site is generally good, with Gillroyd Lane having footways on both sides of the carriageway, and public footpath COL/69/30 providing an east-west pedestrian connection between Gillroyd Lane and Causeway Side. The proposed pedestrian connection between the development's estate road and this public footpath (and Hillside View) would help create an appropriately connected, walkable, permeable neighbourhood in compliance with Local Plan policies LP20, LP24dii and LP47e, and is welcomed. Concerns expressed by residents and the Peak and Northern Footpaths Society regarding impacts upon the public footpath are noted, and it is accepted that the setting of this footpath would change as a result of the proposed development, however this impact is not considered so great as to warrant refusal of planning permission. Appropriate adjacent boundary treatments, landscaping, and details of the pedestrian connection can be secured to ensure the usability and attraction of the footpath is not significantly reduced.
- 10.58 It is recommended that the submission and implementation of a Travel Plan be secured via a Section 106 agreement, to ensure the use of sustainable modes of transport is encouraged and enabled. Travel Plan monitoring fees would also need to be secured.
- 10.59 Regarding the proposed development's internal arrangements, the applicant's amended drawings have addressed most of the concerns of Highways Development Management (HDM) officers, however further minor amendments and clarifications have been received and further comments from HDM officers are expected.
- 10.60 An existing lighting column directly outside the application site on Gillroyd Lane would need to be relocated.

- 10.61 Acceptable off-street parking is proposed for the proposed residential units in accordance with council's Highways Design Guide. Details of secure, covered and conveniently-located cycle parking for residents would be secured by a recommended condition.
- 10.62 Storage space for three bins will be required for all dwellings. Further details of waste collection, including details of management to ensure any waste collection points are not used for fly-tipping or permanent bin storage, are required by recommended condition. The same condition would require refuse collection points in locations that would not obstruct access to private driveways. This would also consider the visual impact of waste storage arrangements within the development.

Flood risk and drainage issues

- 10.63 The site is within Flood Zone 1. The site slopes downhill from east to west. Just outside the southwest corner of the application site, within the rear gardens of residential properties in The Ridgeways, is a short stretch of culverted watercourse. Combined public sewers run beneath the application site.
- 10.64 A site-specific Flood Risk Assessment (FRA) was submitted by the applicant. This recommends against infiltration as a means of disposal of surface water, and instead recommends that surface water flows from the site (post-development) be disposed of via the existing combined public sewer at an attenuated rate of 5 litres per second. Attenuation would be provided in the form of a hydraulic flow device (such as a Hydrobrake), meaning that stormwater storage would need to be provided on-site. An attenuation tank is shown on the applicant's drawings beneath the private drive at the terminus of the proposed estate road.
- 10.65 It is accepted that infiltration is not appropriate for this site. It is also noted that there is no known existing watercourse close to the site to which surface water could be discharged. The principle of disposing surface water to the combined sewers, therefore, is considered acceptable, however this will need to be attenuated to a rate agreed with Yorkshire Water, and the proposed attenuation tank, measuring 24m x 3.6m x 2.4m, is considered necessary. The concerns expressed by the LLFA regarding the size of the tank are noted, however options for alternative on-site attenuation are limited due to the site's topography and the need to make effective use of land.
- 10.66 Yorkshire Water initially objected to the lack of a 3m stand-off either side of the existing combined public sewers that run beneath the site, and to the proposed construction of dwellings above the sewers. The applicant, however, proposes the diversion of the sewers to a new alignment beneath the proposed estate road, enabling an appropriate stand-off. The further comments of Yorkshire Water in relation to this proposal are awaited, and will be reported in the committee update.
- 10.67 The applicant has referred to "an old plan" showing the line of a possible culverted watercourse that crosses the site, however trial holes dug on the site have not ascertained its location (or, indeed, whether it exists). As the applicant has not confirmed the depth of the trial holes, and as no transect has been dug, it is possible that further site investigation may reveal this culverted watercourse. The LLFA, however, has accepted that, instead of further

investigation at application stage, a watching brief can be adopted. Should a culvert be found during excavations, a suitable management plan would then need to be developed and agreed with the LLFA. Although the preference would be to retain culverts in their current positions/alignments (which may necessitate a revision to the proposed development's layout, depending on where the culvert is found), diversion can be considered. A relevant condition is recommended.

- 10.68 Details of temporary surface water drainage arrangements would be secured via the recommended condition requiring the submission and approval of a Construction Management Plan.
- 10.69 Foul water from the proposed development would discharge to the existing combined public sewer beneath the application site. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.

Trees and ecological considerations

- 10.70 The application site is previously undeveloped (greenfield) land, was previously in agricultural use, and is grassed. There are trees and shrubs along the edges of the site, and at its centre. No trees within or near to the site are protected by Tree Preservation Orders, however the conservation area status of the site bestows protection on trees, and trees outside the application site, to the northwest, are protected by Tree Preservation Orders 53/91/g1 and 53/91/g2. A Biodiversity Opportunity Zone (Valley Slopes), an SSSI Impact Risk Zone, and a twice buffer zone covers the site.
- 10.71 The applicant has submitted a Preliminary Ecological Appraisal. This indicates that the site predominantly supports habitats of site-level importance only. The majority of the site's existing trees would be retained in the proposed layout, and there is scope for the planting of additional trees. The council's Biodiversity Officer has raised no objection to the proposed development, subject to conditions.
- 10.72 Regarding trees, it has already been established (at outline application stage) that the site's existing trees do not meet the criteria for a new TPO to be served. In general, the principle of development at this site is considered acceptable in relation to trees. The proposed retention of trees, where possible, along the site's western boundary is welcomed. These trees provide useful screening. The council's Arboricultural Officer has raised no objection to the proposed development, subject to conditions requiring the submission of an Arboricultural Method Statement and landscaping details. In addition, a condition requiring a Tree Protection Plan is recommended.

Environmental and public health

- 10.73 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of electric vehicle charging points. In addition, a Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies, should be secured via Section 106 obligations.

- 10.74 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the proposed dwelling sizes, affordable housing, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.
- 10.75 Regarding the social infrastructure currently provided and available in Linthwaite (which is relevant to the public health impacts and the sustainability of the proposed development), and specifically local GP provision, there is no policy or supplementary planning guidance requiring the proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice, and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

Ground conditions

- 10.76 Regarding potential site contamination, the findings and recommendations of the applicant's contaminated land report are accepted. Conditions regarding site contamination remediation are recommended.
- 10.77 The site is within a wider mineral safeguarding area relating to sandstone. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.

Representations

- 10.78 A total of 35 representations were received from occupants of neighbouring properties. The comments raised have been addressed in this report.

Planning obligations

- 10.79 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:
- Affordable housing – Three affordable housing units (Discount Market Sale) to be provided in perpetuity.
 - Sustainable transport – Measures to encourage the use of sustainable modes of transport, including the submission of a Travel Plan, and Travel Plan monitoring arrangements and fees.
 - Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
 - Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent allocated land to the south without unreasonable hindrance.

- 10.80 Of note, the applicant has provided evidence demonstrating that site constraints and related costs would adversely affect the financial viability of residential development at this site. Three affordable housing units have been offered by the applicant despite this evidence, and it is recommended that financial contributions towards open space and education cannot reasonably be required in light of this viability evidence.
- 10.81 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and although the proposed development does not meet the relevant threshold (housing developments which would deliver 60 dwellings or more), any agreement by the applicant to provide a training or apprenticeship programme to improve skills and education would be welcomed. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided.

Other planning matters

- 10.82 A condition removing permitted development rights from the proposed dwellings is recommended. This is considered necessary due to the site's location within Linthwaite Conservation Area, and its visibility from the opposite side of the Colne Valley. Extensions and alterations under permitted development allowances here could be harmful to the significance of this heritage asset, and could cause visual harm in longer views across the valley.
- 10.83 Loss of views across private land (not under the control of the viewer) is not a material planning consideration.
- 10.84 There is no evidence to suggest the proposed development would result in more frequent power cuts.
- 10.85 The risk of construction-stage damage to adjacent properties is not a material planning consideration.
- 10.86 Residents' concerns regarding how the application site was purchased, and where the proceeds were spent, are not material planning considerations.
- 10.87 A resident has expressed concern regarding headlights (of vehicles moving around the proposed development) shining into their properties. This is acknowledged as a potential impact (and, therefore, attracts some negative weight), however the impact would be momentary, it would only happen when vehicles are moved during dark hours, and it is therefore not considered so problematic as to warrant refusal of permission. Headlights momentarily shining on a property opposite a street entrance in this way is not an uncommon occurrence.
- 10.88 The applicant has applied for full planning permission, and has not submitted a Reserved Matters application pursuant to the previous outline planning permission. The validity of the outline permission, and the fact that outline conditions have not been discharged, is therefore not relevant to the consideration of the current application.

11.0 CONCLUSION

- 11.1 The application site is allocated for residential development under site allocation HS126, and the principle of residential development at this site is considered acceptable.
- 11.2 The site has constraints in the form of adjacent residential development (and the amenities of these properties), the Linthwaite Conservation Area, topography, drainage and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or can be addressed at conditions stage, although some aspects of the proposed development attract negative weight in the balance of planning considerations. Approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.3 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

12.0 CONDITIONS (summary list – full wording of conditions, including any amendments/ additions, to be delegated to the Head of Planning and Development)

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and documents.
3. Submission of a Construction Management Plan (including temporary surface water drainage arrangements).
4. Provision of visibility splays.
5. Submission of details relating to internal adoptable roads.
6. Cycle parking provision prior to occupation.
7. Provision of electric vehicle charging points (one charging point per dwelling with dedicated parking).
8. Provision of waste storage and collection.
9. Submission of an Arboricultural Method Statement and Tree Protection Plan.
10. Culverted watercourse watching brief.
11. Submission of flood risk and drainage details.
12. No piped discharge of surface water from the development prior to the completion of surface water drainage works.
13. Submission of an intrusive site investigation report (phase II report).
14. Submission of a remediation strategy.
15. Submission of a validation report.

16. Crime prevention measures.
17. External materials (details and samples to be submitted).
18. Boundary treatments.
19. External lighting.
20. Full landscaping scheme.
21. Biodiversity enhancement and net gain.
22. Removal of permitted development rights

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90208>

Certificate of Ownership – Certificate A signed

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 30-Jan-2020

Subject: Planning Application 2019/92457 Erection of agricultural building (modified proposal) and cladding of existing building 20, Wellhouse Lane, Kirkheaton, Huddersfield, HD5 0RB

APPLICANT

G Ahmed

DATE VALID

12-Aug-2019

TARGET DATE

07-Oct-2019

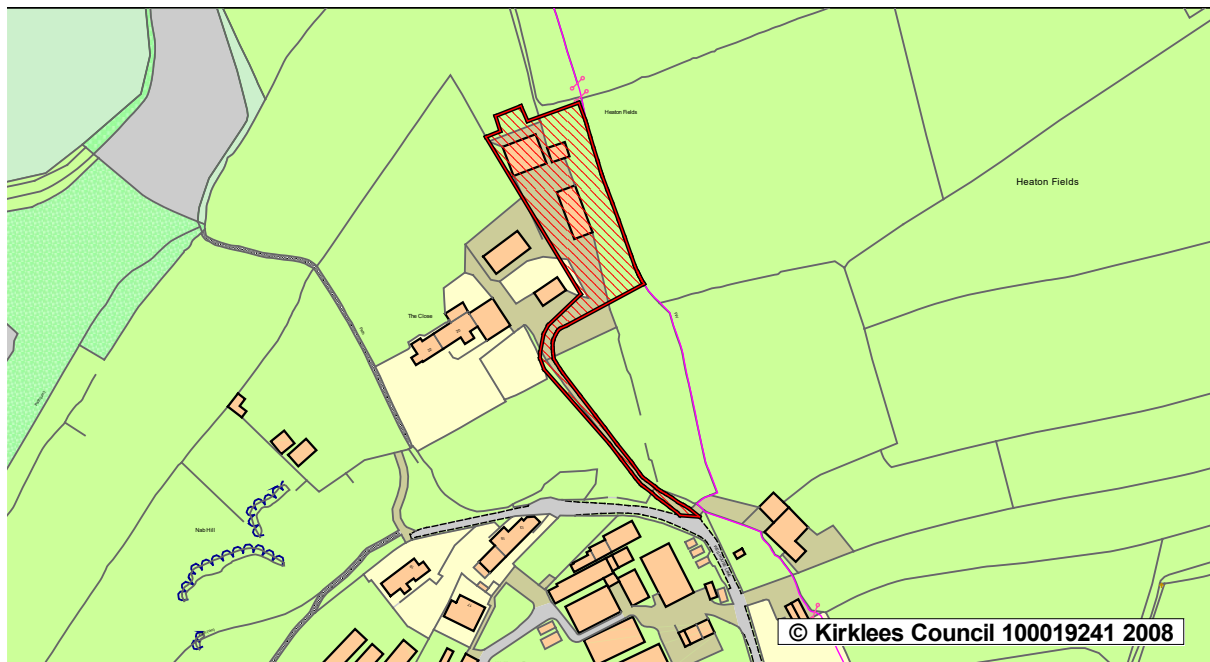
EXTENSION EXPIRY DATE

14-Nov-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: Dalton

Yes

Ward Members consulted

RECOMMENDATION: Refuse planning permission and authorise the Head of Planning and Development to proceed with enforcement action to wholly remove the unauthorised building.

1. The proposed development is located within the designated Green Belt whereby, as set out in the National Planning Policy Framework, the construction of new buildings, save for certain exceptions, is inappropriate development. The construction of buildings for agriculture is one such exception. Policy LP54 of the Kirklees Local Plan qualifies this in requiring such buildings to be genuinely required for the purposes of agriculture. Information submitted with the application has failed to demonstrate that the building is genuinely required for the purpose of agriculture and therefore the proposal is contrary to policy LP54 a. of the Kirklees Local Plan.
2. The overall siting, design and scale of the proposed agricultural building would cause harm to the essentially open and rural character of the area introducing an urban form which would fail to enhance the character of the surrounding landscape. It would introduce a large and imposing building positioned on the edge of the cluster of existing buildings on the site which would have the effect of expanding the built form into the otherwise open and rural landscape. In this regard, the development does not accord with the aims of Policies LP24a and LP54d of the Kirklees Local Plan

1.0 INTRODUCTION:

- 1.1 This application is brought to Sub-committee at the request of officers for the following reason:

The previous application 2017/93853 for the erection of a mixed use educational and agricultural building was refused by the Huddersfield Planning Committee on the 29th March 2018 for the reason of it being considered inappropriate development within the Green Belt and subsequently enforcement action was taken requiring the removal of the building. An appeal against the planning decision and enforcement notice were also dismissed and the notice upheld by the Planning Inspectorate. This application has been made as a revised proposal to the scheme and officers have determined it should be considered at Huddersfield Sub- committee given the previous site history.

1.2 The Chair of Sub-committee has confirmed that for the above reasons for making the request are valid having regard to the Councillors' Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

2.1 Hyacinth Farm (20 Wellhouse Lane) is a 5.3 hectare parcel of land located in the Green Belt of Kirkheaton, Huddersfield. The 5.3 hectares are made up of agricultural and domestic land. The agricultural land covers 3.85 hectares and is stated to be used for pasture/grazing, hay making and also includes a '3 bay' timber clad agricultural building, 3 storage containers and the building subject to this application. The domestic land contains the dwelling, a domestic outbuilding and garaging.

2.2 To the west of the site are the extensive grounds of the Syngenta chemical works and the Leeds Road commercial corridor. North of the site is a disused stone quarry, with a small area of residential housing to the south of the site.

2.3 Hyacinth Farm is located off Wellhouse Lane which is a part-adopted road; there is a public footpath that runs alongside the Eastern boundary of the site where it bounds Dalton Bank Local Wildlife Site.

3.0 PROPOSAL:

3.1 This application seeks retrospective planning permission for the erection of an agricultural building and the cladding of an existing building (that being the 3 bay timber clad building to the north of the site).

3.2 Works to construct the building subject to this application began around July 2017 are now substantially complete.

3.3 The development occupies a total floor area of around 216.75m² split over two levels. The applicant outlines that the upper floor area is used for hay storage and the rest of the floor area, on the lower ground, used as a tractor and machinery storage. Due to the sloping topography of the site the building has a maximum height of 8 metres and minimum height of 4.5 metres.

3.4 The walls of the building are constructed from natural reclaimed stone and the dual pitched roof has been finished with new Indian stone slates. The building has been constructed with an inner wall of breeze block and outer wall of natural stone with an insulated cavity in-between.

3.5 This application has sought to amend the previous design of the building to include a large bi-fold timber door to the north elevation to facilitate easier access for unloading hay, increased width of doors on the upper level, additional door to the first aid area, timber bi-fold door on the south elevation and to carry out a process of 'strike facing' the quoins and stone surrounds to form rusticated surfaces.

3.6 In addition to this the building is host to 6 timber windows spread across the west and east elevations.

- 3.7 The application description includes the cladding of the three bay timber clad building to the north of the site. Details of the cladding have not been provided although it is stated to be carried out in stone to match that of the surrounding buildings.
- 3.8 The applicant has provided justification for the development within a document by Mr Greetham of Expert Agriculture Ltd. dated March 2019 (Appendix 1). The conclusion of the report outlines the following:
- Hyacinth Farm extends to 5.3 hectares and is a grass and stock farm
 - A secure and effective replacement barn is required.
 - The farm has been subjected to arson attacks and theft
 - The extent of the farming enterprise, the farming system and the level of machinery owned justifies a replacement barn
 - Mr and Mrs Ahmed have chosen to build a stone barn for the following reasons:
 - This reflects the structure of traditional barns
 - Access to local stone and a stone mason makes the structure cost effective
 - barn provides storage which is secure from theft and arson, both experiences have featured at Hyacinth Farm
- 3.9 A further supplementary report by Mr Greetham was submitted (December 2019) following receipt of the Consultation response of the Council's Agricultural Consultant. (Appendix 3)
- 3.10 The content of Mr. Greetham's reports have been considered in association with the other documents submitted under this application within the assessment set out below. The reports submitted by Mr Greetham on behalf of the applicant and by the Council's Agricultural Consultant are annexed in full at the end of this report.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2018/92594 - Certificate of lawfulness for proposed outbuilding – granted

2018/91450 – Certificate of lawfulness for proposed outbuilding – refused

2017/94075 - Erection of replacement building – Conditional Full Permission

2017/93588 – Prior notification for erection of agricultural building – Approval of details withheld

2017/93853 - Erection of mixed use agricultural and educational building – Refused by Huddersfield Sub- Committee

2002/91353 – Erection of extension and alterations to existing farmhouse and erection of detached stables/agricultural store – conditional full permission

COMP/17/0208 - Alleged unauthorised erection of building in green belt

Following the refusal of the previous application 2017/93853 by Huddersfield Sub-Committee, enforcement action was authorised by committee members for the service of an enforcement notice requiring the building to be wholly demolished. The applicant appealed both the planning decision and the enforcement notice in which the Planning Inspectorate determined to dismiss the appeal and uphold the enforcement notice.

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

5.1 A revised site plan, design and access statement and accompanying plans were requested to include the 3 bay timber clad building to the north of the site being subject to the re cladding with stone under this application. The Council has also carried out consultation with its own agricultural consultant Mr Henderson to provide response to the additional supporting agricultural reports submitted on behalf of the applicant by Mr Greetham.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

LP1 – presumption in favour of sustainable development

LP2 - Place shaping

LP21 – Highway safety and access

LP24 – Design

LP52 – Protection and improvement of environmental quality

LP54 – Buildings for agriculture and forestry (within the Green Belt)

National Planning Guidance:

Chapter 12 – Achieving well-designed places

Chapter 13 – Protecting Green Belt land

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notices and neighbour letters with the publicity expiring on 7th September 2019. As a result of the publicity 1 representation has been received. The concerns and issues raised are summarised below:

- Design and finish quality is that of a dwelling
- No building on the footprint of the new building subject to this application
- Applicant is not a farmer and does not own the sheep or farm machinery
- Sets a precedent if approved

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC DM Highways – No objection

Health and Safety Executive (HSE) - Do not advise against the granting of planning permission on safety grounds.

8.2 Non-statutory:

Agricultural Consultant (Mr Henderson) – Concluded in summary that it is considered that the design and construction of the building was not intended for agricultural use; is not appropriate for modern agriculture; and that the building is not a reasonable response to the agricultural needs of the Holding. (see full consultation responses in Appendix 2 and Appendix 4).

9.0 MAIN ISSUES

- Principle of development and Green Belt Policy
- Assessment of applicants case
- Design and Visual amenity
- Other Site Activities and Re-Use of Buildings
- Reduction of Built Form
- Residential amenity
- Highway issues
- Other Matter
- Representations

10.0 APPRAISAL

Principle of development and Green Belt Policy

10.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Policy LP54 of the adopted Kirklees Local Plan sets out the criteria against which proposals for agriculture and forestry in the Green Belt will be assessed, as detailed below. It is against this Policy the proposed building will be firstly considered. The wording of this Policy states that *proposals for new buildings for agriculture and forestry will normally be acceptable, provided that:*

a. the building is genuinely required for the purposes of agriculture or forestry;

b. the building can be sited in close association with other existing agricultural buildings, subject to the operational requirements of the holding it is intended to serve. Isolated new buildings will only be accepted exceptionally where there are clear and demonstrable reasons for an isolated location;

c. there will be no detriment to the amenity of nearby residents by reason of noise or odour or any other reason; and

d. the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.

10.2 The policy justification for LP54 (paragraph 19.10) says that *'agricultural holdings will occasionally require new buildings and these will be supported provided that they are genuinely required in connection with such enterprise and that the need can be demonstrated. This will depend on the extent and type of the holding in question and will be unlikely to apply to hobby farms, usually defined as those where the enterprise is not the applicant's main, principal or full time occupation or business. It is also unlikely to apply to a building solely for the purpose of providing security for agricultural implements'*.

- 10.3 Paragraph 19.11 continues that when proposals for new agricultural buildings are received the local planning authority will scrutinise the history of the holding to ascertain whether any agricultural or other suitable building has recently been severed from the holding or converted to another use.
- 10.4 The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt, the most relevant in this case being to assist in safeguarding the countryside from encroachment. Paragraph 143 of the NPPF states that inappropriate development should not be approved except in very special circumstances. Certain forms of development are exceptions to 'inappropriate development'. These are set out within paragraphs 145 and 146 of the NPPF.
- 10.5 One of the exceptions to 'inappropriate development' in paragraph 145 is the erection of a building for agriculture and forestry. In relation to determining whether or not an agricultural building is inappropriate, the NPPF does not set out any limiting criteria in relation to size or other matters. Although the Agricultural Consultant engaged by the Council concludes that the building is neither appropriate for modern agriculture; nor a reasonable response to the agricultural needs of the Holding, the application is for a building to be used for agricultural purposes and, in relation to the Green Belt, should be assessed on that basis.
- 10.6 The proposal is for an agricultural building. Therefore, the proposal would fall within one of the specific exceptions of paragraph 145 of the NPPF and, for the NPPF alone, would not constitute inappropriate development in the Green Belt.

Assessment of applicant's case: is the building 'genuinely required' for the purposes of agriculture

- 10.7 As set out in paragraph 10.1, the application falls to be assessed against Policy LP54 of the Local Plan. LP54a requires a buildings to be genuinely required for the purposes of agriculture. Over the past 2 years the site has been subject to a number of planning applications, with a retrospective application for an alternative mixed use for the building subject to this application having been previously refused permission and the subsequent appeal dismissed. This application has been made in order to put forward the justification for the building's use solely for the purposes of agriculture, the proposal also amends some of the design issues that were raised by the Planning Inspector in dismissing the aforementioned planning appeal.
- 10.8 The applicant has provided a supporting statement and a supplementary agricultural report by Mr Greetham (Appendices 1 and 3) which details the requirements for the building, the number of animals within the holding and how the land is used along with an assessment of the building's design. The plans show the upper floor of the building to be used for hay and food storage and the lower floor to be used for machinery and tractor store with a first aid room.

- 10.9 It is outlined in the supporting statement that the unit holds a head of over 50 sheep and produces around 750 to 1000 10kg bales of hay per annum. In the statement provided by the Agricultural Consultant Mr Henderson it clarifies that: "The Applicant does not own any livestock but I am advised that the land is used by a 3rd Party to graze sheep between July and February. The sheep are then removed and the grass is grown-on for hay. After mowing/hay making, the sheep are returned".
- 10.10 In terms of the principle of development, consideration needs to be given to the size of the holding and number of animals and whether the farm can provide a sufficient livelihood for it to be the applicant's full time occupation.
- 10.11 The Agricultural Consultant, Mr Henderson's report (Appendix 2) outlines "The Applicant is a successful Head Teacher of a Primary School in the District. In view of this significant full-time commitment, I am advised that he is assisted by his sons and arrangements with adjoining farmers. However, using standard industry labour requirement data, the holding represents only approximately 5% (0.05) of a full time unit. This as disputed by Mr Greetham (see Appendix 3). This concludes that the labour requirement is 13% of one full-time employee. It details the tri-partite agreement with two other farmers to manage the holding with the applicant, growing and harvesting the grass for hay making. There is also an additional farmer who rears store lambs on the holding during winter months. The other farmers own the sheep and use the land at Hyacinth farm for grazing between August to February where the applicant is responsible for overseeing the sheep during this time.
- 10.12 It should be noted that the applicant does not own the sheep being kept on the land for temporary periods throughout the year. Ultimately, the consensus is that the holding represents between 5-13% of a full time unit.
- 10.13 Mr Henderson's report goes on to state in his consultation report that due to the Holding's scale and the nature of the activities, "I do not consider the Holding is being run for trade or business purposes, but is a modest part-time "leisure/hobby/amenity" Holding".
- 10.14 In the applicant's statement (Appendix 3) it is contended that in review of literature from the Department for Environment, Food and Rural Affairs (DEFRA) they do not have a definition of hobby farming as the phrase is "*functionally meaningless*" in the face of the broad range and form of commercial agricultural operations. They were, however, able to confirm that "*commercial*" agricultural is defined within the EU Farm Structure Survey Regulation EC 1166/2008 as "...*more than 5 hectares of agricultural land,...*" It goes on to state that Hyacinth Farm meets DEFRA's definition of Commercial Agriculture as the unit has 50 head of sheep, is located on over 5 hectares of land and holds a DEFRA agricultural holding number 493440538.
- 10.15 Mr Henderson comments (Appendix 4): Whilst DEFRA may not have a definition of hobby farming, DEFRA "returns" include hobby/retired/other profession. Whether one considers the Holding to be commercial or leisure/hobby/amenity, the Holding only extends to 5.3 Hectares, represents only 5 – 13% of a full time unit, and the Applicants principal occupation is as a successful Head Teacher of a Primary School. Also, the Applicants Surveyor has previously commented that he struggles "to think of any farm that operates on 5 Hectares". "So I take it that we can at least agree that this is a small part time Holding".

- 10.16 The Local Planning Authority accepts that in some circumstances it may be necessary for hobby/part time farmer to have the requirement for small buildings to provide shelter and/or storage of hay and foodstuffs for livestock, in this instance the size and scale of the building subject to this application is much greater than would be expected to be necessary for this size of holding. The potential of existing buildings on site to meet the requirement of the holding is further assessed later in this report.
- 10.17 Taking all of the above into account, it is considered that a genuine agricultural need for the building cannot be demonstrated. Therefore the proposal would not accord with policy LP54 a. of the Kirklees Local Plan or paragraph 141 of the NPPF which states that local planning authorities should plan positively to enhance the beneficial use of Green Belts by, inter alia, retaining landscapes and visual amenity. The erection of a new building not genuinely required for the purposes of agriculture would harm the visual amenity of the area and result in new building on formally open land.

Design and Visual amenity and whether the building is suitable for present day/modern agriculture

- 10.18 Turning to the design of the building, this has been constructed with external stone walls and a natural slate roof. The Inspector's decision, pursuant to the appeal against the refusal of application no. 2017/93853, stated that whilst it is perhaps not the sort of light weight agricultural building that may typically be found in a rural area, the natural stone walls and a slate roof are in themselves not unacceptable in this particular location. The materials reflect those used in some of the nearby buildings (including the new building adjacent to the dwellinghouse).
- 10.19 The Inspector's decision letter (2017/93853) went on to state that the use of natural stone quoins, window lintels and cills gave the building a more domestic/urban appearance in this otherwise countryside setting. Furthermore, the inclusion of windows and doors with Upvc frames and steps with railings leading to the domestically proportioned entrance doors does not/would not sit well in its rural environment.
- 10.20 Under the current application the applicant has sought to overcome some of the Inspector's concerns through a number of design changes.
- 10.21 The submitted plan and elevations indicate that there would be two large timber bi-fold doors, one on the south elevation to allow access into the upper floor and one on the northern elevation allowing access into to the lower floor area tractor store. The upper floor doors on the west and east elevations, which are accessed off external staircases, are proposed to be widened to allow easier access for hay storage. The material used for the proposed windows have been altered to be timber and the quoins and stone surrounds are proposed to be 'struck faced' to create a rusticated appearance to the surfaces.
- 10.22 On the western elevation there is a door of 'domestic proportions' which provides access into the area highlighted to be used for machinery and an additional door is to be inserted on the south elevation to allow access to the first aid room.

10.23 Mr Henderson, in his consultation response (Appendix 2), and following on from an assessment of the requirement for the building itself, highlights how the design of the building is not particularly suited for modern agricultural practice. Mr Henderson comments that “the building as now seen, is broadly of traditional (19th Century) appearance. In my early years of involvement with planning applications (1990) I witnessed the general acceptance of original such buildings being redundant for present day agricultural use and their conversion to residential or other non-agricultural uses. The building is built of cavity wall construction with cavity insulation, domestic style/ dimension door and window openings and the roof is modern in style with domestic timber trusses.”

10.24 In response, Mr Greetham (Appendix 3) highlights that “With respect to Mr Henderson this is the case where farms are large and rely upon mechanisation. In my opinion the building subject to this application is relevant to the size of farm and type of farming system”.

10.25 Mr Henderson points out that consideration of this application is for a new building as opposed to conversion of use of an old building, thus contrasting the case for *continuing to use* existing traditional buildings with *constructing new* buildings of traditional/19thC design and layout”.

10.26 In respect of the detailed design off/for the building Mr Henderson comments (Appendix 2) regarding difficulties that may be encountered with:

- Access doors on each side of the upper ground floor are designed with 5-6 steps off the ground which would make the movement of any agricultural produce hazardous.
- Internally, as constructed the upper floor room height is restrictive if it is to be used for the storage of agricultural produce with lack of ventilation.
- Any ventilation would only achieved by omitting window and door fittings.
- Both the constructed basement (east elevation) vehicular doorway and proposed additional first floor vehicular door (northern elevation) on the Plan prepared by bld Architects 3729-01 are restricted to 2.5m high whereas minimum agricultural door heights would be expected to be 3m to permit safe tractor/equipment access.
- The basement tractor store is a maximum of approximately 4.3m deep whereas I would expect a minimum 5 – 7m.

10. 27 Mr Greetham’s response to the comments above (Appendix 3) are as follows:

- The applicant explained that the choice of building materials was driven by economics
- The access doors being 5-6 steps off the ground assist the handling of hay bales and feedstuffs from trailers in to the barns
- The quantity of produce does not warrant mechanisation

- There is sufficient ventilation and additional ventilation can be provided easily if required
- It is necessary to secure chemicals and tools within a room without external openings to meet site security and safety requirements.
- Mr Henderson witnessed two tractors situated within the basement store and two tractors can be accommodated in the building.

10.28 Mr Henderson's response to Mr Greetham's comments (Appendix 4) are summarised to:

- I note the references to design details, though designing a new building with the aim of manhandling bales up through raised pedestrian doorways, and to avoid the use of machinery, surprises me. In particular, I note the railings on the plans which will hinder, and not assist, off-loading from a trailer as suggested.
- I dispute that reference to door heights for machinery is irrelevant. I do not consider that the fact that tractors can be found which fit in a building is vindication of new building design.

10.29 On site visits carried out by officers, machinery has not been stored in the lower ground floor rooms, these are mainly laid out with worktops and used for storage of tools and other associated equipment rather than machinery as noted on the plans. Furthermore, it is considered that whilst the building may be able to accommodate the applicant's tractors in the proposed storage area currently, as outlined in Mr. Greetham's Reports, it is not considered that the building provides adequate facilities for any future occupier of the land given the comments from the Agricultural Consultant stating that a minimum of 5-7m would usually be expected for this type of storage.

10.30 In addition to the above, it is considered that amendments to the external appearance of the building by carrying out a process to rusticate the quoins and stone surrounds and alter the windows to include timber frames rather than Upvc would not overcome the harm, confirmed by the Planning Inspector, to the character and appearance of the countryside location.

10.31 The Inspector recognised that the applicant highlights that there was once some sort of structure on the site, but the information is limited about this and, in any event, the application development is a new building. He continued that he had not been provided with any reasons why a more sensitive and close knit location for the building was not considered. No additional reasoning has been provided for the building's location under this application. Significant weight is afforded to the previous appeal decision and the conclusion that the development has caused harm to the essentially open and rural character of area.

10.32 The harm caused is compounded by the fact that the large and imposing building is positioned on the edge of the cluster of existing buildings on the site and so this has had the effect of expanding the built form into the otherwise open and rural landscape.

10.33 In conclusion the overall design and construction of the building is considered incapable of modification to be best suited or be a reasonable response to present day/modern agriculture. Furthermore it is considered the development has caused harm to the essentially open and rural character of area and, whilst the building is not conspicuous from many public vantage points, this does not obviate the need to achieve good design. In this regard, the development does not accord with the design aims of Policy LP24 and LP54 of the Kirklees Local Plan.

Other Site Activities and Re-Use of Buildings

10.34 Under the previous application, the applicant applied for the building to be used partially for agriculture and partly for educational purposes. In association with the applicant's role as a Head Teacher, the site is used for a number of days in summer to host a summer club and a number of other ad-hoc days across the year as an outdoor learning facility. This educational use is thought to equate to around 5-10 days across the whole year. This statement is corroborated in part 6 of Mr. Greetham's report March 2019 (Appendix 1).

10.35 The existing 3 bay timber clad building to the north of the site is equipped with kitchen, toilets, showers and classroom facilities to accommodate the educational uses that occur temporarily on site.

10.36 The balancing exercise to be undertaken is to question to feasibility of the use of the existing buildings on the site for the uses that are required within the land. There is an existing building, is this suitable to meet the agricultural needs of the Holding as opposed to the need to erect a further building?

10.37 The large timber clad building that exists on the site has adequate room for storage. Whilst plans of this building do not exist, it is estimated that the building could offer a total area of approximately 196m² of floor space.

10.38 Whilst the three bay timber clad building currently houses equipment and facilities for the running of the ad-hoc school visits, this use is temporary. The applicant has addressed through the application process that the educational use does not run frequently enough to confirm a material change of use to the land.

10.39 The Agricultural Consultant, Mr Henderson, summarised in his report (Appendix 2) that on his site visit, a variety of agricultural machinery had been laid out on the carpeted floor of the existing storage building and, on balance, felt that if the existing storage building were appropriately prepared, then it would meet the reasonable needs of the existing enterprise.

10.40 Mr Greetham responds to Mr Henderson's comments regarding the existing building stating that the store was full of machinery at the time of inspection (Appendix 3). Mr Henderson was shown the difficulties in manoeuvring machinery in and out of this store due to its low height and there was an excess of machinery with no available space to accommodate the same.

- 10.41 This statement from Mr Greetham appears to contradict earlier comments in the supplementary agricultural report where it is stated that the quantity of produce does not warrant mechanisation (see list under paragraph 10.27). The three bay timber barn at the top of the site has better storage space being of an open plan layout and access openings that the building being considered under this application. It provides the same argument that, if amendments can be made to make the building subject to his application useable, then amendments to make the existing building adequate for the purposes currently required on site can also be made.
- 10.42 It therefore has to be considered that as the three bay timber building is only used infrequently throughout the year for the requirements of the educational purposes, the space within that building is not being utilised to its full capacity and as stated by the Agricultural Consultant Mr Henderson, if prepared in the correct manner, could provide facilities for both uses satisfactorily.

Reduction of Built Form

- 10.43 As part of the application, the applicant has taken consideration of the built form existing on site and rationalised some of the development in order to provide justification and offset the impact of the new building.
- 10.44 The applicant has offered, as part of this application, to remove a poly tunnel which is sited on land forward of the dwellinghouse and 3 shipping containers that are sited adjacent to the three bay timber clad building. The containers hold both recreational materials for the educational use and agricultural tools. A built-form table has been submitted which also outlines where developments have been removed or reduced over the past few years.
- 10.45 In consideration of the shipping containers, in comparison to the erection of the new building, these form a relatively minimal impact on the Green Belt location given they are situated close to an existing development and are of a limited height. It is also usual to see in rural settings the occasional siting of such small containers for associated storage, as they provide secure and relatively cheap accommodation which are fit for purpose.
- 10.46 In relation to the removal of the poly tunnel, this structure does not afford the applicant any storage space which is stated to be the requirement for the erection of the new building and therefore limited weight is given to its proposed removal.
- 10.47 In the built form table submitted within the design and access statement, the applicant highlights that an original barn had been removed from the same location as the new building subject to this application. It is stated this structure was an original pole barn and was removed immediately prior to construction in March 2017.
- 10.48 However, the Council will rely on the comments provided by the Planning Inspector on the appeal in which he outlined that evidence is limited of the structure that stood before and the Inspector was not persuaded that the evidence submitted demonstrated that the appeal building amounted to the *“replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces”* (paragraph 145 (d) of the Framework). The applicant stated that *“the replacement building would be of*

the same use as previously and not existentially larger in floor area than the one it replaces". This comment is not substantiated with objective evidence and there is no information relating to the height of the demolished structure. No further evidence has been provided by the applicant in relation to this matter and therefore limited weight is given to its context within the table which outlines the reduction of built form within the site.

- 10.49 In conclusion, it is considered that the reduction of built form outlined by the applicant to reduce the impact of the new building and rationalise development would not alleviate the harm caused to the new building's impact on landscape and visual amenity of the area. The reduction of built form offers minimal compensation and, in fact, the shipping containers are already used on site to provide suitable storage for a variety of tools and equipment.

Residential Amenity

- 10.50 The impact of the development on residential amenity needs to be considered against LP24 of the Local Plan.
- 10.51 It is worthwhile to note, the closest neighbouring residential property within the vicinity of the development is the dwelling of Hyacinth Farm in ownership of the applicant, approximately located 44m to the South of the proposed development.
- 10.52 Given the nature of the proposed use of the development and distance to the nearest dwellinghouse, it is considered that the building would not cause material harm to the amenities of residential occupiers.

Highway issues

- 10.53 This application is for the erection of an agricultural building and the cladding of an existing building, both buildings utilising an existing access.
- 10.54 The site was refused permission as part of 2017/93853 but there were no highways objections
- 10.55 There have been no changes to the building or access that would impact highways or change the previous KC Highways comments, who consider the application is acceptable on highways grounds.
- 10.56 It is concluded that the erection of the building would not have an adverse impact on highway safety and therefore complies with the aims of policy LP21 of the Kirklees Local Plan.

Other matters

Proposed cladding of 3 bay timber clad building

- 10.57 The application description includes the cladding of the three bay timber clad building to the north of the site. Details of the cladding have not been provided although it is stated to be carried out in stone to match that of the surrounding buildings. Whilst the building currently has an agricultural appearance that sits comfortably within the site, the re cladding of the building in stone is not considered to cause detriment to visual amenity or to the openness of the

Green Belt and is likely to tie the building in to other developments within the site. The cladding of the three bay timber barn would be considered to comply with the aims of policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Climate Change

- 10.58 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.59 The applicant has stated that the stone used in the construction of the building is reclaimed and that majority of the labour used in this building were provided a little or no cost. The re-use of materials reduces the consumption of resources but a more significant reduction of resources would have been achieved by the re-use of an existing building on site rather than the erection of a new building.

Representations

- 10.60 The application was advertised by site notices and neighbour letters with the publicity expiring on 7th September 2019. As a result of the publicity 1 representation has been received. The concerns and issues raised are summarised below:

- Design and finish quality is that of a dwelling
- No building on the footprint of the new building subject to this application
- Applicant is not a farmer and does not own the sheep or farm machinery
- Sets a precedent if approved

Comment: these points have been noted and, where raising material planning considerations, are addressed in the report above

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 whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The development fails to comply with Policy LP54a of the adopted Kirklees Local Plan in that the information submitted by the applicant does not demonstrate that the building is genuinely required for the purpose of agriculture. Planning law requires that applications for planning permission be determined in accordance with the development plan; the development is contrary to the adopted development plan and is such recommended for refusal.

- 11.3 The overall design and construction of the building is considered to be incapable of modification such that it would be best suited or be a reasonable response to present day/modern agriculture. Furthermore it is considered the development has caused harm to the essentially open and rural character of area and, whilst the building is not conspicuous from many public vantage points, this does not obviate the need to achieve good design. In this regard, the development does not accord with the design aims of Policy LP24 and LP54 of the Kirklees Local Plan.
- 11.4 Members are requested to accept the officer recommendation and authorise the Compliance Team to proceed with action to remove the building.

Background Papers:

Application and history files.

[2002/91353](#) – Erection of extension and alterations to existing farmhouse and erection of detached stables/agricultural store – conditional full permission

[2017/94075](#) – Erection of replacement building – Conditional full permission

[2017/93588](#) – Prior notification for erection of agricultural building – Approval of details withheld

[2017/93853](#) - Erection of mixed use agricultural and educational building – Refused by Huddersfield Sub- Committee

[2018/92594](#) - Certificate of lawfulness for proposed outbuilding – granted

[2018/91450](#) – Certificate of lawfulness for proposed outbuilding – refused

Current Application Website link [2019/92457](#)

Certificate of Ownership –Certificate A signed

Appendix 1

Agricultural Report
Relating to
Hyacinth Farm
Wellhouse Lane
Kirkheaton
Huddersfield
HD5 0RB

By

Michael A Greetham BSc(Hons) FBIAC MAE
EXPERT AGRICULTURE Ltd



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EXECUTIVE SUMMARY

- 1) Hyacinth farm is an established farming unit.
- 2) It has been owned by Mr and Mrs Ahmed since 2001.
- 3) It has the holding number 493440538
- 4) The farm operates as a grass and sheep unit and the total area extends to 5.3 hectares
- 5) A barn has been constructed within the footprint of a previous barn.
- 6) The barn has been built with local stone
 - a) This is reflects the traditional structure of barns on small farms
 - b) The holding is on the urban fringe and has been subject to arson attacks and to theft
- 7) The farming system requires the secure storage of feedstuffs, hay, straw and machinery

1 INTRODUCTION

- 1.1 Hyacinth Farm is a small farm situated on the edge of the Kirkheaton.
- 1.2 There is a four bedroom farmhouse and supporting domestic buildings.
- 1.3 The farm is operated as a grass farm and effort has been made to preserve the feeling of a small farming unit
- 1.4 A barn is required to allow for safe and effective storage of feed, hay, straw and machinery.

2 QUALIFICATIONS

- 2.1 This report is prepared by Michael Anthony Greetham, a Farm Management Consultant and Managing Director in the firm of agricultural management consultants known as Expert Agriculture Ltd.
- 2.2 I was born into a Lincolnshire farming family growing flowers and vegetables. The farm extended to 100 acres and involved 20 enterprises in 14 enclosures. I gained an Honours Degree in Agricultural Science at Nottingham University in 1975. Upon leaving university I spent 4 years as a Farm Manager on an arable and beef farm in North Nottinghamshire, being responsible to an absentee owner for the full management responsibilities of an intensive farm.
- 2.3 In 1979 I joined David Anderson & Company as an Agricultural Management Consultant initially working at the Melton Mowbray office. In 1980 I transferred to the Suffolk office of the firm and in 1984 I became a Partner returning to Melton Mowbray in 1987 to take a national role.
- 2.4 In September 1994 David Anderson & Company changed its trading title to Andersons and the department title to Special Services. In 2001 The Andersons Centre was evolved. This was the original national office, heading a network of regional farm business consultancies. The Andersons Centre own Agro Business Consultants Ltd who publish both The Agricultural Budgeting and Costings Book and The Farm Management Pocketbook. The editors of both of these publications are Partners in The Andersons Centre.
- 2.5 Andersons are recognised as the leading farm business management consultants, operating from six UK offices and a base in Germany. The practice was established 46 years ago. I retired as Senior Partner of The Andersons Centre 2 years ago and established Expert Agriculture Ltd
- 2.6 Throughout my 40 years of practice I have managed and advised businesses on their farming activity, business structure and financial performance including, where appropriate, diversification.
- 2.7 I am the Chief Executive Officer of the British Institute of Agricultural Consultants where I am a Fellow and a member of the Rural Planning Division thereof, a Fellow of the Agricultural Law Association and a Member of the Academy of Experts.

3 INSTRUCTIONS AND BACKGROUND

- 3.1 I am instructed by Mr Gugsy Ahmed
- 3.2 I am asked to address the holding known as Hyacinth Farm.
- 3.3 The postal address is Wellhouse Lane, Kirkheaton HD5 0RB
- 3.4 The farm is a registered agricultural holding number 493440538.
- 3.5 I am asked to provide an Agricultural Justification report and to
 - 3.5.1 Look at the farm and farming system
 - 3.5.2 Comment on the need for buildings
 - 3.5.3 Comment on the structure of the barn which is being erected at Hyacinth Farm
- 3.6 I am not asked to comment on events and exchanges with the local planning authority leading to the partial construction of the farm.
- 3.7 Mr Gulfaraz Ahmed, hereafter known as Gugsy Ahmed, moved to Hyacinth Farm in November, 2001 together with his wife, Margaret.
- 3.8 Mr Gugsy Ahmed is a head teacher at Parkinson Lane Community Primary School, Parkinson Lane, Halifax, HX1 3XL.
- 3.9 Gugsy and Margaret Ahmed have two children, both boys, who have been brought up at Hyacinth Farm. All of the family participate in the farming activity.
- 3.10 The Ahmed family have developed Hyacinth Farm over 17 years to a productive unit growing organic grassland.
- 3.11 I understand that at the time of purchase the farm was derelict. The farmhouse, buildings and the land all required remedial attention.
- 3.12 The immediate priority was to renovate the farmhouse which, I am told, was a significant project.

- 3.13 Farm buildings were in danger of collapsing and had asbestos roofs which had to be removed from the site.
- 3.14 Over time buildings have been demolished or made safe.
- 3.15 The unit is situated on the edge of Kirkheaton. Kirkheaton is a suburb of Huddersfield. The farm has been subject to an arson attack and to the theft of machinery and equipment.
- 3.16 The objective is to establish a small, secure and effective farming unit which reflects the size, nature and character of the area.
- 3.17 The extent of the farm can be seen within the aerial photograph below

Aerial Photograph



- 3.18 The farm boundaries can be identified from the map provided in Appendix I

4 THE FARM AND THE FARMING SYSTEM

4.1 Hyacinth Farm extends to 5.3 hectares, 13.1 acres.

4.2 The farm is owned by Mr Mrs Ahmed and registered at the Land Registry under two title Numbers

4.2.1 WYK 591893

4.2.2 WYK 5001106

4.3 The farm is situated at or about 400 ft above sea level.

4.4 The land is Classified Grade 4 under the Agricultural Land Classification of England and Wales meaning that it is suitable for *growing grass and occasional cereal crops mostly grown under low input systems.*

4.5 The soils are listed by Cranfield Soil and Agrifood Institute as 'Soilscape 6' being

4.5.1 *Freely draining slightly acid loamy soil*

4.5.2 *Suitable for range of spring and autumn sown crops; under grass the soils have a long grazing season. Free drainage reduces the risk of soil damage from grazing animals or farm machinery. Shortage of soil moisture most likely limiting factor on yields, particularly where stony or shallow*

4.6 There is a farmhouse, an adjacent building which was built with the benefit of planning permission for multi-purpose, being part household, part farm and part educational

4.7 There is an existing storage building and three adjacent storage containers. The existing building is low in height and not a substantial structure. It is not large enough for the needs of the farm.

4.8 Mr Mrs Ahmed have built up a wide range of agricultural machinery suitable for growing and harvesting grass and making hay. They also have sheep handling facilities, all of which are suitable for a farm holding of this type.

- 4.9 Hyacinth Farm has the holding number 493440538. It is registered as a 'linked holding' to Holding No 44/344/0758 for livestock movement purposes. This holding is registered to a Mr Dean Askin, Ash House, Bog lane, Upper Heaton HD5 9PW.
- 4.10 The soils at Hyacinth Farm are ideally suited to growing grass. The soils in the two main enclosures are productive. The soils in the fields on to the north-west boundary are higher and less productive but are used for grass and grazing.
- 4.11 After making the farmhouse habitable Mr Mrs Gugsy Ahmed established a farming enterprise at Hyacinth Farm.
- 4.12 The first priority was to get a tractor and supporting machinery to enable the grassland to be made productive. As the grassland was already organic, that is free of inorganic fertiliser and chemicals it was natural to continue the organic status.
- 4.13 There are four main enclosures, three are between 1.0 hectare and 1.7 hectare each of which can be used for hay making providing at least two cuts in a normal season. The fourth, to the north of the holding is just less than one hectare and provides useful grazing and at least one cut of hay.
- 4.14 The farm is staffed by Mr Gugsy Ahmed, his wife Margaret and their two teenage sons together with Mr Offlow, a neighbouring retired farmer.
- 4.15 The machinery that is owned by Mr Mrs Ahmed is
- 4.15.1 Tractor John Deere 1550
 - 4.15.2 4 trailers being a tipping trailer, a flat-bed Bale trailer, a stone trailer and a quad Trailer
 - 4.15.3 Flatbed lorry
 - 4.15.4 Transport box
 - 4.15.5 2 x sprayers (used for spot treatment)
 - 4.15.6 Water bowser
 - 4.15.7 Mower (3 metre)
 - 4.15.8 Windrower
 - 4.15.9 Baler
 - 4.15.10 Sheep handling and shearing equipment

- 4.16 The equipment in para 4.15 allows Mr and Mrs Ahmed to be self-sufficient in field operations.
- 4.17 In 2005/2006 Mr Ahmed purchased a flock of cross bred ewes (Suffolk cross Texel) together with rams.
- 4.18 Free range chickens quickly followed together with a small number of goats.
- 4.19 Having developed a complicated system with sheep, goats and chickens the family took the decision to concentrate on sheep and sold off the chickens and goats.
- 4.20 In recent years the farming system has developed whereby Hyacinth Farm concentrates on hay making and then utilises third party sheep to graze the summer and autumn aftermath while also providing winter keep.
- 4.21 Mr Dean Askin grazes in the summer and autumn, fattening his lambs, while Mr Andrew Warren brings ewe lambs to the farm for winter keep.

5 THE BARN

- 5.1 A replacement barn is required for the holding.
- 5.2 Due previous arson attacks and thefts it is essential that the replacement barn provides safe, secure and effective storage
- 5.3 I exhibit a picture of the devastation of the arson attack in Photograph 1 below



- 5.4 The barn is set within the footprint of what was a pole barn, which is a barn supported by timber posts with a roof, used for storing hay and straw as well as machinery.
- 5.5 The replacement barn is in the process of being constructed using local stone walls and a slate roof.
- 5.6 The barn sits well in the countryside and is reminiscent of the type of barn that would be found on a Yorkshire livestock unit.
- 5.7 Farmers have tended to build new barns as portal framed buildings but this is mainly on economic grounds.

5.8 Mr Ahmed has been fortunate to

5.8.1 Have had stone on the holding from previous farm buildings

5.8.2 Have a cheap source of additional stone

5.8.3 Have access to a stone mason who works for £10 per hour providing skilled labour as long as the Ahmed family carry out the unskilled tasks such as moving the stone to the point of use, providing sand, cement etc.

5.9 The barn has been designed to utilise the natural slope with a lower floor accommodating the oil and fuel store leaving the upper floor for the storage of feed and machinery.

5.10 The barn door can be clearly seen in Photograph 1 below

5.11 A door has been provided at 1.2 metres above ground to allow materials to be on-loaded and off-loaded from trailers and lorries without lifting. This is the system that was utilised in traditional farm buildings.

Photograph 2



5.12 There is a large roller shutter door in the end of the barn to allow access for farm machinery while securing the same given the high incidence of theft from farms that is prevalent at this moment in time.

5.13 Internally the barn has been left open with one dividing wall in the upper floor

Photograph 3



6 EDUCATIONAL USE

- 6.1 As reported Mr Gugsy Ahmed is the head teacher of a primary school in Halifax.
- 6.2 Mr Ahmed understands the educational value of a small farm to young children and also children who suffer from difficult and challenging backgrounds etc.
- 6.3 I understand that educational visits have featured in discussions with the Local Planning Authority (LPA).
- 6.4 However, in my professional opinion I believe that these discussions are potentially misleading and have no relevance
- 6.4.1 The visits cover no more than 15 days in any one year
 - 6.4.2 They consist of one residential visit lasting a maximum of 5 days and up to 10 other days which are not consecutive and are not residential.
 - 6.4.3 This activity is non profit making, it allows the Ahmed family to give something of value back to the community at large
 - 6.4.4 The visits allow children to explore habitats and discover animals and wildlife
- 6.5 It is my understanding that a farmer can carry out an activity where the use of the site for non-agricultural purposes does not exceed 28 days

7 CONCLUSION

- 7.1 Hyacinth Farm extends to 5.3 hectares
- 7.2 It is a grass and stock farm
- 7.3 A secure and effective replacement barn is required.
- 7.4 The farm has been subjected to arson attacks and theft.
- 7.5 The extent of the farming enterprise, the farming system and the level of machinery owned justifies a replacement barn
- 7.6 Mr Mrs Ahmed have chosen to build a stone barn
 - 7.6.1 This reflects the structure of traditional barns
 - 7.6.2 Access to local stone and a stone mason makes the structure cost effective
 - 7.6.3 The barn provides storage which is secure from theft and arson, both experiences have featured at Hyacinth Farm
- 7.7 Any reference to educational use has no relevance in this planning matter

APPENDIX I

Farm Map

Appendix 2

AGRIC BLDG AT 20, WELLHOUSE LN, KIRKHEATON, HUDDERSFIELD, HD5 0RB - G AHMED - 2019/62/92457/W

I refer to the above application and confirm that I met with the Applicant and his Agricultural Consultant and inspected the site on 18 October 2019.

In view of the considerable amount of information previously provided and exchanged in connection with the pre-application enquiry earlier this year, and the information provided with this application, I do not propose to dwell on the background details.

1. I understand that the Applicant acquired Hyacinth Farm in 2001.
2. Including the domestic premises, I understand the Holding extends to approximately 5.3 Hectares. This includes the dwelling, a second "domestic" building, garaging, a "3 bay" timber clad agricultural building, 3 storage containers and the Application Building
3. The Applicant does not own any livestock but I am advised that the land is used by a 3rd Party to graze sheep between July and February. The sheep are then removed and the grass is grown-on for hay. After mowing/hay making, the sheep are returned. (At the time of my inspection on 18 October 2019 there were no sheep on site.)
4. The Applicant is a successful Head Teacher of a Primary School in the District. In view of this significant full-time commitment, I am advised that he is assisted by his sons and arrangements with adjoining farmers. However, using standard industry labour requirement data, the holding represents only approximately 5% (0.05) of a full time unit. (No financial data has been provided, but I would expect this to reflect this.)
5. Due to its scale and the nature of the activities I do not consider it is being run for trade or business purposes, but is a modest part-time "leisure/hobby/amenity" holding which also facilitates the summer camp and other ad-hoc activities.

Turning to the Application Building (Referred to as Dwg no 3279-01b 19/8/19 on the Planning Portal though confusingly the Application Drawings themselves are not referenced differently) :-

6. It is of significance that the 1 page Design and Access Statement of 2017 that was submitted during construction of the building, states that it "will be constructed in accordance with current building regulations and all legislation/guidance pertaining to an educational facility." And that "the building will be accessed primarily by pedestrian traffic using pedestrian doors". This indicates to me that the design and principle intention behind the building was for an educational use with possible modest/casual agricultural use of the partial basement – as per the earlier application.
7. I would contend that the "building regulations, legislation and guidance" pertaining to an educational facility differs significantly from use for agriculture. It is not therefore simply a case that the same building would be constructed for either use.
8. The building as now seen, is broadly of traditional (19th Century) appearance. In my early years of involvement with planning applications (1990) I witnessed the general acceptance of original such buildings being redundant for present day agricultural use and their conversion to residential or other non-agricultural uses. The proposed alterations shown on the Plan prepared by bld Architects 3729-01 do not materially change the building from its current form.
9. Turning to construction, one would generally expect a contemporary agricultural building to be of steel frame construction with concrete block/panel walls, cladding and mild steel/fibre cement roof. But this is built of stone with cavity wall construction and cavity insulation, domestic style/dimension door and window openings. The roof is of new Indian Stone with underfelt on modern style pre made timber trusses. The proposed alterations shown on the Plan prepared by bld Architects 3729-01 do not materially change these aspects.

- a. The access doors to each side of the “main floor/first floor” are designed and constructed 5 - 6 steps off the ground which will make the movement of any agricultural produce in and out of the building hazardous and, even if the door width is increased from the existing 0.9/1m to the proposed 1.5m as shown on the Plan prepared by bld Architects 3729-01, the width and height will be restrictive.
- b. Internally, as constructed the “main floor/first floor” room height is restricting if it is to be used for the storage of hay and agricultural produce, as proposed. This will significantly impact the use of machinery to move produce and is likely to require all stored produce to be man handled.
- c. Any ventilation is only achieved by omitting window and door fittings. Good ventilation is important to remove moisture. For example hay is not completely dry and, when stored, will continue to lose moisture. High humidity in the building can reduce the quality of hay, encourage mould growth and cause condensation which will not only drip onto the hay but also cause problems to the structure itself.
- d. The existing door to the south western “room” is of domestic proportions, though I note the proposal to widen this as shown on the Plan prepared by bld Architects 3729-01. This room is without external openings.
- e. Both the constructed basement vehicular doorway and proposed additional first floor vehicular door shown on the Plan prepared by bld Architects 3729-01 are restricted to 2.5m high whereas minimum agricultural door height would be expected to be 3m to permit safe tractor/equipment access.
- f. The basement “tractor store” is a maximum approximately 4.3m deep whereas I would expect a minimum 5 – 7m, and the basement rooms are particularly restrictive for “machinery” storage. Whilst I acknowledge that there were 2 tractors parked in the tractor store, the issue is that the store should not only be capable of storing the applicants tractors but be reasonably capable of accommodating an alternative owners tractors in the future as the store is intended to address the needs of the Holding not a particular applicant. I would therefore expect the design of a new building to reflect generally accepted standards.
- g. Whilst there were a number of small hay bales and some bags of material and timber stored on the “main floor/first floor” and 2 tractors parked in the tractor store at the time of my visit, I do not consider the building to be materially used for Agriculture.

On the above basis, I do not consider that the design or construction of the building was intended for agricultural use; is appropriate for present day/modern agriculture; or that the building is a reasonable response to the agricultural needs of the Holding.

You previously asked me to reflect on the existing storage building and if additional accommodation is required ?, and, if so, whether the Application Building would meet this need or what alterations would be required ?.

On my inspection, a variety of agricultural machinery had been laid out on the carpeted floor of the existing storage building and, on balance, I feel that if the existing storage building were appropriately prepared, then it would meet the reasonable needs of the existing enterprise. Even if it did not, the principle need is for hay and possible machinery storage, and I do not feel the Application Building is best suited to this or can be effectively adapted.

Appendix 3

1 INTRODUCTION 3

2 QUALIFICATIONS 4

3 RESPONSE TO Mr HENDERSON’s REPORT ADOPTING PARAGRAPH NUMBERS 5

4 CONCLUSION.....12

1 INTRODUCTION

1.1 This report is provided as a response to the report prepared by Mr Roger Henderson, Leeds City Council relating to Hyacinth Farm, a small farm situated on the edge of the Kirkheaton.

1.2 I provided an initial report in March, 2019. The Executive Summary provided within that report was

- 1) *Hyacinth farm is an established farming unit.*
- 2) *It has been owned by Mr and Mrs Ahmed since 2001.*
- 3) *It has the holding number 493440538*
- 4) *The farm operates as a grass and sheep unit and the total area extends to 5.3 hectares*
- 5) *A barn has been constructed within the footprint of a previous barn.*
- 6) *The barn has been built with local stone*
 - a) *This is reflects the traditional structure of barns on small farms*
 - b) *The holding is on the urban fringe and has been subject to arson attacks and to theft*
- 7) *The farming system requires the secure storage of feedstuffs, hay, straw and machinery*

1.3 The Executive Summary remains a valid and suitable summary of the farm and is relevant to the Application.

1.4 Mr Roger Henderson has visited twice, once in spring, 2019 and more recently On 18th October, 2019. I accompanied Mr Henderson on both visits as did the Applicant, Mr Ahmed.

1.5 The visit in the spring was at a time when there were no stocks on farm being after winter and before stocks of hay had been replenished in June and July.

1.6 The visit in October was timely but issues arise from Mr Henderson's report and these are addressed in the following section.

2 QUALIFICATIONS

- 2.1 This report is prepared by Michael Anthony Greetham, a Farm Management Consultant and Managing Director in the firm of agricultural management consultants known as Expert Agriculture Ltd.
- 2.2 I was born into a Lincolnshire farming family growing flowers and vegetables. The farm extended to 100 acres and involved 20 enterprises in 14 enclosures. I gained an Honours Degree in Agricultural Science at Nottingham University in 1975. Upon leaving university I spent 4 years as a Farm Manager on an arable and beef farm in North Nottinghamshire, being responsible to an absentee owner for the full management responsibilities of an intensive farm.
- 2.3 In 1979 I joined David Anderson & Company as an Agricultural Management Consultant initially working at the Melton Mowbray office. In 1980 I transferred to the Suffolk office of the firm and in 1984 I became a Partner returning to Melton Mowbray in 1987 to take a national role.
- 2.4 In September 1994 David Anderson & Company changed its trading title to Andersons and the department title to Special Services. In 2001 The Andersons Centre was evolved. This was the original national office, heading a network of regional farm business consultancies. The Andersons Centre own Agro Business Consultants Ltd who publish both The Agricultural Budgeting and Costings Book and The Farm Management Pocketbook. The editors of both of these publications are Partners in The Andersons Centre.
- 2.5 Andersons are recognised as the leading farm business management consultants, operating from six UK offices and a base in Germany. The practice was established 46 years ago. I retired as Senior Partner of The Andersons Centre 2 years ago and established Expert Agriculture Ltd
- 2.6 Throughout my 40 years of practice I have managed and advised businesses on their farming activity, business structure and financial performance including, where appropriate, diversification.
- 2.7 I am the Chief Executive Officer of the British Institute of Agricultural Consultants where I am a Fellow and a member of the Rural Planning Division thereof, a Fellow of the Agricultural Law Association, Fellow of the Institute of Agricultural Management and a Member of the Academy of Experts.

3 RESPONSE TO Mr HENDERSON's REPORT ADOPTING PARAGRAPH NUMBERS

- 3.1 Mr Henderson correctly states that the farm was acquired in 2001. It is significant to note (from aerial pictures) that **there has been a significant investment in the infrastructure to include farm buildings, tracks as well as reseeding pasture and providing fencing as well as rebuilding stone walls.**
- 3.2 While Mr Henderson is correct that the farm extends to 5.3 Ha including the dwelling and ancillary domestic buildings. I have measured the domestic element which amounts to circa 1,800sq.m. It is significant to note that that **the farm, excluding domestic elements, exceed 5 ha (12 acres) which is an important factor in recognising the unit as a farm holding.**
- 3.3 Mr Ahmed is a farmer who has addressed the pressures and economies of scale consistent with modern farming by entering in to a tri-partite working arrangement with two neighbours, a Mr Dean Askin and a Mr Philip Offlow. This is a long standing arrangement which works well. The ownership of the sheep is vested in Mr Dean Askin as it is necessary to 'link holdings' for simplification of administrative purposes in the completion of animal movement permissions and notifications. Under the arrangement Mr Ahmed grows grass which is grown and harvested by Mr Ahmed assisted by his family. Grass is harvested as hay that requires storage. Breeding sheep, subject to the tri partite agreement, graze grass on the holding from August through to February. A fourth farmer, Mr Andrew Warren rears store lambs on part of Hyacinth Farm in the winter months. While the sheep are on Hyacinth Farm Mr Ahmed and his family are responsible for overseeing them. **Mr Henderson is not able to say whether there were sheep on the holding on the 18th October, 2019** as he did not walk the land stating that he was satisfied with the land following his previous visit. I understand that a Kirklees Planning Officer (Hannah Thickett) attended w/c 7th October, 2019. **Ms Thickett acknowledges that she witnessed sheep grazing at the time of her visit.** There can be in excess of 60 sheep on the holding.

3.4 While it is recognised that Mr Ahmed is a Head Teacher, the farming system allows him, supported by his family to make the hay and to collect the bales and stack them within the farm building that is the subject of this report. Mr Henderson reports the labour requirement as ‘*only approximately 5% (0.05) of a full time unit*’. The standard industry data that is referred to is produced by my previous practice Andersons and reported in two industry text books. **The actual labour requirement for the holding is 13% and the majority of that is provided by the Applicant.**

	No	per unit	Total
Ewes & lambs	30	5.2	156
Store lambs	20	2.9	58
Grass	5	1.3	6.5
			220.5
Maintenance and Management	15%		33.1
Total			253.6
Industry Total per Man*			1900
			13.3 %

* Farm Business Survey

3.5 Mr Henderson states that the *farm is not being run for trade or business purposes* suggesting that it is a *modest part time leisure/hobby/amenity holding*. The Department for Environment, Food and Rural Affairs, DEFRA does not have a definition of hobby farming as the phrase is “functionally meaningless” in the face of the broad range and form of commercial agricultural operations. DEFRA state that “commercial” agricultural is defined within the EU Farm Structure Survey Regulation EC 1166/2008 as “...more than 5 hectares of agricultural land, 1 hectare of orchards, 0.5 hectares of vegetables or 0.1 hectares of protected crops, or more than 10 cattle, 50 pigs, 20 sheep, 20 goats, or 1,000 poultry’.

Hyacinth Farm meets DEFRA’s definition of Commercial Agriculture as the unit has 50 head of sheep, is located on over 5 hectares of land and holds a DEFRA agricultural holding number 493440538.

Agriculture in the United Kingdom 2017, the Government paper produced annually, states that of the 294,000 farmers, business partners, directors and spouses involved in agriculture **153,000 (52%) were part time workers** (Table 2.5, page 19)

3.6 Mr Henderson refers to the Design and Access Statement of 2017. I understand that it is generally accepted that there was confusion about the role of educational use. In any event

3.6.1 the educational activities at Hyacinth Farm take place on less than 15 days in any one year

3.6.2 There is no water or sanitation to the subject building. These facilities are provided within the other farm building. While there are 'more than one cubicle' such facilities are required within one set of farm buildings to meet modern requirements

3.6.3 The educational activity at Hyacinth Farm is not reliant upon the building subject to this Application

3.7 In my opinion the building regulations relevant to education have no relevance to this application

3.8 Mr Henderson states that he has 'witnessedsuch buildings being redundant for present day agriculture..' With respect to Mr Henderson this is the case where farms are large and rely upon mechanisation. **In my opinion the building subject to this application is relevant to the size of farm and type of farming system.**

3.9 Mr Ahmed explained that the choice of building materials was driven by economics and reference to a steel frame construction is not relevant because of the cost of the same. Many of the materials and the majority of the labour used in this building were provided a little or no cost.

3.9.1 The access doors being 5-6 steps off the ground assist the handling of hay bales and feedstuffs from trailers in to the barns

3.9.2 Mr Henderson suggests that the first floor height restricts mechanisation. It is not envisaged that any machinery will be used. The quantity of produce does not warrant mechanisation

3.9.3 It is accepted that the hay has to be dry before being stored. The small quantities allow this to happen. There is sufficient ventilation and additional ventilation can be provided easily if required

3.9.4 It is necessary to secure spray chemicals and small tools within a room without external openings to meet site security and safety requirements. Hyacinth Farm can be accessed along the northern boundary via a public footpath. There have been incidents of theft, fire and general vandalism at Hyacinth Farm.

3.9.5 Mr Henderson's reference to the height of constructed and proposed vehicular doorways is not relevant. Mr Henderson witnessed two tractors situated within the basement store.

3.9.6 Reference to the depth of the ground-floor tractor store has no relevance, two tractors were accommodated within the store at the time of inspection one with a fore-loader attached.

4 CONCLUSION

- 4.1 A replacement barn is required for the holding.
- 4.2 Due previous arson attacks and thefts it is essential that the replacement barn provides safe, secure and effective storage
- 4.3 The barn sits well in the countryside and is reminiscent of the type of barn that would be found on a Yorkshire livestock unit. Farmers have tended to build new barns as portal framed buildings but this is mainly on economic grounds .Mr Ahmed has been fortunate to
- 4.3.1 Have had stone on the holding from previous farm buildings as well as a cheap source of additional stone
 - 4.3.2 Have access to a stone mason who works for £10 per hour providing skilled labour as long as the Ahmed family carry out the unskilled tasks such as moving the stone to the point of use, providing sand, cement etc.
- 4.4 A door has been provided at 1.2 metres above ground to allow materials to be on-loaded and off-loaded from trailers and lorries without lifting. This is the system that was utilised in traditional farm buildings.
- 4.5 Mr Henderson refers to the existing storage building
- 4.5.1 The fact that there was some carpeting left on the floor has no relevance
 - 4.5.2 The store was full of machinery at the time of inspection
 - 4.5.3 Mr Henderson was shown the difficulties in manoeuvring machinery in and out of this store due to its low height
 - 4.5.4 There was excess machinery outside of the existing store with no available space to accommodate the same
- 4.6 Hyacinth Farm meets the definition of a commercial farm, albeit part time
- 4.7 An additional farm building is necessary to meet the farming requirements
- 4.8 Reference to educational use has no relevance
- 4.9 The design of the building is 'fit for purpose' and suited to a small farm.

Appendix 4

AGRIC BLDG AT 20, WELLHOUSE LN, KIRKHEATON, HUDDERSFIELD, HD5 0RB - G AHMED - 2019/62/92457/W – 16/01/2020

I refer to the Applicants Supplementary Agricultural Report of December 2019.

- 3.1 & 3.2 The area of the Holding is agreed at 5.3 Hectares.
- 3.3 Reference is made to the sheep, but the Report acknowledges that the sheep do not belong to the Applicant, and it has previously been stated that the sheep are not on site on a permanent basis.
- From the Report there appears to be some significance attached to whether or not sheep were on site on my visit on 18 October. I am unclear whether the Applicant is claiming that there were sheep on site or the importance of this? However, if it is of such importance then animal movement records can be produced by the Applicant to confirm matters.
- 3.4 I consider the enhanced Labour requirement suggested in the Report is flawed as the sheep are not owned by the Applicant and are not permanently kept on the Holding. (Even if the sheep were to be taken into account, one would need to apportion the labour requirement between the Application site and the other lands used by the sheep owners.) Nevertheless, whether you consider my assessment or the Applicants, there is consensus that the Holding only represents 5 -13% of a full time unit
- 3.5 I note the comments on my reference to the use of the Holding being a modest leisure/hobby/amenity Holding. Whilst DEFRA may not have a definition of hobby farming, DEFRA “returns” include hobby/retired/other profession. Whether one considers the Holding to be commercial or leisure/hobby/amenity, the Holding only extends to 5.3 Hectares, represents only 5 – 13% of a full time unit, and the Applicants principal occupation is as a successful Head Teacher of a Primary School. Also, the Applicants Surveyor has previously commented that he struggles “to think of any farm that operates on 5 Hectares”. So I take it that we can at least agree that this is a small part time Holding.
- 3.6 There may be confusion about the “role of educational use” but there can be no confusion that the earlier Design and Access Statement states that the building was erected/ designed for educational use. Clearly the design and construction of the building are relevant to considering its agricultural function.
- 3.7 I consider that building regulations etc relevant to education are relevant to this Application as the Applicants earlier reference to them is an indication of the purpose for which the building was erected.
- 3.8 I am pleased to note agreement that traditional buildings such as this are redundant for present day agriculture, but note that this is qualified by referring to larger farms reliant on mechanisation. The Report comments that it is considered that the building is relevant to the size and type of the Application holding. I have some sympathy with this though, even on small units, Appellants have successfully argued against me that small units still have machinery unsuited to traditional buildings; mechanisation can be even more relevant to small units; or such units use Contractors with larger vehicles. Indeed, the Application site is well mechanised.

Also, I would contrast the case for continuing to use existing traditional buildings with constructing new buildings of traditional/19thC design and layout.

3.9 Reference is made to the low cost of the building, and the cost of the traditional design/construction is portrayed as being for cost saving reasons. However, when the Applicant was asked about the cost he indicated a figure for which I would anticipate a reasonable contemporary steel framed agricultural building could have been provided.

I note the references to design details, though designing a new building with the aim of manhandling bales up through raised pedestrian doorways, and to avoid the use of machinery, surprises me. In particular, I note the railings on the plans which will hinder, and not assist, off-loading from a trailer as suggested.

I dispute that reference to door heights for machinery is irrelevant. I do not consider that the fact that tractors can be found which fit in a building is vindication of new building design.

In summary, clearly, there are differences between the Applicants Surveyor and myself. The Applicants Surveyor considers "that the design of the building is fit for purpose and suited to a small farm" whereas, as I have previously commented, I do not consider that the design or construction of the building was intended for agricultural use or is appropriate for present day/modern agriculture.

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 30-Jan-2020

Subject: Planning Application 2019/93445 Demolition of existing bungalow and erection of 3 dwellings with gardens and parking 3, Marsh Gardens, Honley, Holmfirth, HD9 6AF

APPLICANT

Sheraz Shah, Shazam
Developments Ltd

DATE VALID

21-Oct-2019

TARGET DATE

16-Dec-2019

EXTENSION EXPIRY DATE

26-Nov-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

N

Ward Members consulted

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application is brought before Sub-Committee for determination on the grounds that it has attracted significant local representation.

2.0 SITE AND SURROUNDINGS:

2.1 The application site comprises a detached single-storey dwelling and its curtilage. It is located on a corner site within a mainly residential area close to Honley village centre. The plot forms a quadrilateral measuring approximately 28m along the north-eastern Marsh Gardens frontage and 26m along the south-eastern highway frontage, which is a spur to Marsh Gardens. There is a vehicular access at the northern corner of the site and a surfaced driveway.

2.2 The existing bungalow measures 10.4 by 8.6m and is located close to the junction.

2.3 The site is near-level without steep gradients. The nearest neighbouring properties are: a pair of two-storey semi-detached dwellings to the south-west (nos. 5-7); a detached two-storey dwelling to the north-west (no. 1); and a bungalow to the south-east (no. 24). Close to the site on the opposite (north-east) side of Marsh Gardens is a block of modern two-storey apartments (number 6 up to 12a), the doctors' surgery car park, another small detached dwelling (no. 2), and, further to the north-west adjacent to Concord Street, a haulage yard. Marsh Gardens also provides access to a business premise via a driveway on the north-eastern side of the road.

3.0 PROPOSAL:

3.1 The proposal is for the erection of 3 no. two-storey townhouses. The new dwellings would form a continuous row 18.2m in length north-west to south-east and 9.35m in width. They would have a simple rectangular footprint with canopy porches being the sole projecting element. They would be positioned 5.0m from the main highway frontage to the north-east, and a minimum of 3.1m from the highway boundary to the south. Vehicular access for the two end plots would be taken to the north-east, by means of a single-width driveway at the

side of each house allowing tandem parking. For the middle dwelling, the driveway would be to the rear, with the access to the south-western spur of Marsh Gardens.

- 3.2 The new dwellings would each have 3 bedrooms, the third being in the attic. The development would have a continuous gable roof, overall height being 8.7m. External materials would be stone and blue slate.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 None.

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

- 5.1 13-Dec-2019: Amended plans including reduction from 4 to 3 dwellings. Also reduces roof pitch and re-arranges car parking. Plans re-advertised (ends 09-01-20).

02-Jan-2020: North elevation and amended bin storage arrangements, also moved the new dwellings 0.5m to the north-east (towards the highway). These plans were not re-advertised because it was considered that they did not result in major changes that would require further public consultation.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 21:** Highway safety and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 31:** Strategic Green Infrastructure Network

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Highways Design Guide SPD adopted 2019

West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

National Planning Guidance:

6.4

National Planning Policy Framework

- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment.

National Design Guide (2019)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Representations received from 21 third parties over the periods of publicity. Of these, 17 object, 2 raise a comment or concern, 2 in support.

Summary of grounds of objection and concerns raised

- i. Marsh Gardens is in a Conservation Area
- ii. Would not be in keeping with local character (height; neighbouring houses are detached or semi-detached not terraced; do not have front canopies).
- iii. Overdevelopment and would not leave enough soft landscaping.
- iv. The site would be ideal for bungalows for retired people, since the location is close to village centre, or smaller houses for first-time buyers.
- v. Would be preferable if they were affordable.
- vi. Other applications 2004/93465 and 2013/93737 were modified or rejected (dormers and vehicular access issues).
- vii. Loss of ecological value.
- viii. Loss of existing bungalow because ground floor living accommodation is in short supply.
- ix. Impact on light.
- x. Possible impact on privacy.
- xi. No north elevation shown.
- xii. Cutting down trees before permission granted – were tree surveys undertaken before this was done?
- xiii. It would exacerbate parking problems, may prevent emergency services and bin wagons getting through.
- xiv. Conflict with pedestrians using the pavement outside. Dropped kerbs will make the journey to the surgery more hazardous to people who use mobility aids or are on mobility scooters.
- xv. Reduction in visibility at junction. Inadequate visibility for cars pulling out because of other cars parked.
- xvi. It is a busy road with a high uptake of on-street parking, and there would be conflict with existing traffic to Surgery and 'Propermaid', also close to pick-up and drop-off point for Honley Junior School.
- xvii. Tandem parking is unrealistic because if someone wants to move the inner vehicle they will have to temporarily park the other vehicle on the highway. Additional hazards from cars reversing out near a blind bend.
- xviii. Driveways may not be wide enough for some modern cars.

- xix. Access on foot for Plot B would be impracticable.
- xx. Impact on wider highway network, especially Marsh Gardens / Westgate junction.
- xxi. Drainage arrangements may not be adequate.
- xxii. Disruption during building works
- xxiii. The existing “terrace” is not comparable as they are flats for over-55s and have internal turning.

Summary of points made in support

- i. It would be good to see the land being put to use.
- ii. The existing highway situation is safe as long as people drive carefully.

Ward Councillor Charles Greaves made the following comments:

- If there are to be more than 2 dwellings I would like it to be referred to Sub-Committee with a site visit. The amended proposal is still an overdevelopment of a tight site. It is not appropriate to this setting does not fit in with the street, and is a very busy pedestrian area. Three exits with reversing and tandem parking may fit your policy rules but will not work in reality. There is limited outside space and I wonder where the bins will go. A pair of semis would fit the plot and blend in well.
- Request that a condition on construction management be imposed if permission is granted.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** There were no statutory consultees.

8.2 **Non-statutory:**

KC Highways Development Management: Acceptable subject to conditions.
 KC Lead Local Flood Authority: (no objection)

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 In terms of housing land supply, in the recently adopted Kirklees Local Plan the council have demonstrated 5.51 years supply of deliverable housing capacity (including incorporation of the required 20% buffer). As the Local Plan was adopted within the last five years the five year supply calculation is

based on the housing requirement set out in the Local Plan (adopted 27th February 2019) and takes account of shortfalls in delivery since the Local Plan base date (1st April 2013). 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”.

- 10.2 The development site forms a small plot surrounded predominantly by residential development. Although the Local Planning Authority can demonstrate a five year land supply, it is noted that the development of this plot would be contribute to the housing supply in the district. However the provision of housing needs to be balanced against all policies and material planning considerations considered below.
- 10.3 The site lies within Strategic Green Infrastructure Network, with which LP31 applies. Within the Strategic Green Infrastructure Network as identified on the Proposals Map, the following objectives apply:
- i. Development proposals should ensure that the function and connectivity of green infrastructure networks and assets are retained or replaced;
 - ii. New or enhanced green infrastructure is integrated into the development where appropriate;
 - iii. The scheme provides connecting links to the Core Walking and Cycling Network where opportunities exist;
 - iv. Biodiversity and ecological links are protected and enhanced.
- 10.4 The site is already in residential use, and even though the development would increase the overall building footprint on site from 88 to 170sqm, it is considered that this would not affect the function or connectivity of the green infrastructure network. The site does not provide any opportunities for public recreation and would appear to have limited biodiversity value in its present form. The proposal is therefore considered to be in accordance with the aims of Policy LP31.
- 10.5 The principal LP policy relating to the design of new development is LP24, which states that the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, provide a high standard of amenity for future and neighbouring occupiers including appropriate distances between buildings and a high level of sustainability. Policies LP7 (efficient and effective use of land and buildings) and LP11 (housing mix and affordable housing) are also relevant. In addition, the proposal will be assessed against the applicable policies on highway safety and parking (LP21 and 22), drainage (LP28), and all other material considerations.

- 10.6 Under Chapter 11 of the NPPF, planning decisions should support development that makes “efficient use of land” taking into account the need for different types of housing, local market conditions, infrastructure, the prevailing character of the area, the desirability of promoting regeneration or change, and the importance of securing well-designed, attractive and healthy places. The advice in Chapter 12, “Achieving well-designed places”, should also be taken into account.

Urban Design issues

- 10.7 Marsh Gardens is outside the Conservation Area. The street lacks a strong consistency in built form or house type, with both detached and semi-detached two-storey houses, bungalows, and low-rise apartments all in close proximity to each other. But it is noted that average densities on Marsh Gardens are generally lower than those within the central part of Honley, and it is imperative that new development respects the medium-density urban grain that exists at present.
- 10.8 The scheme as originally submitted was for a row of 4 townhouses, occupying a larger footprint than the 3 now shown, and in addition would have had a higher roofline and dormers to the front. The case officer advised the architect that this would amount to overdevelopment on account of the close relationship with property boundaries to the north and south, and with established development, and that furthermore the steeply-pitching roofs and dormers would be out of keeping with their surroundings.
- 10.9 The revised plans now show 3 dwellings. The roof pitch has been reduced from 40 to 35 degrees and the dormers eliminated. The resulting development would be of higher density than that which exists now, but in terms of percentage plot coverage and units per hectare, it would be roughly comparable to the existing developments 5-7 and 9-11 Marsh Gardens. Net density would amount to 52 units per hectare – this exceeds the minimum of 35 per hectare established in LP7 but is considered appropriate for this location.
- 10.10 Roof pitch would still be higher than the 30 degrees found on most neighbouring dwellings, but it is also noted that the eaves height and overall height of the proposed dwellings would be markedly lower than that of no. 1 Marsh Gardens, which the plot adjoins. Built form has been kept simple, so as to respect the appearance of surrounding development.
- 10.11 The development would be set back from the highway boundary by only 5m (500mm less than no. 1, the adjacent dwelling to the north-west) but given the lack of a consistent building line or house type this feature is not considered objectionable in itself. It would maintain an appropriate balance of hard and soft landscaping. It is considered that the proposed dwellings would maintain an acceptable distance both from the highway boundary to the north-east and south-east, and from established development. It is recommended that a condition be imposed regarding proposed boundary treatment along the front elevation of the site. The retention/erection/replacement of a low stone boundary wall would help this development to harmonise with other properties along the road and discourage the parking of vehicles to the front of the properties.

- 10.12 In conclusion, it is considered that the scale, siting, design and density of the development proposed would be in harmony with its surroundings and respect the character of the townscape. It represents an efficient use of previously-developed land as required by LP7. Subject to a condition requiring samples of facing and roofing materials being submitted for approval, the development would thereby accord with the aims of LP24(a) and the relevant parts of NPPF Chapters 11 & 12.

Residential Amenity

- 10.13 Under the Local Plan there are no formal standards for space about buildings. The new dwellings would maintain 20.7m from the dwelling that faces them to the north-east (no. 2), which is considered sufficient to protect privacy.
- 10.14 To the rear of the site, the nearest existing dwelling is 5 Marsh Gardens. The northernmost dwelling (Plot A) would at its closest be 6.4m from the rear site boundary, but the potential for overlooking of the main amenity space for no. 5 would be very limited on account of the presence of a detached garage close to the boundary on no. 5's side. The closest window-to-window distance for these two properties would be approximately 11m, but owing to the two rear elevations being almost at right-angles it is considered that this would not be perceived as intrusive, and the nearest upper floor window in no. 5 appears in any case to be a bathroom.
- 10.15 There is also an upper-floor side-facing window in no. 5, facing the application site. It has not been possible to determine whether this is a habitable room window – it is clear-glazed but its size and position indicate it is more likely to be a landing window. It would be approximately 11m from the rear elevation of the new dwellings, so no undue loss of light or outlook should occur. It is considered that the possibility of mutual overlooking would also be very limited owing to the distance and the fact that no. 5 is set significantly higher. The relationship is therefore judged to be acceptable.
- 10.16 No. 1 Marsh Gardens adjoins the site to the north-west. It is somewhat elevated compared to the application site (by about 600mm based on the submitted streetscene elevation). It has its principal outlook to the north-east and south-west, but also has a ground floor dining room window in the south-eastern elevation facing the application site. This could be considered a secondary window, since it is likely that the room would originally have had its main outlook to the south-west. But as it is one of the principal sources of light to the room (the other is through the rear-facing glazed doors by means of the small rear conservatory) any impact must be given due consideration. The scheme as originally submitted would had its end wall only 2.6m from this window, which was deemed likely to give rise to an unacceptable impact. On the latest plans the distance would be 4.9m. At present the outlook from this window is not obstructed by buildings at close quarters (the wall of the existing bungalow being about 13m away), although outlook and light are somewhat compromised by the existing high boundary fence and by an evergreen tree on no. 3's side. It is anticipated that the new build would have some impact on light, and in particular would affect the window's ability to receive direct sunlight, especially during the early-to mid-morning in the winter months. However, this effect would be less pronounced in the summer when the angle of the sun is higher, and furthermore any sunlight the window now receives around midday and in the afternoons would be unaffected. It is considered that

overall, the impact on light levels in this room would be slight, and that it would not have a significant effect on the overall level of amenity for occupants of this property. Again, the property would retain an unaffected outlook to the east and west where its main amenity space is located.

- 10.17 The only side-facing windows shown on the plans as proposed are bathroom and shower-room windows, which would presumably be obscurely-glazed (this can be conditioned). The rear and north-east side boundaries are already screened by fences which are on neighbouring land and will presumably be retained, so it is considered that no conditions on boundary treatments (other than low stone walls on the highway frontage) are required. As a precaution it is however recommended that there be a condition that no additional windows are formed in the north-west end elevation at ground floor since the levels difference could potentially allow a line of sight between windows.
- 10.18 The amount of amenity space available for the middle dwelling is somewhat limited, but is on balance deemed adequate for a 3-bedroomed house of this size. It is considered that the new dwellings' ability to receive natural light would also be satisfactory. The amount of internal floorspace is in excess of the recommended minimum for a 3-storey, 3-bedroom dwelling as set out in the Nationally Described Space Standards.
- 10.19 In conclusion, it is considered that the development proposed would avoid harming the amenities of established dwellings and would result in an acceptable standard of living for future occupants, thereby complying with the aims of Policy LP24(b).

Housing issues

- 10.20 The scheme is below the threshold at which an element of affordable housing would be sought, so this consideration does not apply. Policy LP11 encourages developers to provide a mix of housing in terms of size and tenure, but as it is for 3 units only it could be difficult to achieve this aim whilst making efficient use of the site and creating a uniform appearance, and so the 3 dwellings being very similar in terms of layout and floorspace is not considered objectionable.

Highway issues

- 10.21 Marsh Gardens is a residential cul-de-sac that serves approximately 20 residential properties, a B2 (general industrial) unit, and a doctors' surgery. The lower or south-eastern stretch, serving nos. 16-22, is paved but unadopted. Various waiting restrictions are in force. There are single yellow lines along the south-western edge of Marsh Gardens from Concord Street (no waiting 8am to 6pm Mon-Sat) which continue along both sides of the south-western spur leading to the surgery (no waiting 8am-7pm Mon-Fri, 8am-12 noon Sat). There are double yellow lines for a short stretch on the opposite side to prevent parking at or near the entrance to the car park (which is reserved for surgery patients) and the entrance to Proper Maid Cakes. It is possible to park legally on the north-eastern side - there is a parking lay-by with sufficient space for approximately 8 cars, and opportunities to park informally on either side of the street further down. At the time of the case officer's site visit, there was a high uptake on on-street parking, with little spare capacity.

- 10.22 Marsh Gardens does not provide direct vehicular access to Honley C of E Junior School (the vehicular access point being off Jaggars Lane), but the lower end of the adopted part of Marsh Gardens is, according to local residents, used as an informal pick-up and drop-off point by parents of school students.
- 10.23 The carriageway of Marsh Gardens is approximately 7.2m wide. Even where the effective width is limited by cars parked in the lay-by, it is still wide enough for two vehicles to pass each other. Although traffic volumes may be high at certain times of the day (especially at school opening and closing times), traffic speeds are expected to be low. It is considered that the local highway network is of a satisfactory standard to cope with the level of additional traffic generated by the development.
- 10.24 Under the Local Plan there is no formal minimum or maximum level of parking provision set out as standard for new developments. Policy LP22 instead says that provision will be determined by the availability of public transport, the accessibility of the site, location of the development, local car ownership levels and the type, mix and use of the development.
- 10.25 In this instance, the site is deemed to be of moderate to good accessibility, being roughly 180m from a bus stop on Westgate with a twice-hourly service to Huddersfield. Other bus services are available on Woodhead Road and Huddersfield Road roughly 500m away. The latest plans show two designated parking spaces for each dwelling, which is considered an appropriate number for a 3-bedroomed dwelling of the size and in the location proposed. No designated visitor parking is provided. In considering the question of where visitors might park, it is noted that opportunities for safe on-street parking in the vicinity of the site are somewhat limited, but that there is a small public car park roughly 120m away in the village centre. It should also be noted that even under the now-superseded Unitary Development Plan, visitor parking was not normally sought except for developments served by an unadopted road or shared driveway, and then only for 4 or more dwellings. It is considered that overall provision of parking spaces is acceptable in terms of number, and that their layout would allow them to be safely used.
- 10.26 The Highway Officer's latest comments are that the scheme is acceptable in principle but that some revisions to waste storage and collection arrangements will be needed – this can easily be achieved without changing the overall layout. Subject to appropriate conditions – the provision and retention of the parking areas; the road frontages being kept permanently clear of all obstructions to visibility over 1m above the carriageway, the footway being restored after development and not interrupted by kerbs; refuse storage and collection points being provided – the development would ensure that the safety and convenience of highway users are protected and accord with the aims of LP21-22.

Drainage issues

- 10.27 The site is not within an area identified as being at risk of flooding according to Environment Agency data. It is proposed that disposal of surface water is to be by the mains sewer. In general this is not one of the more sustainable methods of drainage, but given the small plot size and proximity to existing buildings, it is unlikely that soakaways would be a realistic option. Details of drainage methods do not need to be conditioned as they would normally be covered under the remit of the Building Regulations.

Representations

- 10.28 Most of the concerns relating to amenity and highway safety have been addressed earlier in the report, but are summarised here with other issues raised and officer responses.
- i. Marsh Gardens is in a Conservation Area **Response:** The application site is outside the Honley Conservation Area being roughly 40m from the boundary.
 - ii. Would not be in keeping with local character (height; neighbouring houses are detached or semi-detached not terraced; do not have front canopies). **Response:** The issue of design and local character has been considered at length in 10.7-10.12.
 - iii. Overdevelopment and would not leave enough soft landscaping. **Response:** It is considered that the scheme as modified would amount to an appropriate density of development (see 10.9 above) and would provide sufficient soft landscaping both front and rear.
 - iv. The site would be ideal for bungalows for retired people, since the location is close to village centre, or smaller houses for first-time buyers. **Response:** There is a demand for both types of housing, and on a larger scheme it might be appropriate to seek a greater diversity of house type. But judging the scheme against the applicable policies on design and amenity it is considered an appropriate form of development for this site.
 - v. Would be preferable if they were affordable. **Response:** This is not a standard requirement for a development of only 4 units (see 10.20 above).
 - vi. Other applications 2004/93465 and 2013/93737 were modified or rejected (dormers and vehicular access issues). **Response:** 2004/93465 was for the erection of a pair of semi-detached dwellings on the corner of Marsh Gardens and Concord Street. Dormers have been deleted from the current scheme. 2013/93737 was actually a discharge of condition application for a housing scheme originally granted permission in 2009 (ref. 2008/93588). It appears from the supporting documents that the developer intended the access be to Concord Street, and that this was not a modification made at the Highway Officer's request. In any case it was a Major application, for 14 dwellings, and is therefore not comparable to the scheme now under consideration.
 - vii. Loss of ecological value. **Response:** The site is deemed to have very limited ecological value in its present condition, and there are opportunities for enhancement.
 - viii. Loss of existing bungalow because ground floor living accommodation is in short supply. **Response:** The loss of a single existing bungalow is not considered to be grounds for refusal, especially in the light of NPPF Chapter 11 and LP7 which recommend making efficient use of land.
 - ix. Impact on light. **Response:** This issue has been examined at length in paragraphs 10.13-19 above.
 - x. Possible impact on privacy. **Response:** This issue has been examined at length in paragraphs 10.13-19 above.
 - xi. No north elevation shown. **Response:** This was an omission on some of the earlier plans that has now been corrected.

- xii. Cutting down trees before permission granted – were tree surveys undertaken before this was done? **Response:** There are no trees covered by a Tree Preservation Order on or adjacent to the site. At the time of the case officer's site visit there were some small trees (mostly conifers) and shrubs on the site which were not deemed to have high amenity value. Their removal would not require any form of consent from the Council.
- xiii. It would exacerbate parking problems, may prevent emergency services and bin wagons getting through. **Response:** After some revisions to the scheme, it is now considered that parking is adequate and it would avoid any adverse impact on highway safety.
- xiv. Conflict with pedestrians using the pavement outside. Dropped kerbs will make the journey to the surgery more hazardous to people who use mobility aids or are on mobility scooters. **Response:** This can be addressed by an appropriate condition – that where driveways cross the footway they be laid out in the same material without kerbing, so as to prioritise the safety of pedestrians and footway users.
- xv. Reduction in visibility at junction. Inadequate visibility for cars pulling out because of other cars parked. **Response:** The proposed new dwellings would not be close enough to the junction to affect intervisibility. Furthermore a standard condition can be imposed to ensure that there are no visibility obstructions within 2m of the carriageway boundary.
- xvi. It is a busy road with a high uptake of on-street parking, and there would be conflict with existing traffic to Propermaid, also close to pick-up and drop-off point for Honley Junior School. **Response:** These factors have been noted by the Planning case officer and Highways Officer; it is officers' assessment that the development, subject to conditions, would not compromise highway safety.
- xvii. Tandem parking is unrealistic because if someone wants to move the inner vehicle they will have to temporarily park the other vehicle on the highway. Additional hazards from cars reversing out near a blind bend. **Response:** Tandem parking may require more manoeuvring than two spaces side by side but it is fairly common for medium-sized family dwellings to have parking provided in this way, and Highways Development Management have raised no objection in principle to this aspect. Given likely traffic speeds and volumes, and the overall scale of the development, the potential for highway safety problems caused by cars reversing is considered to be minimal.
- xviii. Driveways may not be wide enough for some modern cars. **Response:** Minimum driveway width is shown as 2.8m. This is wider than the standard width of a parking space and it is considered that it is sufficient to allow doors to be opened safely and for people to get past parked cars on foot.
- xix. Access on foot for Plot B would be impracticable. **Response:** Future occupants could get to and from their parking spaces either through their own back door or via the driveway and the street, so this is not considered to be problematic.
- xx. Impact on wider highway network, especially Marsh Gardens / Westgate junction. **Response:** Based on the comments of the Highway Officer it is considered that the degree of intensification of this junction arising from the erection of 3 dwellings (a net increase of 2) would not give rise to any significant increase in safety problems.

- xxi. Drainage arrangements may not be adequate. **Response:** Connection to mains is proposed – the details of this would normally be assessed as part of a Building Regulations application.
- xxii. Disruption during building works **Response:** In some cases – especially where there is limited space for parking and materials storage within the site – it may be appropriate to request a Construction Management Plan by condition. It is noted however that the Highways Officer has not proposed such a measure in this instance.
- xxiii. The existing “terrace” is not comparable as they are flats for over-55s and have internal turning. **Response:** 8-12a Marsh Gardens is different in terms of type, design and layout, and therefore has not been used to demonstrate a “precedent” for the current proposal, which has been assessed on its own merits.

10.30 Comments made in support are summarised here with officer responses.

- iii. It would be good to see the land being put to use. **Response:** The proposal would make efficient use of the site in accordance with the aims of NPPF Chapter 11 and LP7.
- iv. The existing highway situation is safe as long as people drive carefully. **Response:** The highway safety aspects of the proposal have been carefully assessed.

10.31 Ward Councillor Charles Greaves has made the following comments, which are responded to here:

- If there are to be more than 2 dwellings I would like it to be referred to Sub-Committee with a site visit. The amended proposal is still an overdevelopment of a tight site. It is not appropriate to this setting does not fit in with the street, and is a very busy pedestrian area. Three exits with reversing and tandem parking may fit your policy rules but will not work in reality. There is limited outside space and I wonder where the bins will go. A pair of semis would fit the plot and blend in well.

Response: For the reasons set out in detail earlier in the report, the density and scale of the scheme proposed is considered to be suitable for the site and officers are satisfied that access, parking and refuse collection arrangements are satisfactory.

- If it is approved there should be a condition on construction management. **Response:** As previously stated, the Council has the power to impose such a condition, but the Highway Officer has not deemed it necessary here (see response to objection at point xxii).

Planning obligations

10.32 The scale and nature of the development is not such that would require planning obligations to be entered into.

Other Matters

- 10.33 *Permitted development rights*: Given the small curtilage size it is recommended that permitted development rights for the erection of extensions, including roof extensions, and for the erection of domestic outbuildings, be withdrawn, in the interests of ensuring that extensions and outbuildings do not lead to overdevelopment of any of the plots or negatively affect the privacy of neighbouring dwellings.
- 10.34 *Minerals safeguarding*: The site is within a minerals safeguarded area. But being a relatively small site in a built-up area, mineral extraction would not be practicable and so this factor should not prevent the site being developed.
- 10.35 *Biodiversity*: It is recommended that biodiversity enhancement consists of a single bird nesting feature to be installed on the north-western elevation of the development, integral to the new build. This can be the subject of a prescriptive condition.
- 10.36 *Climate change*.
On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target; however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.37 The applicant's Design and Access Statement does not refer to climate change when quoting relevant planning policies, and does not explain how the proposed development would help to address or combat climate change effects. It is noted however that the final version of the elevations shows an array of solar panels installed on the south-west or rear elevation of each new house. This would help to reduce the new dwellings' reliance on carbon-emitting sources of electricity. The installation of the solar panel array is to be controlled by condition.
- 10.38 Furthermore, measures can be imposed to encourage the use of sustainable modes of transport. Adequate provision for electric vehicle charging points would be secured by condition should planning permission be granted. The applicant has also proposed that cycle storage facilities would be provided and this can also be controlled by condition.
- 10.39 A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. The application site is a sustainable location for residential development, as it is readily accessible and is within an existing, established settlement that is served by public transport (as described in 10.25 above) and other facilities. Honley currently has a number of shops (including small supermarkets), pubs, churches, eating establishments and other facilities, such that at least some of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

11.0 CONCLUSION

- 11.1 The site has constraints which have been set out in the 'assessment' section of the report. These constraints have been sufficiently addressed by the applicant, or can be addressed at conditions stage. Approval of full planning permission is recommended, subject to conditions.
- 11.2 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

- 1. Commencement of development**
- 2. Development to be in full accordance with plans and specifications**
- 3. Samples of facing and roofing materials**
- 4. Stone boundary wall along highway boundary elevations**
- 4. Ecological enhancement (bird boxes)**
- 5. Parking spaces provided and surfaced**
- 6. Visibility across site frontages maintained**
- 7. Footways to be restored after development and not interrupted by kerbs**
- 8. Refuse storage and collection**
- 9. Side-facing windows ground floor north elevation obscure glazing**
- 10. No additional windows on north-western elevation**
- 11. Electric vehicle charge points**
- 12. Removal of permitted development rights (Classes A, B, E of Part 1, Schedule 2 of the GPDO)**
- 13. Cycle storage**
- 14. Installation of solar panel array**

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93445>

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

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