

# Public Document Pack



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

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Wednesday 28 August 2019

## Notice of Meeting

Dear Member

### **Planning Sub-Committee (Heavy Woollen Area)**

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Reception Room - Town Hall, Dewsbury** at **1.00 pm** on **Thursday 5 September 2019**.

(A coach will depart the Town Hall, at 10.30am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Dewsbury 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', on a light-colored background.

**Julie Muscroft**

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

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

## **The Planning Sub-Committee (Heavy Woollen Area) members are:-**

### **Member**

Councillor Paul Kane (Chair)  
Councillor Mahmood Akhtar  
Councillor Michelle Grainger-Mead  
Councillor John Lawson  
Councillor Fazila Loonat  
Councillor Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Nosheen Dad  
Councillor Cathy Scott  
Councillor Charlotte Goodwin  
Councillor Kath Taylor  
Councillor Graham Turner  
Councillor Steve Hall  
Councillor Mohan Sokhal

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

### **Substitutes Panel**

#### **Conservative**

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

#### **Green**

K Allison  
S Lee-Richards

#### **Independent**

C Greaves  
T Lyons

#### **Labour**

E Hill  
M Kaushik  
W Simpson  
A Butt

#### **Liberal Democrat**

A Munro  
A Marchington

# Agenda

## Reports or Explanatory Notes Attached

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**Pages**

**1: Membership of the Committee**

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

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**2: Minutes of Previous Meeting**

1 - 10

To receive the Minutes of the previous meeting of the Sub-Committee held on 13 June and 25 July 2019.

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**3: Interests and Lobbying**

11 - 12

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

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**4: Admission of the Public**

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

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**5: Deputations/Petitions**

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

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

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**6: Public Question Time**

The Committee will hear any questions from the general public.

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**7: Site Visit - Application No: 2019/91994**

Proposed upgrade to existing telecoms site - Proposed F & L 25m slimline lattice tower on new concrete base within extended compound and associated works at Firths Garage, 158 Leeds Road, Heckmondwike.

(Estimated time of arrival at site – 10.50am)

Contact Officer: Julia Steadman, Planning Services

**Wards**

**Affected:** Heckmondwike

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**8: Site Visit - Application No: 2019/91529**

Outline application for erection of one detached dwelling at 99, Knowl Road, Mirfield.

(Estimated time of arrival at site – 11.15am)

Contact Officer: Julia Steadman, Planning Services

**Wards**

**Affected:** Mirfield

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**9: Site Visit - Application No: 2019/90056**

Change of use of A1 (Retail) to Snooker lounge and games room D2 (Assembly and Leisure) (within a Conservation Area) at Mina House, 47-51, Daisy Hill, Dewsbury.

(Estimated time of arrival at site – 11.40am)

Contact Officer: Julia Steadman, Planning Services

**Wards**

**Affected:** Dewsbury East

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**10: Local Planning Authority Appeals** 13 - 18

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

Contact Officer: Julia Steadman, Planning Services

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**Planning Applications** 19 - 20

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 have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 2 September 2019.

To pre-register, please contact [andrea.woodside@kirklees.gov.uk](mailto:andrea.woodside@kirklees.gov.uk) or phone Andrea Woodside on 01484 221000 (Extension 74993)

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.

**11: Planning Application - Application No: 2019/91994** 21 - 32

Proposed upgrade to existing telecoms site - Proposed F & L 25m slimline lattice tower on new concrete base within extended compound and associated works at Firths Garage, 158 Leeds Road, Heckmondwike.

Contact Officer: Josh Kwok, Planning Services

**Wards**

**Affected:** Heckmondwike

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**12: Planning Application - Application No: 2019/91529** 33 - 44

Outline application for erection of one detached dwelling at 99, Knowl Road, Mirfield.

Contact Officer: Jennifer Booth, Planning Services

**Wards**

**Affected:** Mirfield

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**13: Planning Application - Application No: 2019/90056** 45 - 54

Change of use of A1 (Retail) to Snooker lounge and games room D2 (Assembly and Leisure) (within a Conservation Area) at Mina House, 47-51, Daisy Hill, Dewsbury.

Contact Officer: Liz Chippendale, Planning Services

**Wards**

**Affected:** Dewsbury East

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**14: Planning Application - Application No: 2019/90190** 55 - 82

Erection of 3 dwellings (within a Conservation Area) adjacent to 1, Lowgate, Kirkburton, Huddersfield.

Contact Officer: Liz Chippendale, Planning Services

**Wards**

**Affected:** Kirkburton

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**Planning Update**

83 - 86

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

Contact Officer: Andrea Woodside

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 13th June 2019

Present: Councillor Paul Kane (Chair)  
Councillor Mahmood Akhtar  
Councillor John Lawson  
Councillor Fazila Loonat  
Councillor Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Nosheen Dad  
Councillor Cathy Scott  
Councillor Charlotte Goodwin  
Councillor Kath Taylor  
Councillor Graham Turner  
Councillor Steve Hall  
Councillor Mohan Sokhal

#### 1 Membership of the Committee

There were no substitutions of membership.

#### 2 Minutes of Previous Meeting

**RESOLVED** - That the Minutes of the Meeting held on 25 April 2019 be approved as a correct record subject to the amendment of the resolution text at Minute No. 12 to read as follows;

- (1) That authority be delegated to the Head of Strategic Investment to approve the application, upon the expiration of the publicity period (16 April 2019), issue the decision notice and complete the list of conditions including matters relating to; time limit for implementing works, development in accordance with approved plans, materials, surfacing and drainage and delivery management plan.
- (2) That additional conditions be included (i) for the provision of a landscaping scheme which demonstrates a further reduction in the extent of the raised area in order to allow for improved vehicular passing along the driveway and (ii) requiring the completion of proposed roof works within 3 months of the issue of the decision notice.
- (3) That authority be delegated to the Head of Strategic Investment to secure a Section 106 agreement to cover matters relating to (i) the requirement for the existing retail shop to be converted into habitable accommodation in association with 483 Halifax Road and not be retained as a retail unit and (ii) the restriction of the occupation of 483 Halifax Road to that of the operators of the new store only.

## **Planning Sub-Committee (Heavy Woollen Area) - 13 June 2019**

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

For: Councillors Akhtar, Kane, Lawson, Pervaiz, A Pinnock and Scott  
(6 votes)

Against: Councillor Turner (1 vote)

Abstained: Councillor Grainger-Mead

### **3 Interests and Lobbying**

It was noted that all Committee Members had been lobbied on Application 2019/90269.

Councillors Kane and Scott advised that they had been lobbied on Application 2019/90813 and Councillor Kane advised that he would not participate in the determination of the application.

Councillor Kane advised that he had been lobbied on Application 2019/91110.

Councillor Grainger-Mead declared a disclosable pecuniary interest in Application 2019/91110 on the grounds that she is the spouse of the applicant and left the meeting during the determination of this application.

### **4 Admission of the Public**

It was noted that all Agenda Items would be considered in public.

### **5 Deputations/Petitions**

No deputations or petitions were received.

### **6 Public Question Time**

No questions were asked.

### **7 Site Visit - Application No: 2019/90813**

Site visit undertaken.

### **8 Site Visit - Application No: 2019/90281**

Site visit undertaken.

### **9 Site Visit - Application No: 2019/90269**

Site visit undertaken.

### **10 Site Visit - Application No: 2019/91110**

Site visit undertaken.

### **11 Local Planning Authority Appeals**

The Sub Committee received a report which set out decisions which had been taken by the Planning Inspectorate in respect of decisions of the Local Planning Authority.

**RESOLVED** - That the report be noted.



**12 Planning Application - Application No: 2019/90813**

The Committee gave consideration to Application 2019/90813 – Formation of private car park facility for the use of the community centre at 61 Battye Street – Land between St Philip’s Close and Battye Street, Dewsbury.

**RESOLVED** - That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- standard timeline for commencement of development (3 years)
- development to be in accordance with plans
- permeable hardstanding
- nothing to be planted/erected within a strip of land 2m deep from the carriageway edge of Battye Street which exceeds 1m in height
- arboricultural method statement to ensure mature poplar tree is to be retained
- scheme to detail CCTV measures at the site
- full detail of the position, height, material and design of any boundary treatment
- car park shall be used in association with the community facility operating at 61 Battye Street and shall not be used independently from it

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

For: Councillors Akhtar, Goodwin, Grainger-Mead, S Hall, Lawson, Loonat, Pervaiz, A Pinnock, Dad, Scott, K Taylor and Turner (12 votes)

Against: (no votes)

Abstained: Councillor Kane

**13 Planning Application - Application No: 2019/90281**

The Committee gave consideration to Application 2019/90281 – Erection of boundary wall and fence, and formation of children’s play area at Park Hotel, 125 High Street, Westtown, Dewsbury.

**RESOLVED** - That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- standard timeline for commencement of development (3 years)
- development to be in accordance with plans
- boundary walls to be constructed in natural stones to match the existing property at the application site
- all railings to be coloured black
- all parking area be surfaced, drained and marked out into bays in accordance with approved details

## Planning Sub-Committee (Heavy Woollen Area) - 13 June 2019

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

For: Councillors Akhtar, Goodwin, Grainger-Mead, S Hall, Kane, Lawson, Loonat, Pervaiz, A Pinnock, Dad, Scott, K Taylor and Turner (13 votes)

Against: (no votes)

### 14 **Planning Application - Application No: 2019/90269**

The Committee gave consideration to Application 2019/90269 – Erection of detached dwelling and associated site works adjacent to 93 Stocks Bank Road, Mirfield.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Tony Sweeting and Robin Lawrence (local residents), Jake Hinchliffe (applicant's agent) and Dean Nibbs (applicant).

**RESOLVED** - That authority be delegated to the Head of Strategic Investment to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- standard timeline for commencement of development (3 years)
- development to be in accordance with plans
- materials
- one charging point to be installed
- surfacing re parking area
- en-suite opening to be obscurely glazed
- boundary treatments to the side and rear to be retained
- window in side elevation of no. 93 to be blocked up prior to the commencement of development of the new dwelling
- drainage scheme

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

For: Councillors Akhtar, Dad, Goodwin, Kane, Lawson, Pervaiz and Scott (7 votes)

Against: Councillors Grainger-Mead, S Hall, Loonat, A Pinnock, K Taylor and Turner (6 votes)

### 15 **Planning Application - Application No: 2019/91110**

The Committee gave consideration to Application 2019/91110 – Change of use from A1 (retail) to A1 (retail) and A3 (restaurant/café/drinking establishment) (within a Conservation Area) at the Ginger Whale, 344 Oxford Road, Gomersal, Cleckheaton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Peter Mead (applicant).

**RESOLVED** – That authority be delegated to the Head of Strategic Investment to approve the application as a temporary 12 month permission and issue a decision

## **Planning Sub-Committee (Heavy Woollen Area) - 13 June 2019**

notice containing the following conditions; (i) other than the prior approved hours permitted under condition 2, the use hereby permitted shall not be open to customers outside the hours of 08:00 to 20:00 Monday to Saturday and 10:00 to 16:00 on Sundays and (ii) that for a temporary period of 12 months from the date of this permission the premises may be open to customers for the serving of alcohol for consumption on and off the premises limited to tasting events and invite only events between the hours of 20:00 and 23:00 on not more than two evenings per week between Monday and Saturday, on condition that details of the time and date have been provided to neighbouring occupants of Oxford Road (Nos. 342 and 348-352a inclusive) and Grove Street (Nos. 2-12 inclusive) in advance of such events.

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

For: Councillors Akhtar, Goodwin, S Hall, Kane, Lawson, Loonat, Pervaiz, A Pinnock, Dad, Scott, K Taylor and Turner (12 votes)

Against: (no votes)

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Contact Officer: Andrea Woodside

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 25th July 2019

Present: Councillor Paul Kane (Chair)  
Councillor Mahmood Akhtar  
Councillor Michelle Grainger-Mead  
Councillor Fazila Loonat  
Councillor Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Nosheen Dad  
Councillor Kath Taylor  
Councillor Graham Turner  
Councillor Steve Hall  
Councillor Bill Armer  
Councillor Andrew Marchington  
Councillor Will Simpson

**1 Membership of the Committee**

Councillor Marchington substituted for Councillor Lawson.

Councillor Simpson substituted for Councillor Scott.

**2 Interests and Lobbying**

All Committee Members advised that they had been lobbied on Application 2019/91621.

Councillors S Hall, Kane and Pervaiz advised that they had been lobbied on Application 2019/91888.

Councillor Kane advised that he had ben lobbied on Application 2019/91068.

**3 Admission of the Public**

It was noted that all Agenda Items would be considered in public.

**4 Deputations/Petitions**

No deputations or petitions were received.

**5 Public Question Time**

No questions were asked.

**6 Site Visit - Application No: 2019/91621**

Site visit undertaken.

**7 Site Visit - Application No: 2019/91888**

Site visit undertaken.

**8 Site Visit - Application No: 2019/90264**

Site visit undertaken.

## Planning Sub-Committee (Heavy Woollen Area) - 25 July 2019

### 9 Local Planning Authority Appeals

The Sub-Committee received a report which set out the decisions which had been taken by the Planning Inspectorate in respect of decisions of the Local Planning Authority.

**RESOLVED** - That the report be noted.

### 10 Planning Application - Application No: 2019/90264

The Committee gave consideration to Application 2019/90264 – Erection of 22 dwellings at land west of Oxford Road, Gomersal, Cleckheaton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Joe Flanagan (applicant's agent).

**RESOLVED –**

1. That authority be delegated to the Head of Development and Master Planning to approve the application, issue the decision notice and complete the list of conditions including matters relating to;
  - standard time limit for commencement of development
  - in accordance with plans
  - sightlines provided/retained
  - appropriate coal legacy and contamination investigation
  - relevant drainage conditions
  - submission, implementation and retention of landscaping scheme (to include 2 specimens as part of the re-planting)
  - development to be carried out in accordance with Arboricultural Method Statement
  - submission of an Ecological Design Strategy
  - great crested newt method statement to be undertaken
  - protocol for removal of Himalayan balsam
  - adoptable road details
  - protected right turn details to be submitted and implemented, including a keep clear road marking on Oxford Road/A651 north
  - parking areas provided, surfaced and drained
  - submission of a construction management plan
  - submission of a noise mitigation strategy
  - non-habitable room side windows to be obscure glazed
  
2. That authority be delegated to the Head of Development and Master Planning to (i) finalise negotiations on outstanding technical matters relating to drainage and (ii) secure a S106 agreement to cover matters relating to;
  - public open space provisions including off-site commuted sum of £102,291 and future maintenance and management responsibilities of open space within the site
  - 20% of total number of dwellings (4) to be affordable, with all to be Discounted Market Sales Housing
  - Secure the provision and maintenance of surface water drainage/attenuation features

## **Planning Sub-Committee (Heavy Woollen Area) - 25 July 2019**

- Secure the provision of off-site commuted sum for West Yorkshire Combined Authority Metro improvements
3. That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Development and Master Planning shall be authorised to 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, and would therefore be permitted 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 Akhtar, Armer, Dad, Grainger-Mead, S Hall, Kane Loonat, Marchington, Pervaiz, A Pinnock, Simpson, K Taylor and Turner (13 votes)

Against: (no votes)

### **11 Planning Application - Application No: 2019/91621**

The Committee gave consideration to Application 2019/91621 – Erection of side extension and single storey rear extension at 19 Staincliffe Road, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Betty Pickering (local resident).

**RESOLVED** - That authority be delegated to the Head of Development and Master Planning to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- standard 3 year time limit for commencement of development
- development to be carried out in accordance with plans
- external walls and roofing materials of the extensions (excluding the roofing material of the rear extension) to match the host building

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

For: Councillors Akhtar, Armer, Dad, Grainger-Mead, S Hall, Kane Loonat, Marchington, Pervaiz, A Pinnock, Simpson, K Taylor and Turner (13 votes)

Against: (no votes)

### **12 Planning Application - Application No: 2019/91888**

The Committee gave consideration to Application 2019/91888 – Erection of single storey extensions and enlargement of dormer window to front at 3 Byron Grove, Dewsbury Moor.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Asif Hussain (applicant).

**RESOLVED** – That the application be refused on the grounds that the proposed side and rear extension, by reason of its projection, scale, bulk and massing would

## **Planning Sub-Committee (Heavy Woollen Area) - 25 July 2019**

result in the formation of an incongruous feature which would be harmful to the character of the host property and the wider area, and that to permit such an extension, would be harmful to visual amenity and contrary to Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

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

For: Councillors Armer, Grainger-Mead, Kane, Pervaiz, Simpson, K Taylor and Turner (7 votes)

Against: (no votes)

Abstained: Councillors Akhtar, Dad, S Hall, Loonat, Marchington and A Pinnock.

### **13 Planning Application - Application No: 2019/91068**

The Committee gave consideration to Application 2019/91068 – Demolition of existing storage unit and erection of replacement storage unit (Class B8) at land at William Street, Ravensthorpe.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Mr Hussain (applicant) and Mr Raja (applicant's agent).

**RESOLVED** - That authority be delegated to the Head of Development and Master Planning to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- standard 3 year time limit for commencement of development
- development in accordance with plans
- facing and roofing materials
- vehicle parking areas to be permeable surfacing
- electric charging points
- hours of use (deliveries to or dispatches from the premises should not take place outside the times of 08:00 to 18:00 Monday to Saturday – no activities to take place on Sundays or Bank Holidays)
- building shall only be used for storage purposes
- reporting of unexpected land contamination
- submission of a drainage strategy
- development to be carried out in accordance with the Flood Risk Assessment (prepared by Innvvision design Ltd, updated December 2018, submitted under 2018/93195)
- development to be carried out in accordance with the revised Design and Access Statement

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

For: Councillors Akhtar, Armer, Dad, Grainger-Mead, S Hall, Kane Loonat, Marchington, Pervaiz, A Pinnock, Simpson and K Taylor (12 votes)

Against: (no votes)

Abstained: Councillor Turner



**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 (HEAVY WOOLLEN AREA)**

**Date: 5 SEPTEMBER 2019**

**Title of report: LOCAL PLANNING AUTHORITY APPEALS**

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

**Electoral wards affected: Dewsbury West**

**Ward councillors consulted: No**

**Public or private: Public**

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**1. Summary**

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

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

- 2.1 2019/62/90046/E - Erection of two storey rear and single storey front and side extensions at 26, Old Mill View, Thornhill Lees, Dewsbury, WF12 9QJ. (Officer decision) (Part allowed/part dismissed)

**3. Implications for the Council**

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

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

**4. Consultees and their opinions**

Not applicable, the report is for information only

**5. Next steps**

Not applicable, the report is for information only

**6. Officer recommendations and reasons**

That the report be noted.

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



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## Appeal Decision

Site visit made on 17 June 2019

by **J M Tweddle BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 July 2019

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**Appeal Ref: APP/Z4718/D/19/3227339**

**26 Old Mill View, Thornhill Lees, Dewsbury WF12 9QJ**

- 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 Yunus Umarji against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2019/62/90046/E, dated 9 January 2019, was refused by notice dated 27 February 2019.
  - The development proposed is described as a 4m two-storey extension to the rear with smaller single-storey extensions to the front and side.
- 

### Decision

1. The appeal is dismissed insofar as it relates to the two storey rear extension and the single storey side extension. The appeal is allowed insofar as it relates to the single storey front extension and planning permission is granted for a single storey front extension at 26 Old Mill View, Thornhill Lees, Dewsbury WF12 9QJ in accordance with the terms of the application, Ref 2019/62/90046/E, dated 9 January 2019, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The front extension hereby permitted shall be carried out in accordance with the following approved plans: Proposed Plans and Elevations (Drawing No S02) and the Work Specification (Drawing No S03) only in so far as relevant to the part of the development hereby approved.
  - 3) The materials used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Procedural Matters

2. Although not included in the Council's reason for refusal, following my site visit, I considered the effect of the proposal on the character and appearance of the host dwelling and the surrounding area to be a significant factor in the determination of this appeal. Consequently, both parties were given the opportunity to comment on this issue and therefore no one would be prejudiced by me taking this matter into consideration.

3. The Kirklees Local Plan 2013-2031 (the KLP) was adopted by the Council on 27 February 2019, the same day the refusal notice was issued for the appeal proposal. The KLP now forms part of the statutory development plan and replaces the saved policies of the Kirklees Unitary Development Plan (the UDP). The Council have advised that saved UDP policies D2 and BE14, which are quoted in the refusal notice, have been superseded by KLP policy LP24. KLP policy PLP24 is also quoted in the Council's refusal notice, however, this policy title was revised to policy LP24 in the adopted version of the KLP. I am content that the text of the policy has remained the same. Consequently, I have had regard to the policies of the adopted KLP in my decision and the parties have been provided with an opportunity to comment on this policy change in so far as it relates to the appeal proposal.

### **Main Issues**

4. The main issues are:
- The effect of the development on the character and appearance of the host dwelling and the surrounding area; and,
  - The effect of the development on the living conditions of the occupants of 24 Old Mill View with particular regard to matters of outlook and light.

### **Reasons**

#### *Character and appearance*

5. The area is characterised by detached residential properties as part of a modern housing estate. The properties are finished in brick with traditional pitched roofs and gable features.
6. The proposal would introduce a large two storey rear extension, a single storey flat roof side extension and include alterations to enclose the existing front porch. The single storey side extension would be an incongruous addition to the property that would not be in keeping with the traditional appearance of the host property or surrounding buildings, where the predominant roof form is pitched. Whilst the extension would be limited to single storey in scale it would nevertheless introduce a discordant and therefore harmful roof form that would be visually prominent within the street owing to its location and the staggered positioning of the property in relation to its neighbours. I also note the Council raised concern over flat roofs in respect of design.
7. Regarding the proposed two storey rear extension and alterations to the front porch, I consider that these elements would not harm the character and appearance of the host dwelling or the surrounding area due to their scale and design. However, I have found that the proposed single storey flat roof side extension would have a significant harmful effect on the character and appearance of the host dwelling and that of the surrounding area. This element of the proposal would therefore be contrary to policy LP24 of the Kirklees Local Plan 2013-2031 and the National Planning Policy Framework (the Framework) which seek to achieve high quality standards of design which reflect local distinctiveness.

### *Living Conditions*

8. The proposed two storey rear extension would introduce a large blank elevation along the shared boundary with 24 Old Mill View. The rear elevation of No 24 sits noticeably forward of the rear elevation of the appeal property and is at a slight oblique angle.
9. The combination of these factors is such that the two storey extension would introduce a large and imposing blank elevation that would have a significant overbearing effect restricting the outlook of the nearest rear windows of No 24 and part of its rear private garden area. Furthermore, given the orientation of the appeal site and the scale and location of the proposed rear extension, the development would significantly increase the level of shadowing to the rear of No 24 after midday to sunset each day, with the effect being particularly acute during the winter months when the sun is on its lowest trajectory in the sky. Together, these effects would significantly diminish the residents' enjoyment of their property.
10. No issues are raised with regard to the effect of the proposed single storey side and front extensions on the living conditions of any nearby residents and, from the evidence before me, I have no reason to disagree with this.
11. To conclude on this issue, the proposed two storey extension would cause significant harm to the living conditions of the occupiers of No 24 Old Mill View, due to an unacceptable loss of outlook and significant overshadowing. This would be in conflict with policy LP24 of the Kirklees Local Plan 2013-2031 and the Framework which together require development to provide a high standard of amenity for future and neighbouring occupiers.

### **Other matters**

12. I note the main parties' position with regard to the impact of the single storey side extension on the character and appearance of the host dwelling and the surrounding area, and that this was not raised as a concern within the Council's refusal notice. However, the fact that this matter has not been previously raised does not diminish the harm I have found in this regard.
13. I note the appellant's desire to increase the living space for his growing family and that there was no objection from the neighbours, but this does not justify the harm I have found in this case.
14. My attention has been drawn to several other developments in the area which the appellant suggests are similar to the appeal proposal. However, I do not have the full details of these other developments before me and cannot therefore be sure that they represent a direct comparison or if indeed they benefit from planning permission. In any case I have considered the appeal on its own merits.

### **Conclusion**

15. The appeal proposal includes three distinct elements: a two storey rear extension; a single storey side extension; and, a single storey front extension. I find the single storey front extension to be acceptable, and complies with the relevant development plan policies. This element of the proposal is clearly severable from the remainder of the scheme, as it is physically and functionally independent. Therefore, I shall issue a split decision in this case and shall allow

the single storey front extension, subject to conditions which are required to provide certainty and to safeguard the character and appearance of the host dwelling and surrounding area.

16. In respect of the proposed two storey rear and single storey side extensions, for the reasoning set out above, I have found these elements to be harmful and would conflict with the policies of the development plan. Therefore, I dismiss the appeal in respect of the two storey rear and single storey side extensions.

*Jeff Tweddle*

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 27<sup>th</sup> February 2019).

### **National Policy/ Guidelines**

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

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

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

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

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

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

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

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

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## Report of the Head of Development and Master Planning

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Sep-2019

**Subject: Planning Application 2019/91994 Proposed upgrade to existing telecoms site. Proposed F & L 25m slimline lattice tower on new concrete base within extended compound and associated works Firths Garage, 158, Leeds Road, Heckmondwike, WF16 9BJ**

#### APPLICANT

EE Ltd & Hutchinson 3G

#### DATE VALID

12-Jun-2019

#### TARGET DATE

07-Aug-2019

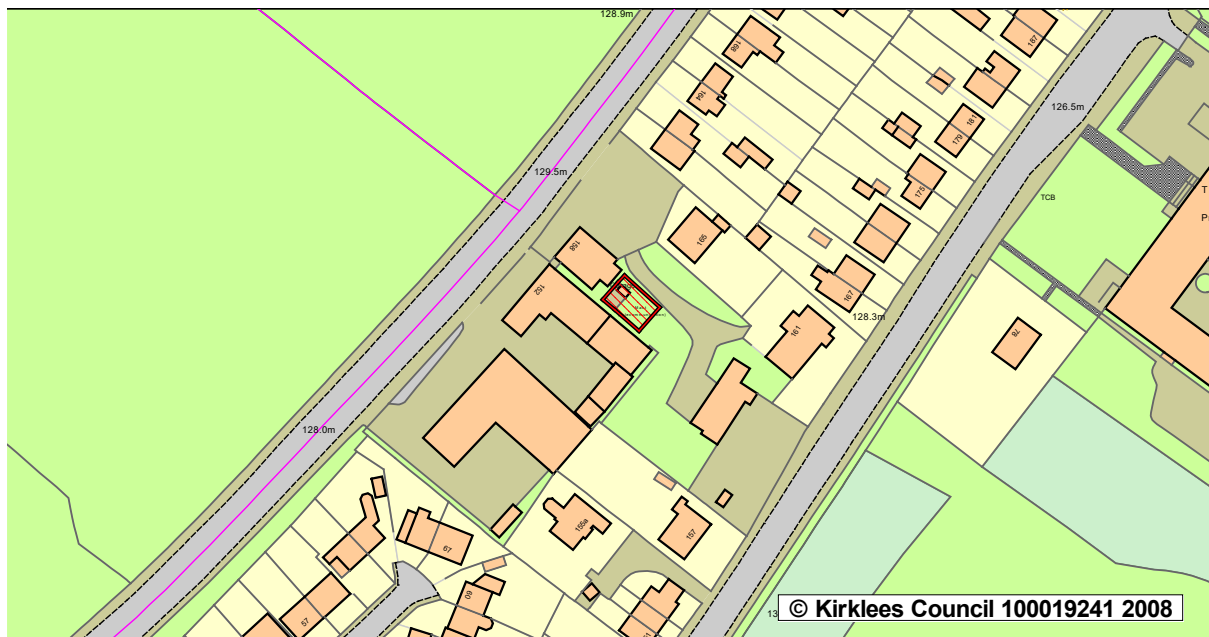
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Heckmondwike**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Steve Hall who states:
- 1.2 *“Due to the proposed increase in height of the telecoms mast and the significant number of local representations received, I think that careful consideration should be given to the impact on visual amenity, especially in terms of the relationship with the existing development, the street scene and the natural landscape / skyline by members of the Heavy Woollen Sub Committee.”*
- 1.3 Further to Councillor Hall’s request, there have been a significant number of written representations received from local residents, who expressed serious concerns regarding the previous telecommunication notification and the current application.
- 1.4 The Chair of the Sub-Committee has confirmed that Councillor Steve Hall’s reason for making this request is valid having regard to the Councillor’s Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The site is immediately adjacent to Firths Garage, Leeds Road, Heckmondwike. It currently consists of a 18.0m high telecommunications tower with 6 antennas, several cabinets and associated equipment (15m tower with antenna’s above). The site is separated from its immediate surroundings by a 1.8 metre high chain linked compound fence.
- 2.2 The site is closely surrounded by workshops and light industrial businesses. There are residential properties and schools further away from the site. The site and its surrounding area are mixed in character. To the north-west of the site, on the opposite side of Leeds Road, are open fields, which are allocated Green Belt on the Kirklees Local Plan Policies Map. The site itself is however unallocated.

### **3.0 PROPOSAL:**

- 3.1 This application seeks to upgrade the existing electronic communication apparatus at the application site by removing the existing telecommunications mast and installing a new telecommunications mast with additional antennas, dishes and cabinet.
- 3.2 The proposed development consists of the removal of the existing 15.0m high steel lattice tower with antennas above (a total of 18.0m) and the installation of a new 25.0m high slim-line lattice tower. It would also involve the repositioning of existing antennas and the installation of new antennas, dishes and cabinets.
- 3.3 The proposed mast would be moved from its current position by 3.6m. It would be approximately 25.0m at the highest point and 1.2m at the widest point. The mast would be installed on a new concrete tower base and surrounded by a 1.8m high compound fence. The largest cabinet would be 0.5m high, 0.4m wide and 0.5m deep. The diameter of the proposed dishes would be 600mm.

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

2019/91471 – PRIOR NOTIFICATION FOR UPGRADE OF ELECTRONIC COMMUNICATIONS APPARATUS (Firths Garage) - Invalid

99/91932 - TELECOMMUNICATIONS DEVELOPMENT FOR THE PRIOR APPROVAL OF DETAILS FOR INSTALLATION OF 15M HIGH TOWER AND RADIO EQUIPMENT HOUSING (Firths Garage) – Details Approved

96/92422 - TELECOMMUNICATIONS DEVELOPMENT FOR THE PRIOR APPROVAL OF DETAILS FOR INSTALLATION OF 15M HIGH TOWER AND RADIO EQUIPMENT HOUSING (Firths Garage) – Details Approved

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

- 5.1 No amendments have been sought during the course of this application. However, the applicant has been requested to provide technical justification in terms of the scale and siting of the proposed telecommunications mast. This information was received and considered in the following sections of this report.

### **6.0 PLANNING POLICY:**

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

The site is unallocated on the Kirklees Local Plan.

- 6.2 Kirklees Local Plan (KLP):

**LP1** – Achieving sustainable development

**LP2** – Placing shaping

**LP21** – Highway safety

**LP22** – Parking

**LP24** – Design

**LP52** – Protection and improvement of environmental quality

6.3 National Planning Policy Framework (NPPF):

**Chapter 2** – Achieving sustainable development

**Chapter 10** – Supporting high quality communications

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

**Chapter 15** – Conserving and enhancing the natural environment

6.4 Planning Practice Guidance

When is permission required (Reference ID: 13-070-20140306; para.70-72)

6.5 Code of Best Practice on Mobile Network Development in England (Edition Published: 24.11.2016)

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 As a result of the statutory publicity for this planning application, 5 representations were received. The issues raised are summarised below:

- The submitted land ownership certificate is incorrect
- The land owner would not give permission to further extend the telecommunications site
- The proposed mast would be visually intrusive and out of character with its immediate surroundings; causing a dominating impact on the skyline
- The proposal would increase the noise impact on the neighbouring occupiers
- There would be an adverse impact on the health of local residents and students
- A previous application to increase the height of the mast was rejected following very strong objection by local residents
- The development proposed would reduce the saleability of properties nearby

7.2 As referred to in the '*relevant history*' section above, 17 representations were made in relation to the previous telecommunication notification that was found to be invalid. The following issues were raised in those representations:

- The proposal would adversely affect the property value
- The design is not in keeping with the area and its setting
- There would be noise and disturbance generated by the proposal
- The proposal would have an adverse impact on the health of the nearby residents and school children
- The proposal would damage the view of the neighbouring properties
- The applicant does not own the site; the landowner is unwilling to sell the land for the purpose of telecommunications
- The proposal would reduce the income of the nearby businesses

## 8.0 CONSULTATION RESPONSE:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### 8.1 Statutory

**KC Highways Development Management** – No objection to the proposal as it is considered acceptable from a highway safety perspective. No specific conditions are deemed necessary.

**KC Environmental Health Service** – No objection to the proposal in terms of noise, subject to a condition requiring a noise assessment report be submitted and approved by the Local Planning Authority in writing before development commences. This condition should also require the proposal to be carried out in accordance with the approved details in such report and thereafter retained.

### 8.2 Non-statutory:

None

## 9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations

## 10.0 APPRAISAL

### Principle of development

10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of Policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.

10.2 There are no specific policies in the KLP regarding telecommunications development. The main guidance is in Chapter 10 of the NPPF: Supporting high quality communications. This establishes a general principle in favour of telecommunications development. Paragraph 122 of the NPPF states that; 'Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections'.

- 10.3 The general principle of providing communications infrastructure is supported subject to a more detailed assessment of the scale, siting and design of the proposal. The assessment takes into account whether the applicants have undertaken an appropriate sequential approach to choosing this site for the development.

#### Satisfying the sequential approach

- 10.4 Chapter 10 of the NPPF sets out guidance for telecommunications development. This includes, in paragraph 133, that the *“use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate”*.
- 10.5 The proposal is for the upgrade of the existing electronic communications apparatus at the application site. This upgrade would involve the removal of the existing 18.0m (total height of mast and antenna’s) structure and the installation of a new 25.0m mast and other associated works. The applicant’s Supporting Statement states that the proposal would utilise the telecommunication facilities already installed at the site and would fit in with the existing network. Taking these factors into account, officers consider the proposal to represent the most sequentially preferable option and hence compliant with paragraph 133 of the NPPF.
- 10.6 In summary, it is considered that the sequential assessment demonstrates that the site is suitable for the development in principle, subject to consideration of its impact on visual and residential amenity, as well as highway safety.

#### Impact on visual amenity

- 10.7 General policies on design relevant to the proposed development are policy LP24 of the KLP and Chapter 12 of the NPPF.
- 10.8 The proposed mast and ancillary equipment would be of a functional design, which is typical of telecommunications apparatus. The mast would be 25.0m high, situated to the rear of Firths Garage and set back from Leeds Road by approximately 20.0m. There would be a separation distance of no less than 50.0m between the proposed mast and Leeds Old Road. Additionally, the mast would be further away from the Green Belt than the existing mast. For these reasons, the proposal is unlikely to result in a significant adverse impact on the amenity of the street scene and on the setting of the Green Belt.
- 10.9 With regard to the visual impact on the surrounding landscape and skyline, it is considered to be, on balance, acceptable in this particular case as the existing mast already constitutes a distinguishable feature of the skyline. Additional to this consideration, there are tall narrow linear structures on both Leeds Road and Leeds Old Road including street light columns and telegraphic poles. Whilst it is acknowledged that the proposed mast would be higher than the existing mast at the site and all other structures in its immediate vicinity, officers consider, for the above reasons, that there would be no fundamental changes to the existing landscape and skyline of the surrounding area. The



fact that the mast would be situated within an existing built up area characterised by a considerable number of light industrial businesses would minimise harm to visual amenity. In this respect, the siting of the proposed mast would be acceptable from a visual amenity perspective.

- 10.10 The form, design and materials of the proposed mast would be very similar to those of the existing mast at the application site. However, the height of the proposed mast would be considerably greater than that of the existing mast. Officers are aware of the significant number of representations made in relation to the height of the mast as proposed. It is also recognised that the proposed mast would be considerably higher than the existing buildings or structures located in this area. This would, to a degree, adversely affect the appearance of the surrounding area. However, the visual impact of the proposal is considered to be, on balance, acceptable in this particular case when taking into account the intended purpose of the mast as well as the existence of a 18.0m (total) high mast at the application site.
- 10.11 The applicant's Supporting Statement states that the increase in height is necessary to make the mast suitable for 5G and so as to facilitate significantly improved connectivity. Further technical justification has been provided by the applicant which states that the new mast would provide an appropriate vertical separation between antennas to halt interference and allow larger and more 5G antennas to be installed safely. The proposed upgrade would be essential to extend the coverage of the existing base station at the application site as well as to enhance mobile connectivity. In view of the above circumstances, along with all other factors already highlighted above, officers consider that the height of the mast is justified with adequate evidence and hence satisfactory in visual amenity terms. Concerning all other works associated with the mast, they would not give rise to any visual amenity issues because they would be modest in scale.
- 10.12 In summary, the proposed mast, whilst greater in height than the existing mast is, on balance, acceptable in terms of its scale, having regard to its intended purposes as well as the existing situation of the application site. The form, design and materials of the mast would be satisfactory from a visual amenity perspective. Furthermore, the proposed mast would be set back further from Leeds Road than the existing mast, which would further mitigate the visual impact of the mast by reason of its increase in height. Thus, officers conclude that the proposal can be, on balance, acceptable from a visual amenity perspective and compliant with Policy LP24 of the KLP and Chapters 10 and 12 of the NPPF.

#### Impact on residential amenity

- 10.13 The proposed mast would be surrounded by predominately non-residential development with the closest residential property being no.165 Leeds Old Road, which is roughly 17.5m away from the mast. There are residential properties in wider area, which are at least 30.0m away from the application site.
- 10.14 Although the mast would be close to the neighbouring property at no.165 Leeds Old Road, it would not unduly prejudice the living conditions of these neighbouring occupants as it would be facing directly towards the gable wall of this property, which does not appear to have any habitable room windows. The mast would be a narrow and open frame structure situated a reasonable

separation distance away from this neighbouring property. Thus, there would be no significant overshadowing and/or overbearing impact on the occupants of this property.

- 10.15 With regard the impact on all other neighbouring properties, this is considered to be minimal when taking into account the separation distance between the proposed mast and these properties. Some representations have identified low frequency noise as an issue associated with the proposed development. KC Environmental Services have been consulted on this matter. It is noted in their consultation response that telecommunication masts and associated equipment have the potential to emit low frequency noise, which may impact on the amenity of occupants of nearby residential properties. However provided adequate mitigation measures are incorporated at the design and installation phase and such measures are adequately maintained throughout the lifetime of the development, Environmental Services do not consider noise to be an undue impact in this instance.
- 10.16 There are no objections from Environmental Services, subject to a condition to require a noise assessment report to be submitted to and approved by the Local Planning Authority before the proposed development commences. This report should include an assessment of all of the noise emissions from the proposed development, the details of existing background and predicted future noise levels at the boundary of nos.161 and 165 Leeds Old Road, Heckmondwike, along with a written scheme of how these neighbouring occupants would be protected from noise generated by the proposed development, including the details of all necessary noise attenuation. The development proposal should not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full; these works should be thereafter retained.
- 10.17 In addition to the concerns regarding the height of the new mast, a significant number of residents were also concerned about the health impact of having a telecommunication mast in close proximity to their properties and gardens. Notwithstanding this concern, paragraph 116 of the NPPF is clear that local planning authority's must determine applications on material planning grounds only and they shall not set health safeguards different from the International Commission guidelines for public exposure. In this case, the applicant has declared that the development proposal complies with the above guidelines in accordance with paragraph 115 of the NPPF. On the basis of the submitted information and having regard to the guidance in the NPPF, officers do not consider the proposal to cause an unacceptable impact on the health and wellbeing of the occupants of the neighbouring properties.
- 10.18 To conclude, the proposed mast would not substantially harm the living conditions of the occupants of the neighbouring properties by way of overshadowing and overbearing. Furthermore, in regard to noise and disturbance, a condition is recommended to be imposed, as set out above. With the inclusion of the suggested condition, the proposal would accord with the aims of Policy LP24 and LP52 of the KLP as well as Chapter 15 of the NPPF.

## Other matters

### *Impact on schools*

- 10.19 There is a noticeable number of comments made in respect of the impact on school children. The proposed mast would be approximately 115.0m from the John Curwen Co-operative Primary Academy and 185.2m from Fairfield School. In accordance with paragraph 115 of the NPPF, the applicant has consulted the schools before submitting this application. No response had been received at the time of the submission.
- 10.20 The proposal has been publicised in accordance with the Kirklees Development Management Charter. Following the statutory publicity, no response has been received from Fairfield School or the John Curwen Co-operative Primary Academy. On the basis of the above, it is considered that the proposal would meet the policy requirement outlined in paragraph 115 of the NPPF. Furthermore, the application is accompanied by an ICNIRP Declaration certificate which confirms that the development complies with the International Commission guidelines for public exposure. There would be no undue detrimental impact on the school children for the same reasons set out in paragraphs 10.15 and 10.16 of this report.
- 10.21 There are no other matters considered relevant to the determination of this application.

## Representations

- 10.22 As a result of the statutory publicity, 5 written representations were received in respect to this planning application and another 17 representations in relation to the previously invalidated telecommunication notification. All issues raised in these representations are addressed by officers as follow:
- The submitted land ownership certificate is incorrect  
**Officer Response:** The applicant has signed Certificate B and served notice on the owner of the site on 30-Apr-2019. On the basis of the above, officers consider this to be a valid application.
  - The land owner would not give permission to further extend the telecommunications site  
**Officer Response:** The ownership of land is not a material planning consideration in so far as the applicant has notified the land owner(s) in accordance with the procedural requirement in the DMPO. Furthermore, the granting of planning permission does not override private legal rights of ownership. The applicant would need to ensure that s/he have the legal right to carry out the approved works. A footnote is recommended to be included on the decision notice for clarification should planning permission be granted.
  - The proposed mast would be visually intrusive and out of character with its immediate surroundings; causing a dominating impact on the skyline  
**Officer Response:** Officers have considered the impact on the skyline as well as on the local street scene. In this instance, whilst the proposal by reason of its height and design would impact on visual amenity to a degree, it would be, on balance, acceptable when taking into account the existing on-site situation, the intended purpose of the development and technical constraints of the proposal. Furthermore, it is considered that the public

benefit of supporting high quality communication infrastructure would outweigh the harm to visual amenity, having regard to the context of the site and its surroundings, in particular the existence of an 18.0m high mast at the site.

- The proposal would increase the noise impact on the neighbouring occupiers

**Officer Response:** Environmental Services have raised no objections to the proposed development in respect of noise and disturbance.

- A previous application to increase the height of the mast was rejected following very strong objection by local residents

**Officer Response:** The telecommunications notification was invalidated as it was not considered to comply with the conditions, limitations and restrictions set out within the Town & Country Planning (General Permitted Development) Order. A full planning application is therefore submitted to seek permission for the same proposal. For transparency, all representations made in relation to the telecommunication notification as well as this planning application have been considered in this report.

- The proposal would adversely affect the property value

**Officer Response:** The impact on property value is not a material planning consideration.

- The proposal would have an adverse impact on the health of the nearby residents and school children

**Officer Response:** The applicant has declared that the proposal would conform to the relevant ICNIRP guidelines as well as those set out in paragraph 115 of the NPPF. It would not conflict with the aims of chapter 10 of the NPPF, as set out in the paragraphs 10.16, 10.18 and 10.19 of the officer report.

- The proposal would damage the view of the neighbouring properties

**Officer Response:** The impact on view is not a material planning consideration.

- The proposal would reduce the income of the nearby businesses

**Officer Response:** The impact on the business prospect of nearby businesses is not a material planning consideration for this application.

10.23 All representations made in respect of the previously invalidated telecommunication notification and this current planning application have been carefully considered and addressed above. It is considered by officers that, in this instance, they would not substantiate reasons to refuse the granting of planning permission.

## 11.0 CONCLUSION

11.1 To conclude, an overarching objective of planning policy is to ensure that everyone enjoys the same degree of access to high quality electronic communication opportunities. Officers consider that the application submission provides sufficient justification regarding the location and height of the proposed mast and has satisfied the sequential test for site selection.

11.2 Whilst concern of the proposal's potential to harm visual and residential amenity are noted, on balance, officers considered that the public benefit of upgrading the existing base station at the application site outweighs the harm caused to visual amenity.

- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## CONDITIONS

1. Timeframe of 3 years for implementing the development
2. In accordance with the submitted plans
3. Noise assessment report be submitted to and approved by the Local Planning Authority in writing before development commences; development to be carried out in accordance with the approved details and therefore retained (*This is a pre-commencement condition to ensure that the noise impact on neighbouring occupants is adequately addressed before development commences*)

## Background Papers:

*Planning Application web link details:*

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/91994>

Certificate of Ownership: Certificate of Ownership B has been submitted as part of this application. The applicant confirmed that a notice was served to the land owner of the site on 30-Apr-2019.

*Previous telecommunication notification for upgrade of electronic communications apparatus (2019/91471) (invalid):*

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91471>

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## Report of the Head of Development and Master Planning

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Sep-2019

Subject: Planning Application 2019/91529 Outline application for erection of one detached dwelling 99, Knowl Road, Mirfield, WF14 9RQ

#### APPLICANT

R Tattersfield

#### DATE VALID

22-May-2019

#### TARGET DATE

17-Jul-2019

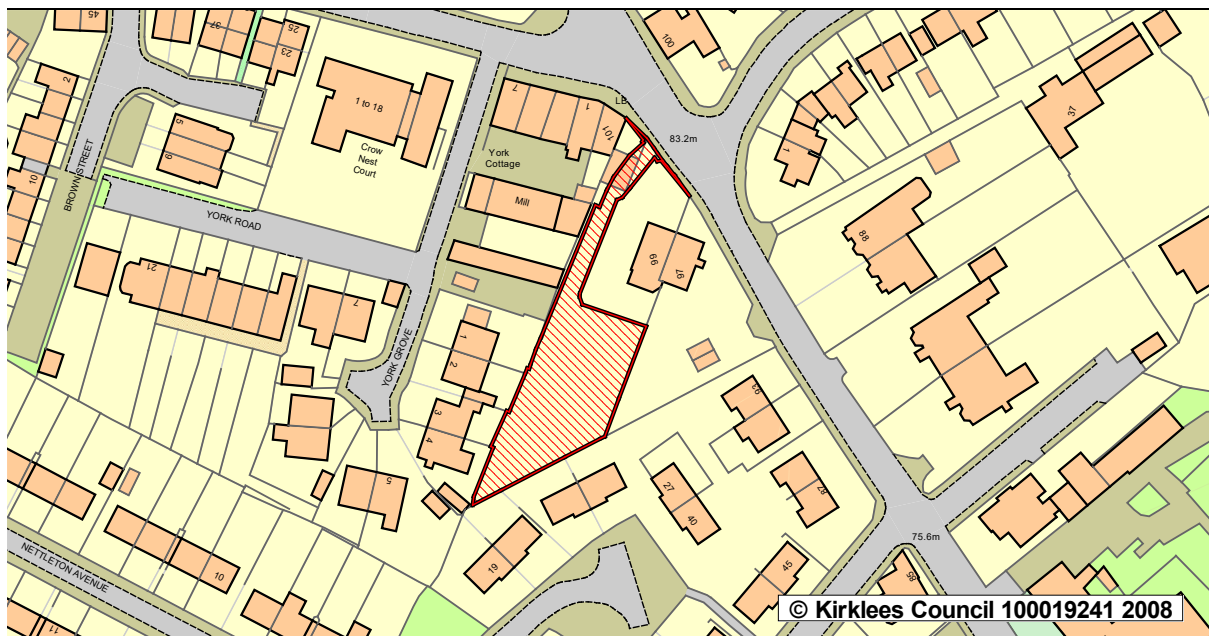
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Mirfield**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development and Master Planning in order to:**

**1. Await the expiration of the amended plan publicity (3 September 2019);**

**Subject to there being no new material planning considerations raised, should any further representation be received, that have not been addressed in this report, complete the list of conditions including those contained within this report and release the planning permission.**

**1.0 INTRODUCTION:**

1.1 This application is brought to the Heavy Woollen Planning Sub-Committee at the request of Ward Councillor Lees-Hamilton for the reasons set out below:

*"I have been contacted by several residents who live near to this proposal, I too share their concerns, the highway network along this section of Knowl Road is very congested due to parking for nearby business, the road is narrow as is the footway, it is also a very busy section of road.*

*I feel that to build another dwelling here is inappropriate on the grounds of highway safety and over intensification of the site.*

*If you are minded to approve this planning application I should like the application to be referred to the heavy woollen planning committee for determination, I would also like to request a site visit please".*

1.2 The Chair of the Sub-Committee has confirmed that Cllr Lees-Hamilton's reasons for the referral to committee are valid having regard to the Councillor's Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS:**

2.1 99 Knowl Road, Mirfield is a stone built semi-detached property with a modest garden to the front, a narrow existing access from the road and significant gardens to the side and rear. The application site comprises of the land to the rear of the dwelling including access from Knowl Road along the side of the dwelling. The site is steeply sloping and is currently overgrown.



2.2 The surrounding properties are residential and comprise of a variety of ages and style, together with a mix of single and two storey properties.

### **3.0 PROPOSAL:**

3.1 The proposal is for outline planning permission for the erection of one dwelling, with matters of access and scale to be considered at this stage.

3.2 In regard to access, this would be from Knowl Road and is proposed to be taken to the west side of the existing dwelling.

3.3 In terms of scale, the plans indicate a one and a half storey property which would be positioned approximately 21 metres (m) from the rear elevation of no.99 Knowl Road. The width is proposed to be 12m with a depth of 8.8m, an eaves height of 3m and an overall height of 6.5m.

3.4 Details of materials have not been submitted with this application as it is considering the scale only (along with access). Materials would be considered at the reserved matters stage, as part of the 'appearance', should outline planning permission be granted.

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

4.1 None

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

5.1 The initially submitted plans showed a larger building with an average eaves height of 5m and an overall height of 8.1m. This was considered to be excessive for the site and would have had the potential to harm the amenity of the occupiers of the neighbouring 1 York Grove and 25 Littlemoor Road. As such, the scheme has been amended to reduce the overall height of the dwelling.

5.2 A formal pre-application enquiry was submitted prior to receipt of the planning application. Officers confirmed that the principle of development was likely to be accepted in this sustainable location.

### **6.0 PLANNING POLICY:**

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

6.2 The application site is unallocated on the Kirklees Local Plan.

6.3 Kirklees Local Plan:

**LP 1** – Achieving sustainable development

**LP 2** – Place shaping

**LP3** – Location of new development

**LP7** – Efficient and effective use of land and buildings

**LP11** – Housing mix and affordable housing

**LP21** – Highway safety and access

LP 22 – Parking  
LP 24 - Design  
LP33 - Trees  
LP 53 - Contaminated land

#### 6.4 National Planning Guidance:

**Chapter 5** – Delivering a sufficient supply of homes

**Chapter 12** – Requiring good design

**Chapter 15** – Conserving and enhancing the natural environment

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

7.1 Three 3 representations have been received. The concerns raised are summarised as follows:-

- The proposed dwelling is an overdevelopment the site that would be out of character and out of scale with the immediate surrounding area and development type which is predominantly bungalows.
- Insufficient detail has been submitted to demonstrate how the proposed dwelling would sit relative to the neighbouring properties given the topography of the site.
- The size, bulk and massing will have an overbearing impact on the surrounding bungalows.
- Loss of privacy.
- Overshadowing to the neighbouring properties.
- Increase in vehicles would impact an already busy, congested and dangerous junction.
- The indicative design is not of a particularly high standard, being of an anonymous character which neither contributes nor responds to local character and distinctiveness.
- The submitted plans indicate the existing single storey extension to the rear of 99 Knowl Road would be removed. Would this require permission to rebuild in the future and would they be allowed to build to the boundary line?
- The plans indicate the existing walling to the front would be reduced in height, will this be done sensitively to the remaining walling to the front of the adjoining property?
- The plans also show gates to the side of 99 for the new dwelling, would this leave the front of 99 Knowl Road open which could allow for issues with local youths hanging around?
- Will there be a caveat to ensure 99 Knowl Road is occupied prior to the new dwelling being built?
- There is no detail on the design of the garage, roof type, how close to the boundary with 97 will it be built.
- Potential loss of privacy from windows in the west elevation.
- Would the new dwelling prevent other properties on Knowl Road from having an extension in the future?

7.2 Officers comments will be made in Section 10 of this report in response to the concerns raised above.

7.3 Mirfield Town Council have been consulted although no response has been received.

7.4 Following receipt of amended plans, these have been re-advertised. The amended plan publicity period ends on 3 September 2019. To date, no further representations have been received.

## 8.0 CONSULTATION RESPONSES:

8.1 The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### 8.2 Statutory:

**K.C. Highways Development Management** – No objection, the access is shown to be widened to allow two vehicles to pass at the entrance, the gates are shown to be set back and the wall frontage is shown to be reduced to improve visibility onto Knowl Road. In addition, sufficient off-street parking is shown to be retained to serve the existing house as well as the proposed house. A bin collection point is also shown at the proposed site access. Condition recommended regarding the increase in width of the access.

**K.C. Environmental Health** – No objection, subject to condition relating to the reporting of unexpected contamination. The condition is considered necessary because the site has been identified as potentially contaminated land due to its proximity to a mill.

### 8.3 Non-statutory:

**K.C. Ecologist** – No objection raised subject to the inclusion of a condition requiring the submission of up-to-date ecological survey information at the reserved matters stage for Landscaping and Layout. The report shall demonstrate sufficient avoidance, mitigation, compensation and enhancement measures to provide a biodiversity net gain.

## 9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity as a result of scale
- Impact on residential amenity as a result of scale
- Point of access and impact on highway safety
- Biodiversity
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Chapter 5 of the NPPF refers specifically to 'delivering a sufficient supply of homes', with paragraph 59 stating that "*to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed ...*". In addition, Policy LP11 of the KLP sets out that "*all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating a mixed and balanced communities in line with the latest evidence of housing need*".

- 10.2 In this case, the application site forms part of the curtilage associated with the host dwelling, no.99 Knowl Road, this is therefore considered to constitute a greenfield site for the purposes of assessing the application when taking into account the definitions set out in the glossary in Annex 2 of the NPPF.
- 10.3 Policy LP7 of the KLP refers to the efficient and effective use of land and buildings. The policy encourages the development of previously developed land provided that it is not of high environmental value however, it also encourages that priority be given to ... derelict ... land that is not of high environmental value (point c).
- 10.4 Having visited the site, officers are of the opinion that the site is predominantly derelict and in a poor state. It holds limited weight in terms of amenity or environmental value (which shall be assessed further below) and as such, the principle of erecting a new dwelling in this sustainable location, is considered acceptable and would comply with the overall aims of the KLP and NPPF.
- 10.5 With the principle of residential development being considered acceptable by officers, the matters specifically applied for as part of this outline application shall now be assessed. In this instance, those matters for consideration are scale and access.

Impact on visual amenity as a result of scale:

- 10.6 Policy LP24 of the KLP sets out that proposals should promote good design by ensuring the form, scale layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. This is consistent with chapter 12 of the NPPF which sets out under paragraph 127 that planning policies and decisions should ensure that developments, amongst other things, are sympathetic to local character and are visually attractive as a result of good architecture, layout etc.
- 10.7 In this instance, the properties within this area are varied in terms of character and style with some diversity in the size of the curtilage associated with each property. As there is no defining character to the dwellings in the vicinity, the erection of a new dwelling to the rear of 99 Knowl Road would not appear out of character with its surroundings. Whilst it is acknowledged that 'layout' is a reserved matter, indicative details have been submitted with this application, demonstrating the position of the proposed dwelling. Whilst back-land development can appear incongruous in the majority of instances, in this particular case, due to the position of dwellings along York Grove (to the west/south-west) and Littlemoor Road (to the east/south-east), the erection of a new dwelling to the rear of no.99 Knowl Road would not, in the opinion of officers, appear out of keeping with the layout of the surrounding area.
- 10.8 The submitted details include a proposed site plan which shows the footprint of the proposed new dwelling with the proposed curtilage at a scale which would allow for the new dwelling and the original house to retain a reasonable amount of space. The overall height of the proposed dwelling has been reduced to a one and a half stories with an eaves height of 3m and an overall height no more than 6.5m. Given there are bungalows to the south east and south west of the site, together with the sloping topography of the site, the scale of the proposed dwelling would be considered to be acceptable.

## *Summary*

- 10.9 Overall, in terms of visual amenity, the scale indicated for the proposed dwelling within the rear garden of 99 Knowl Road can be considered to be acceptable without harming the character of the host property and the neighbouring dwellings, in accordance with Policy LP24 of the KLP and Chapter 12 of the NPPF. The detail of the design and materials would be submitted and considered at the reserved matters stage, should outline permission be granted.

### Impact on residential amenity as a result of scale:

- 10.10 Policy LP24 of the KLP sets out that proposals should promote good designed by ensuring that, amongst other things, *“the provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings...”*

### *Impact on 99 & 97 Knowl Road*

- 10.11 The site plan submitted indicates that the new dwelling would be sited a minimum of 21m from the original property, 99 Knowl Road and the adjoining 97 Knowl Road. This distance, together with the sloping nature of the site (with the proposed dwelling being at a lower level than nos.99 and 97 Knowl Road) are considered to minimise the potential impacts of the scale of the new dwelling on the amenity of the occupants of these neighbouring properties to the north-east. In terms of protecting privacy and limiting the potential for an overbearing and oppressive impact, officers are satisfied that the dwelling, at the scale proposed, would not have any significant detrimental impact on the occupiers of nos.97 & 99 Knowl Road.

### *Impact on 1 York Grove*

- 10.12 The new dwelling is proposed to be positioned some 12.5m from the rear elevation of the neighbouring 1 York Grove which is a semi-detached bungalow located to the west of the application site. The submitted plans indicate the side elevation of the new dwelling, which is proposed to be blank and with a limited eaves height of 3m, would be positioned parallel to the neighbour's property. It is acknowledged that this would affect the outlook of the rear elevation and impact upon the amenity space of the neighbouring property. However, the height of the dwelling is proposed to be limited and there would be no openings within the side elevation (which would be conditioned as part of any subsequent reserved matters application when assessing the 'appearance', should outline planning permission be granted).

### *25 Littlemoor Road*

- 10.13 The new dwelling is proposed to be built some 16.9m from the rear elevation of the neighbouring 25 Littlemoor Road which occupies a position to the south of the proposed dwelling. This neighbouring property does occupy a lower position than the host property and is also a single storey dwelling. Whilst there would be no potential for overshadowing, there would be potential for an overbearing impact. This is mitigated to a degree by the proposed separation distance between the properties together with the limited scale of the proposed dwelling

with its one and a half storey scale proposed. Furthermore, the orientation of the dwelling relative to the neighbouring property is such that the rear most corner of the dwelling would be closest (16.9m) to no.25. Officers are satisfied that, although there would be some impact, this would not be so significant to the amenity of the occupiers of the neighbouring 25 Littlemoor Road so as to warrant refusal of the scheme.

### *Summary*

- 10.14 In all, the proposal is considered to be acceptable in terms of residential amenity given the scale proposed and the indicative layout indicated on the submitted plans. The proposals would comply with the aims of Policy LP24 of the KLP.

### Point of access and impact on highway safety

- 10.15 As previously set out, 'access' is a matter for consideration at this time and as such, consultation has been carried out with Highways Development Management (HDM).
- 10.16 The application site is located on the western side of Knowl Road, opposite the junction with West Royd Avenue. It is also in close proximity to the junction with The Knowl where there is a short parade of commercial premises (approx. 30m). The proposal is to provide access for the new dwelling via the existing vehicular access serving no.99 Knowl Road.
- 10.17 The existing access is shown to be widened to 6.0m on the proposed site plan which is sufficient to allow two vehicles to pass at the entrance. The gates are shown to be set back with the wall to the frontage being reduced to improve visibility onto Knowl Road. Furthermore, the vehicular generation associated with one dwelling would not significantly intensify the use of Knowl Road.
- 10.18 Sufficient parking is shown to be retained to serve the existing house and the new dwelling, along with the provision of bin storage points. A bin collection area is shown at the entrance to the site, off Knowl Road, but is outside the red line boundary of the application site – it is however, within the ownership of the applicant. Given that the existing access is to be widened (it is recommended to be widened to 6.0m to allow for improved turning and manoeuvring which shall be secured via recommended condition) and sufficient off-street parking is proposed to serve both the new and existing dwellings, the proposals are considered acceptable.
- 10.19 With the inclusion of appropriate conditions, the proposal is considered to be acceptable in terms of highway safety and efficiency, complying with the aims of Policies LP21 and LP22 of the Kirklees Local Plan.

### Biodiversity

- 10.20 Although the site is not located within an area identified as being used by bats, the site is currently overgrown which offers potential for local wildlife to use the area. Having consulted with the Council's Biodiversity Officer, this is not considered to prevent the principle of the proposal for residential purposes from being supported provided a condition is imposed requiring the submission of up-to-date ecological survey information at the reserved matters stage for

Landscaping and Layout (should this outline planning permission be granted). The report would need to demonstrate sufficient avoidance, mitigation, compensation and enhancement measures to provide a biodiversity net gain. The inclusion of the above condition would ensure compliance with the aims of Chapter 15 of the NPPF.

### Representations

10.21 Three representations have been received as a result of the statutory publicity period. The concerns raised are summarised and addressed by Officers as follows:-

- The proposed dwelling is an overdevelopment the site that would out of character and out of scale with the immediate surrounding area and development type which is predominantly bungalows.

**Officer response:** *This concern relates to the impact on the character of the area and how the new dwelling would fit in with the area. The properties in the area are predominantly residential with varying styles and sizes. The proposal would bring a modern dwelling into the area where there are a mix of house types. The scale (height) of the proposed dwelling has been reduced to one and a half storey property which is considered, by officers, to form an appropriate relationship with the neighbouring properties.*

- Insufficient detail has been submitted to demonstrate how the proposed dwelling would sit relative to the neighbouring properties given the topography of the site.

**Officer response:** *An additional plan has been submitted which provides sections between the new dwelling and 99 Knowl Road and the new dwelling relative to the neighbouring 1 York Grove. On the basis of these plans, the scale of the proposed dwelling is considered satisfactory when taking into account the land levels.*

- The size, bulk and massing will have an overbearing impact on the surrounding bungalows.

**Officer response:** *Amended plans have been submitted demonstrating the height of the new dwelling being substantially reduced. The impact of the scale of the new dwelling on the occupants of the neighbouring properties has been assessed in the 'residential amenity' section of this report.*

- Loss of privacy.

**Officer response:** *Overlooking has been considered within the residential amenity section of this report and considered to be acceptable.*

- Overshadowing to the neighbouring properties.

**Officer response:** *Overshadowing has been considered within the residential amenity section of this report. It is considered, by officers, that the proposed new dwelling, due to its limited scale, would result in no significant overshadowing impact upon the neighbouring occupants.*

- Increase in vehicles would impact an already busy, congested and dangerous junction.

**Officer response:** *Highway safety including access and parking have been considered by Highways Development Management. Given the proposed improvements in terms of the access and the provision of sufficient off-street parking for both the existing and new dwellings, the proposal is not considered to be harmful to highway safety and efficiency. Furthermore, the vehicular movements associated with one dwelling would not significantly impact upon the local highway network so as to warrant refusal of the scheme.*

- The indicative design is not of a particularly high standard, being of an anonymous character which neither contributes nor responds to local character and distinctiveness.

**Officer response:** *This application is for outline permission considering access and scale at this time only. As such, full elevational/detailed drawings are not required at this stage and consideration in terms of the 'appearance' of the dwelling would take place at reserved matters, should outline permission be granted.*

- The submitted plans indicate the existing single storey extension to the rear of 99 Knowl Road would be removed. Would this require permission to rebuild in the future and would they be allowed to build to the boundary line?

**Officer response:** *There is no restriction in terms of planning policy or legislation with respect to building up to the boundary. This would be a civil issue. Furthermore, this application is considering access and scale for the new dwelling, not alterations to the existing dwelling.*

- The plans indicate the existing walling to the front would be reduced in height, will this be done sensitively to the remaining walling to the front of the adjoining property?

**Officer response:** *This application is assessing the principle of a dwelling to the rear of 99 Knowl Road in terms of the access and scale. More detailed issues of 'layout' and 'appearance' would be considered as part of the subsequent reserved matters application should outline planning permission be granted. Furthermore, only the walling within included within the red line boundary of the application site can be conditioned to be reduced in height.*

- The plans show gates to the side of 99 for the new dwelling, would this leave the front of 99 Knowl Road open which could allow for issues with local youths hanging around?

**Officer response:** *This application is assessing the principle of a dwelling to the rear of 99 Knowl Road in terms of the access and scale. More detailed issues of 'layout' would be considered as part of the subsequent reserved matters application should outline planning permission be granted.*

- Will there be a caveat to ensure 99 Knowl Road is occupied prior to the new dwelling being built?

**Officer response:** *This application is assessing the principle of a dwelling to the rear of 99 Knowl Road in terms of the access and scale. No.99 Knowl Road is not included within the red line boundary of the application site. Furthermore, it would not be considered 'reasonable' to condition that no.99 is occupied prior to the new dwelling being built.*

- There is no detail on the design of the garage, roof type, how close to the boundary with 97 will it be built?

**Officer response:** *This application is assessing the principle of a dwelling to the rear of 99 Knowl Road in terms of the access and scale. More detailed issues of 'appearance' and 'layout' would be considered as part of the subsequent reserved matters application should outline permission be granted.*

- Would the new dwelling prevent neighbouring properties from having an extension in the future?

**Officer response:** *Each application is assessed on its own merits against the statutory development plan and national planning policy.*



- 10.22 The concerns raised in the representations have been carefully considered however, for the reasons set out in the main assessment, the proposals are considered acceptable. Furthermore, this application is an outline application whereby the only matters for consideration relate to the principle of development, along with the matters being applied for at this stage i.e. access and scale. Following a full assessment of these matters, along with relevant consultation responses, the proposals are considered to comply with relevant statutory development plan and national planning policies.
- 10.23 Following receipt of amended plans, these have been re-advertised. The amended plan publicity period ends on 3 September 2019. To date, no further representations have been received. However, should any further representations be received, they shall be reported to members in the update. The recommendation reflects this.

#### Other Matters

- 10.24 *Land contamination* - Environmental Services have been consulted and have confirmed that the site is identified as potentially contaminated land due to its proximity to a mill. As such, it is considered to be reasonable to include a condition on any subsequent permission regarding the reporting of unexpected contamination. This would ensure compliance with the aims of Policy LP53 of the KLP as well as Chapter 15 of the NPPF.
- 10.25 *Trees* – There are a number of mature trees located within the application site boundary, particularly along the eastern boundary with the attached property, no.97 Knowl Road. There is also at least one mature tree which overhangs the western boundary from York Grove. In addition, there is overgrown shrubbery within the application site.
- 10.26 None of the trees within the site, or immediately adjacent to it, are protected by Tree Preservation Order(s). However, Policy LP33 of the KLP is of relevance. This sets out that *“the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity”*. It continues by stating that *“proposals should normally retain any valuable or important trees where they make a contribution to public amenity...”*
- 10.27 In this instance, following consultation with the Council’s Arboricultural officer, it is not considered that any of the mature trees referred to above would be directly impacted upon by the proposals. It is however acknowledged that the tree which overhangs the site from York Grove could be indirectly impacted upon by the route of the proposed access. However, it is considered that a footnote referring to the submission of a method statement at the reserved matters stage, when assessing ‘layout’, is included, should outline planning permission be granted. In all, the proposal is considered to comply with the aims of Policy LP33 of the KLP.
- 10.28 There are no other matters considered relevant to the determination of this application.

## **11.0 CONCLUSION**

- 11.1 To conclude, the proposed dwelling, in terms of its access and scale, is considered acceptable by officers in this location. It is considered that a dwelling of the scale proposed would relate satisfactorily to the varied development within the vicinity of the site and, in the view of officers, would not result in any significant residential amenity implications. In addition, with the inclusion of appropriate conditions, the proposal is not considered to result in any undue highway safety implications either.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations and it is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Standard timeframe for submission of reserved matters
2. In accordance with plans.
3. Sightline provided/retained.
4. Parking areas provided, surfaced and drained.
5. Entrance widened to 6.0 metres.
6. Reporting of any unexpected land contamination.
7. Submission of up-to-date ecological survey information at the reserved matters stage for Landscaping and Layout. The report shall demonstrate sufficient avoidance, mitigation, compensation and enhancement measures to provide a biodiversity net gain.
8. Footnote relating to an Arboricultural Method Statement.

### **Background Papers:**

### **Application files:**

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91529>

Certificate of Ownership –Certificate A signed and dated: 07/05/2019

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## Report of the Head of Development and Master Planning

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Sep-2019

Subject: Planning Application 2019/90056 Change of use of A1 (Retail) to Snooker lounge and games room D2 (Assembly and Leisure) (within a Conservation Area) Mina House, 47-51, Daisy Hill, Dewsbury, WF13 1LF

#### APPLICANT

H Sekhon

#### DATE VALID

10-Jan-2019

#### TARGET DATE

07-Mar-2019

#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Dewsbury East**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**REFUSE**

**1. The proposed change of use to snooker and games room (D2), particularly due to the lack of a continuous management of the premises and its immediate surroundings, would result in an increase in the fear of crime and disorder for the local community. The increased fear of crime and disorder would outweigh the benefit of the re-use of the unit, and fail to create an inclusive and safe place, significantly undermining the quality of life of the local community. To approve the application would be contrary to the aims of Chapter 8 of the National Planning Policy Framework, as well as Policy LP18 of the Kirklees Local Plan which sets out that proposals in Dewsbury Town Centre should, amongst other things, provide a safe welcoming inclusive destination for the district's residents of all ages, and Policy LP24 (e) of the Kirklees Local Plan.**

**1.0 INTRODUCTION:**

- 1.1 This application is reported to the Heavy Woollen Planning Committee as the application has been requested by Ward Councillor's Lukic and Scott due to the sensitive nature of the application.
- 1.2 The Chair of Sub-Committee has confirmed that Cllr Lukic and Scott's reason for making this request are valid having regard to the Councillor's Protocol for Planning Committees.

**SITE AND SURROUNDINGS:**

- 2.1 The application site is a three storey building, nos.47-51 Daisy Hill within the centre of Dewsbury. It is also within the designated Dewsbury Conservation Area. The flat roof building was previously used as office space within the first and second floors with a retail unit at ground floor. The first and second floors have recently gained prior approval for the change of use from office to 16 residential units.
- 2.2 The building is brick faced at first and second floor with window openings on the front and rear elevations. At ground floor there is a shop frontage with roller shutter.

2.3 Daisy Hill comprises a mixture of uses including residential, retail and office space. The application site has no designated parking and is accessed directly from Daisy Hill and School Street to the rear.

2.4 At the time of the site visit the proposed unit appeared to be vacant. However, subsequent recent reports have stated that the use as a snooker and games room has commenced unlawfully.

### **3.0 PROPOSAL:**

3.1 The application is for the change of use of the ground floor from retail (A1) to snooker and games room (D2). The site was vacant at the time of the original officer site visit and has a floor area of 579sqm.

3.2 The application site will have an open plan design with a 'meet and great' desk and seating at the entrance; 10 no. snooker/pool tables with seating and 3 no. enclosed games rooms. The mezzanine floor holds a private kitchen and seating area.

3.3 There are no external alterations proposed.

### **4.0 RELEVANT PLANNING HISTORY:**

4.1 2018/94207 External alterations and formation of larger window openings (within a Conservation Area)  
Conditional Full Permission

2018/94200 Prior notification from change of use from office (B1) to residential dwellings (within a Conservation Area)  
Approved

### **5.0 HISTORY OF NEGOTIATIONS:**

5.1 The Officer requested for a management plan to be submitted to demonstrate how the snooker and games room would be managed and what security measures would be used. The management plan was submitted and reviewed by the West Yorkshire Police Liaison Officer.

### **6.0 PLANNING POLICY:**

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

The site is Unallocated within the Kirklees Local Plan but is within the designated Dewsbury Conservation Area.

## 6.2 Kirklees Local Plan (KLP)

**LP 1** – Sustainable Development

**LP18** – Dewsbury Town Centre

**LP 21** – Highway Safety and Access

**LP 22** – Parking

**LP 24** – Design

**LP35** – Historic Environment

**LP 51** - Protection and improvement of local air quality

**LP 52** – Protection and improvement of environmental quality

## 6.3 National Planning Policy Framework (NPPF):

**Chapter 8** – Promoting healthy and safe communities

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

**Chapter 16** – Conserving and enhancing the historic environment

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

7.1 As a result of the statutory publicity, two representations were received following the period of public consultation. A summary of the comments received is set out below:

- The proposed use is inappropriate
- The proposed use will inevitably lead to those using the facility to congregate on the pavement outside to smoke creating a nuisance in terms of noise, litter and other associated issues to the other residents of Daisy Hill
- There are snooker tables in the unit and already people are congregating on the street outside at certain times
- Visitors congregate outside and this impacts on visitors to other premises

## 8.0 **CONSULTATION RESPONSES:**

8.1 The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### 8.2 **Statutory Consultees:**

**K.C Highways Development Management** – No Objection following receipt of additional drawing showing the provision of refuse and recycle bins to serve both the apartments and the proposed change of use.

**K.C Environmental Health** – No Objection subject to conditions to secure details of a noise impact assessment; details of a ventilation system and hours of operation.

### 8.3 **Non-Statutory Consultees:**

**K.C Conservation and Design** – No objection as the proposals do not include any external alterations to the building.

**West Yorkshire Police Liaison Officer** – Object to the application on the basis that the measures specified within the Management Plan are unlikely to deter the type of congregating and anti-social behaviour around the premises that would raise the fear of crime and tensions within the local community.

## **9.0 MAIN ISSUES**

- Principle of development
- Visual amenity/local character
- Residential amenity
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### **Principle of development**

- 10.1 Policy LP1 of the KLP states that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise.
- 10.2 The application site is situated within the Dewsbury Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the asset. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.
- 10.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework also reiterate this guidance.
- 10.4 The application has no specific allocation within the KLP. As such, Policy LP24 of the KLP is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment.

### **Use of premises**

- 10.5 The proposed use as leisure and games room (D2) is listed within the NPPF glossary of terms as a main town centre use. As such a sequential test is not required because the application site is located within the Dewsbury Town Centre. Because of the Dewsbury Town Centre location, Policy LP18 of the KLP is also applicable.

- 10.6 Policy LP18 of the KLP sets out that Dewsbury Town Centre will be a place of vibrancy, vitality and diversity, with a mix of uses to attract visitors and provide new space for town centre living. The town centre will form the focus for retail provision for the north of the district, supported by other main town centres. The policy continues by setting out that proposals within the town centre will be supported where they, amongst other things, “provide a safe welcoming inclusive destination for the district’s residents of all ages to visit throughout the day from morning into the evening”. This aim, along with other relevant material planning considerations shall be assessed below.

### **Fear of Crime and disorder**

- 10.7 In addition to policy LP18 of the KLP, as referred to above, Chapter 8 of the NPPF sets out the important role that the planning system plays in facilitating social interaction and creating healthy and inclusive communities. Paragraph 91 of the NPPF states that planning decisions should aim to achieve places which promote ‘safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion’. Policy LP24 of the KLP is also relevant in that it sets out under point ‘e’ that proposals should promote good design by ensuring “the risk of crime is minimised by enhanced security ... and well-designed security features”.
- 10.8 The Police Architectural Liaison Officer was consulted on behalf of West Yorkshire Police. As part of the consultation the local Dewsbury Policing team were consulted.
- 10.9 It is the considered view of the West Yorkshire Police that the approval of the snooker and games room in this location would be likely to increase in the serious anti-social behaviour, nuisance and criminality in the vicinity of the premises, as well as a rise in fear of crime and tensions within the local community.
- 10.10 The assessment is based upon the opinion that an approval would create a ‘honeypot’ (a place where people have an excuse to congregate and linger). Crime and anti-social behaviour are more likely to occur at a specific location if potential offenders have a ‘legitimate’ reason to meet there.
- 10.11 In light of the above concerns, the applicant’s agent submitted a management plan in support of the application. The management plan details the proposed management measures in terms of security, noise and disturbance. These measures include the installation of CCTV in order to increase security, a membership scheme and additional rules imposed to users to manage their behaviour.
- 10.12 The measures set out within the document have been reviewed by the Police Architectural Liaison Officer in consultation with West Yorkshire Police. In their view, the use of CCTV is not a universal solution to security problems and is most effective when it forms part of an overall security plan. In this instance, the West Yorkshire Police consider that the CCTV would need to be constantly monitored in order to provide a reaction and response to incidents at the time that they occur. There is no indication that it would be continuously monitored in this case. The management plan also details that the staff would be given training to deal with any events of antisocial behaviour, however, there are no details of who would be providing this training.



10.13 In summary, it is the view of officers, when taking into account the concerns raised by the West Yorkshire Policing Team, that the proposed change of use to a snooker and games room would be contrary to the aims of policies LP18 and LP24 (e) of the KLP as well as and the aims of Chapter 8 of the NPPF due to the increased fear of crime for local residents which would result in a decrease in the quality of life and social cohesion of the local community.

#### **Impact on visual amenity and heritage**

10.14 Policy LP24 of the KLP states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that, amongst other things, the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by the NPPF which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local character ....while not preventing or discouraging appropriate innovation or change (para.127 of the NPPF).

10.15 The application site is situated within the Dewsbury Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the asset. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.

10.16 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework also reiterate this guidance.

10.17 There are no proposed external alterations proposed to the building. As such there is considered to be no impact on visual amenity or to the historic significance of the Conservation Area. As such, the application is considered to comply with Policies LP1, LP24 and LP35 of the KLP and guidance contained within Chapters 12 and 16 of the National Planning Policy Framework in regard to visual amenity and heritage considerations.

#### **Impact on residential amenity**

10.18 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the KLP states that proposals should promote good design by ensuring that they provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

10.19 Generally, snooker is a relatively quiet sport, however due to the amount of tables, additional seating and private games rooms proposed, there is likely to be recorded music, large groups of people talking, balls hitting together and other noise emitted from the D2 use. As such, Environmental Health have recommended that a noise report is secured in order to restrict the impact of noise emitted from the unit which could disrupt neighbouring residential units.

- 10.20 The applicant does not specify the hours of operation for the proposed snooker and games room. As such, it is proposed by the Environmental Health Officer that the hours of operation should be restricted outside the hours of 07.30 to 23:30 Monday to Saturday and 08:00 to 22:30 on Sundays.
- 10.21 A condition is also recommended to secure a ventilation system in order to control the extraction/ventilation from the unit.
- 10.22 The closest neighbouring dwellings which could be impacted by the development are 45 Daisy Hill; 53 Daisy Hill; 38 – 42 Daisy Hill and 16 no. apartments recently approved on the first and second floor of Mina House (application 2018/94200). The proposed change of use could be considered to have an impact on the residential amenity of the residential units above, especially on the first floor due to the level of noise which would be created by a large congregation of people. However, the impact of noise would be minimised due to the hours of operation and the implementation of measures which would be specified within the noise report. As such, it is considered that the impact on the residential amenity of the residential units above can be controlled by the conditions recommended by Environmental Health.
- 10.23 45 Daisy Hill is a two storey building currently in use as a residential unit. The proposed change of use could be considered to have a minimal impact on the level of residential amenity of the occupiers due to the potential level of noise created by a large congregation of people. However, it is considered that the level of noise would be controlled by the recommend imposition of restricted hours of operation and the submission of a report which specifies measures to control and restrict the level of noise. As such, it is considered that the impact on the residential amenity of neighbouring dwelling would be controlled by the conditions recommended by Environmental Health.
- 10.24 53 Daisy Hill is a retail unit set to the West of the application site. The proposed development would not be considered to impact on the operation of this retail use.
- 10.25 38 – 42 Daisy Hill are a mixture of residential, office and retail units set to the North adjacent to the application site. There are no proposed alterations to the openings within the front elevation of the site, as such, there is considered to be no impact of overlooking to the residential units adjacent which are located at first floor. The proposed development would not be considered to impact on the operation of the retail uses.
- 10.26 In summary, due to the reasons outlined above and the recommended conditions there would be minimal harm caused to the residential amenity enjoyed by occupiers of neighbouring properties. As such, the application is considered to comply with Policies LP1, LP24 and LP52 of the KLP and guidance contained within Chapter 15 of the NPPF.

### **Highway Safety**

- 10.27 The application site is located on Daisy Hill within the centre of Dewsbury. The proposal is for the change of use of the ground floor to create a snooker and games room for which access will be provided from Daisy Hill. Daisy Hill operates a one-way system in addition to which there are waiting restrictions on either side of the road to prevent on-street parking.

- 10.28 It is proposed for a storage and waste collection area to be located on the lower ground floor of the unit with access from School Street to the rear.
- 10.29 The application offers no off-street parking provision. However, given the sustainable location of the site within a town centre this is considered to be acceptable.
- 10.30 In all, the proposal is not considered to materially add to any undue highway safety or efficiency implications and would accord with the aims of policy LP21 of the KLP.

### **Representations**

- 10.31 Two representations were received following the period of public consultation for the application. In so much as the points have not been addressed above, officers comment as follows:
- The proposed use is inappropriate  
**Officer Response:** The use is considered to constitute a main town centre use however, for the reasons set out in this report, there are concerns regarding crime and disorder should the use be permitted in this location.
  - The proposed use will inevitably lead to those using the facility to congregate on the pavement outside to smoke creating a nuisance in terms of noise, litter and other associated issues to the other residents of Daisy Hill  
**Officer Response:** Officers have raised concern regarding anti-social behaviour associated with the proposed use.
  - There are snooker tables in the unit and already people are congregating on the street outside at certain times.  
**Officer Response:** This is noted. At the time of the original site visit, the building was vacant however, it has since been brought to the attention of officers that the building is in operation.
  - Visitors congregate outside and this impacts on visiting clients to other premises  
**Officer Response:** Noted. As previously set out, officers are concerned regarding crime and disorder.

### **Other Matters**

- 10.32 *Economic benefits* – It is acknowledged by officers that the proposal would bring, what was previously a vacant building back into use. However, it is noted that the upper floors have been granted the use for residential purposes and this proposal would relate solely to bringing the ground floor into use. In this instance, it is the opinion of officers that the significant concerns regarding crime and disorder as set out in this assessment are not considered to be outweighed by the potential economic benefits of the proposed use.
- 10.33 There are no other matters considered relevant to the determination of this application.

## 11.0 CONCLUSION

- 11.1 To conclude, and taking all matters into consideration, although there are considered to be minimal concerns in regards to the impact of the proposed change of use on highway safety, visual and residential amenity, it is the view of officers that it has not been demonstrated that the proposal would not result in an increase in the fear of crime and anti-social behaviour at the premises, particularly due to the lack of continuous management of the premises. The resultant decrease in quality of life and social cohesion of the local community would outweigh the redevelopment of the unit and result in a use which would create not create a safe and accessible environment and significantly undermine the quality of life of the local community which is contrary to Chapter 8 of the NPPF.
- 11.2 This application has been assessed against the relevant policies in the development plan and other materials considerations. It is considered that the adverse impacts of granting permission would significantly outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. Recommendation is therefore to refuse the application.

### **Background Papers:**

#### ***Link to the application details:-***

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90056>

Certificate A signed and dated: 10/01/2019

#### ***2018/94207 - External alterations and formation of larger window openings (within a Conservation area) – Link to details:***

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f94207+>

#### ***2018/94200 - Prior notification from change of use from office (B1) to residential dwellings (within a Conservation Area) – Link to details:***

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f94200+>

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## Report of the Head of Development and Master Planning

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Sep-2019

Subject: Planning Application 2019/90190 Erection of 3 dwellings (within a Conservation Area) adj, 1, Lowgate, Kirkburton, Huddersfield, HD8 0SE

#### APPLICANT

Hirst Properties Ltd

#### DATE VALID

04-Feb-2019

#### TARGET DATE

01-Apr-2019

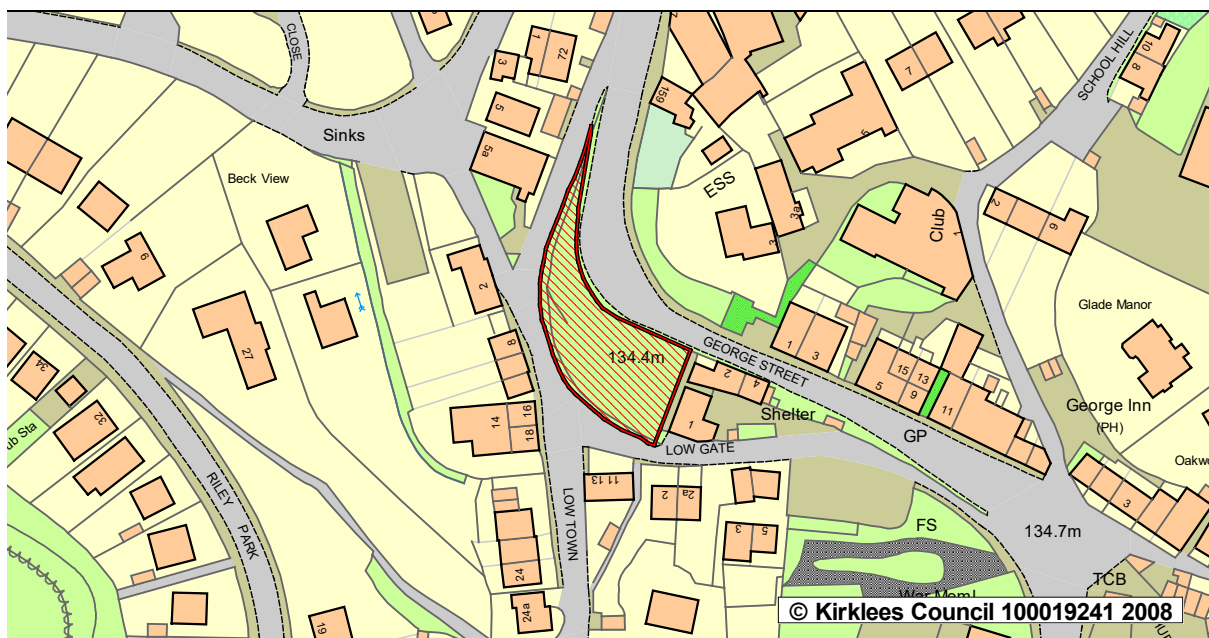
#### EXTENSION EXPIRY DATE

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

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral Wards Affected: Kirkburton**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**REFUSE**

**1. The application site currently forms a prominent and important space within the Kirkburton Conservation Area; its development for residential purposes would subsequently result in its loss as open space. Furthermore, the proposed development, by reason of its scale, design and prominence would appear out of keeping with the established character of the street scene and Conservation Area. The development would offer no benefit to the public to outweigh such impact. As such, to permit the erection of 3 no. dwellings in this position would cause undue harm to the visual amenity and character of the Conservation Area, contrary to Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.**

**2. The proposed development, by reason of its scale, siting and design would result in significant overlooking of the occupants of the adjacent dwellings at nos. 8 to 18 Low Town, which would be unduly detrimental to their living conditions. To permit the proposal, which would not maintain appropriate distances between buildings and provide a high standard of amenity for future and neighbouring occupiers, would be unduly harmful to residential amenity, contrary to Policy LP24 (b) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.**

**3. The proposed development has failed to demonstrate the safe manoeuvre of vehicles in and out of Plots 1 and 2 from the junction of Low Gate and Low Town. Furthermore, it is not considered that safe and suitable access to each plot can be achieved due to inadequate visibility splays onto Low Town and Low Gate for the future occupants of the proposed dwellings, thereby giving rise to unacceptable harm to highway safety. In addition, a substandard footway has been proposed. To permit the proposal as submitted would severely prejudice highway and pedestrian safety, contrary to Policies LP21 and LP22 of the Kirklees Local Plan.**

## **1.0 INTRODUCTION:**

- 1.1 This application is reported to the Heavy Woollen Planning Committee as the application has been requested by Ward Councillor Bill Armer. The reasons for the request by Councillor Armer are as follows:

*"I refer to application 2019/90190, Lowgate Kirkburton. This is a contentious application on which I have no settled position at this time. I have in the recent past been approached by nearby residents expressing opposition on a number of grounds and requesting that I refer the matter to HWP Committee, and have now also been approached by the applicant similarly requesting that I so refer the application.*

*Because of the nature of these representations I believe that the interests of openness and democratic accountability are best served if the issue is put to HWP. In making this request I have also considered the following points:*

- (a) the NPPF has a presumption in favour of sustainable development. The applicant believes that he satisfies this test, the objectors disagree;*
- (b) there are concerns about Highway Safety in the Low Gate/Low Town area should the development go ahead;*
- (c) there are disputed questions about whether or not the proposed development is appropriate in a Conservation Area;*
- (d) objectors fear that the development would significantly increase the risk of flooding in the area;*
- (e) there are serious questions raised about the potential for building work to destabilise the banking which supports the adjoining highway North Road/George Street.*

*I believe that these are material planning considerations sufficient to support referral.*

*I am further swayed by the relatively unusual situation in which both applicant and objectors have requested referral. Thus I request that the application be referred to HWP for determination".*

- 1.2 The Chair of Sub-Committee has confirmed that Councillor Armer's reason for making this request are valid having regard to the Councillor's Protocol for Planning Committees.
- 1.3 In addition, the application also received 53 representations following the period of public consultation, which is considered to constitute significant representation.

## **SITE AND SURROUNDINGS:**

- 2.1 The site is identified as land adjacent Low Gate, Kirkburton. The site extends to 0.077 hectares and at present is open land which tapers to a point to the North. The site is bounded to the North by George Street (B6116) which runs to the East of the site at a higher level. To the South and West of the site is Low Gate and Low Town which holds a mixture of terraced and semi-detached, two storey residential dwellings.

- 2.2 The site is elevated from Low Gate and bounded by a dry stone wall to the West boundary and the retaining wall for the B6116 George Street to the North East. There is a footpath and steps which leads from Low Gate to George Street along the East boundary of the site.
- 2.3 There appears to be an existing vehicular access to the site from Low Town to the North of the site.
- 2.4 The site was occupied by a number of mature trees that were removed in 2018 following the approval of two Tree Work applications (reference 2018/92306 and 2018/93260).
- 2.5 The site is Unallocated within the Kirklees Local Plan and is within the designated Kirkburton Conservation Area.

### **3.0 PROPOSAL:**

- 3.1 The application is for the erection of 3 no. dwellings. A pair of semi-detached dwellings and a detached dwelling are proposed with off-street parking to the frontage.

#### **3.2 Plots 1 and 2**

Plots 1 and 2 are 4 no. bedroom semi-detached dwellings with attached garage to the side located to the South of the application site. The dwellings are two storey to the frontage (West) and drop to single storey to the rear (East) due to the difference in land levels of the site. The proposed dwellings have a height of 6.7m to the front elevation, dropping to 4m to the rear of a pitched roof with a width of 5.9m and depth of 7.9m. The height of the garage to the side of the dwellings is 2.6m on top of which is a proposed terrace.

- 3.3 The front elevation holds an entrance door and windows at both ground and first floor. Two roof lights are proposed within the roof form of each dwelling. The rear elevation hold an entrance door to access a steeply terraced garden and window with a balcony roof light within the roof form.

- 3.4 Each dwelling will provide 2 no. off-street parking spaces to the frontage broken up by an area of low level planting.

#### **3.5 Plot 3**

Plot 3 is a 2 no. bedroom detached two storey dwelling set to the North West of the application site. The dwelling is two storey to the front (West) and drops to single storey to the rear (East) due to the difference in land levels. The proposed dwelling has a width of 6.9m and depth of 7m with a height of have a height of 7m to the ridge and 5m.

- 3.6 The front elevation holds an entrance door and integral garage door at ground floor with 2 no. windows at first floor. The rear elevation will hold a set of doors and window. Doors within the side (North) elevation will hold doors to access a patio area.

- 3.7 The dwelling will provide 2 no. off-street parking spaces.



- 3.8 The proposed dwellings will be constructed from natural coursed stone with stone slate roof.

#### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 2018/92306 Tree Notification Conservation Area  
Granted
- 2018/93260 Tree Notification Conservation Area  
Granted

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The Officer provided feedback to the agent on the submitted proposal when all consultation responses were received. It was advised that the application could not be supported due to the impact of the development on visual amenity and character and heritage of the Kirkburton Conservation Area.
- 5.2 Following the initial feedback, the applicant submitted revised plans and further information requested by highways to support the application. The amended plans were reviewed and feedback provided to the applicant.
- 5.3 The applicant was informed that the application was to be taken to Planning Committee at which point the applicant opted to use the original plans for three dwellings with some minor design amendments.

#### **6.0 PLANNING POLICY:**

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

The site is Unallocated within the Kirklees Local Plan however it is within the designated Kirkburton Conservation Area.

- 6.2 Kirklees Local Plan (LP)

**LP 1** – Sustainable Development  
**LP 11** – Housing mix and affordable housing  
**LP 21** – Highway Safety and Access  
**LP 22** – Parking  
**LP 24** – Design  
**LP 27** – Flood Risk  
**LP 28** - Drainage  
**LP 30** – Biodiversity and Geodiversity  
**LP 33** – Trees  
**LP 35** – Historic Environment  
**LP 51** - Protection and improvement of local air quality  
**LP 52** – Protection and improvement of environmental quality  
**LP 53** – Contaminated and unstable land

6.3 National Planning Policy Framework (NPPF):

**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

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been advertised by means of neighbour notification letter, press notice and site notice.

7.2 53 Representations were received following the period of public consultation. A summary of the comments received is set out below:

**Kirkburton Parish Council:**

*The Parish Council strongly objects to this proposed development on the following grounds:*

*Highways Safety:*

*There is already a problem due to the narrowness of the roads, the sharp bends and the high level of parking, with which this area has to cope. As well as offering parking spaces for residents, local business owners and shoppers, it is also used by parents taking children (and sometimes their pre-school siblings) to Kirkburton First School. The area cannot cope with any more traffic.*

*Kirklees Highways has already commented on the inappropriateness of the proposed garages, which would result in even more parked cars in this very tight area.*

*Poor access: The driveways would converge onto the road directly by the bend at the bottom of the hill, so the sightlines would be very poor.*

*The design and materials proposed are inappropriate for the Conservation Area and out-of-keeping with the existing dwellings. There is also a danger of overlooking into neighbouring properties, which is contrary to planning policy guidelines.*

*The proposed location of the new houses currently serves as a means of absorbing some of the excess water which runs from the higher areas surrounding Low Gate. Building on this area would increase the frequency of flooding, which already happens due to the low-lying situation of the land.*

*There are also concerns about the stability of the banking adjacent North Road, which was previously supported by the trees before they were removed.*

## Public representations

### Objections (34)

#### Highway Safety

- The development will increase the amount of traffic in the area from the narrow area of North Street from George Street to Low town. It is already difficult to pass due to the amount of parked cars.
- Low Gate is used a short cut and cars have a tendency to come at speed. This is worrying for the proposed dwellings which would reverse onto the blind bend.
- The cars would not be parked in the garages and so would be more cars parked on Lowgate.
- The location of the driveway of plot 3 is questioned as to the safety due to the close proximity to the narrow and busy part of Low Town.
- The dwellings will bring increased visitor parking on the highway.
- It is unclear from the plans as to whether the current footpath will remain which is frequently used.
- The dwellings will have a total of 11 bedrooms with only six parking spaces. It is likely that more than six cars will be owned by the occupiers so where would the other vehicles be parked?
- Delivery vehicles experience problems accessing low gate
- The traffic issue is compounded at the start and end of the school day as parents park where space is available.
- The garage sizes are too small to park a car
- Low Town is used by farm traffic which requires additional space to pass

#### Visual Amenity

- The proposed dwellings will impact on the character of the area
- Is this overdevelopment of the site as there appears to be a lot of houses for the size of the plot.
- Low Lane is suffocating with houses being squeezed in everywhere.
- The majority of the houses within the conservation area are stone built, two storey dwellings and not three storey as stated.
- From George Street there is a view to the South across Low Town towards All Hallows Church. If the dwellings are built this view will be lost.
- The loss of trees has already resulted in a loss of amenity
- The majority of existing dwellings are cottage style.
- The proposed dwellings do not reinforce the tight street line which defines the area
- The use of glass balustrades on top of flat roof garages are alien to the area
- The use of tone quoins on the detached dwelling looks out of place on a property of this size.
- The development will dominate due to the height and density.
- Discrepancy with materials stated.

### Residential amenity

- The dwellings will be in close proximity to existing dwellings adjacent. This will impact on overshadowing and a loss of view.
- As the dwellings will be elevated they will overlook the adjacent dwellings.
- The dwellings will be closer than the advised 22m separation distance to adjacent properties.
- The distance between habitable rooms of existing dwellings is not sufficient.

### Trees, landscape and ecology

- The site was once covered in mature trees which offered much pleasure. Last year the trees were all cut down in one day without any prior warning to the neighbours.
- There has already been a marked decrease in the number of birds and wildlife following the loss of the trees
- The proposed development will not include trees to replace those removed.
- The removal of the trees has already increased the level of noise from the B6116

### Drainage

- Low Gate/Low Town becomes a river during heavy rainfall. The change of use of the site from undeveloped land will increase the volume of water into the highway and the potential for flooding will increase.
- The area has been subject to flooding in the past.
- The additional homes will increase the pressure on the sewage and foul water network
- The Environment Agency should be consulted in relation to flood risk.
- It is questioned that the stream is not within 20m of the application site.

### Other Matters

- There has been no thought to the provision of affordable houses.
- The plans are unclear as to the height of the dwellings above road level.
- The noise will be unbearable for those living close to the site in addition to the dust and grime.
- The site backs onto a major road and supports the structure by means of an embankment.

### *Representations submitted following initial amendment submitted 26.03.2019*

### Support (6)

- From 1930 – 1950 there were 6 dwellings on the land.
- The land is currently unused and has not been maintained
- The development will strengthen the walls on all boundary walls and ensure that a new additional path is installed at the bottom of the public steps.
- The land will be smarter and better kept.
- The buildings will be built in keeping with surrounding properties.
- The 8 no parking space in addition to the new parking permits will help parking issues.
- There is a similar approved development at no. 42 Low Town
- The design improves the area and adds value to the village.

- The new plan includes improvements to the paths and steps to and from Low Town. Low Gate and George Street
- The amended plan has increased parking spaces, increased garage space, extra tree planting and altered design elements
- The increased benefits to the local area with sight from Low Gate to Low Town should be considered
- No consideration has been made to the previous planning permission for 2 and 3a Low Gate which have to also reverse in or out onto the road.
- The difference in design from 11 Low Town to 2a, 2, 3 and 1 Low Gate including 'newish' house is unsubstantial.
- There are more birds etc on the land now than there was previously.
- Kirklees Council recommended and approved the application for the removal of the trees on the site.
- The perimeter wall to the side of Low Town and Low Gate has previously had access to the land. There are also dropped curbs.
- The land is private with no 'right of way' for pedestrians. The land does not have safe access points to the stairs/step area. This will be improved by the new project. New lighting and hand rail will also be added.
- There are clear signs of previous footings/cellars of the properties on the land at the North Road level. The current retaining wall is in good condition.
- No wildlife of protected creatures have officially been sighted or located previously on the land.
- The amended plans incorporate comments from conservation to keep the houses within the materials and look of current properties on Low Town and Low Gate.
- Kirklees is full of villages that have tight roads, small potential building plots and unusual circumstances. Some common sense has to be taken with site visits to consider the surrounding properties, area and previous property situations.
- Garages on Low Town all lead directly to the road also.
- The land is not green space. It is within a conservation area but it unallocated land.
- Why should the trees be replaced on this project when the council approved the application for them to be removed?
- The road wall was strengthened in the 1930's. The Council should take responsibility for this if works are still needed.
- The new dwellings will help local businesses and more houses in Kirkburton which are needed.
- The site area is not affected by flooding.
- The Parish Council have commented on the project but have not been to look or discuss the finer proposals of the layout
- The guidance has been met for the parking requirements on the site
- No objections or comments were submitted with regards to the removal of the trees

## Objections (7)

### Highway safety

- Since the parking permit was introduced on Low Town, parking on the surrounding streets has not improved.
- The new plans do not confirm that the dimensions of the garages have altered to be able to park a car
- Removing the wall will not improve visibility as the view is blocked by an existing house.
- The residents of Low Fold are now parking on Low Town on a daily basis.
- The Council need to take action and make local business owners and employees park elsewhere. This is the real issue with parking in the village.
- The development will have an impact on the structural walls
- The plans show parking for 8 no. cars but the supporting statement talks of only 6 additional cars.
- The area is already congested and line of sight are made worse because of parked cars.
- The footpath running from west to east has been in use and this will be removed. This path is in regular use and is maintained by number of residents and should be retained.
- Vehicles frequently exceed 20mph and some in an aggressive manor.

### Visual amenity

- The land is now unkept and the outlook is worse.
- Infilling and over development could ruin the character of the town which seems to draw so many in to visit.
- The protection of the historic areas should be retained

### Drainage

- There is a culverted stream running under the adjacent road (Low Gate). This development will further increase the risk of flooding to homes in the area.

### Other matters

- The site was previously kept tidy by the Burton Environmental Group as a Green space. It was not an eyesore.

*Amended plans submitted 1.08.2019*

### Support (3)

- The parking is a problem now and will not be made worse by the development. It is made worse already by the parking permit scheme
- The loss of trees is a different application which there were no objections
- There is no official pathway. A new pathway will be added as part of the development
- There are no official sightings or protection of wildlife on the site.
- The site is not designated land
- 8 no parking spaces are adequate for the development
- There are 6-7 different designs of houses in the immediate area
- Several other homes have drive's/garages that back onto or reverse into the road.
- The flood risk assessment shows no risk of flooding on the site

- The houses will not be higher than the existing properties adjacent on George Street/North Road.
- New plans have taken into account the Council's comments and are in keeping with guide lines.

#### Objections (4)

##### Visual and Residential Amenity

- The designs are not sympathetic to the surrounding areas.
- There is a question of the distance between the new and existing dwellings on Low Gate.
- The proposed development is within the Kirkburton Conservation Area. The only changes that have been made have merely tinkered with the original application.
- Reducing the height of the ground level does not mitigate the closeness of the development to the adjacent dwellings.
- The design is not in keeping with the area are of a style more suited to an estate setting.
- The garden provision for the properties is woefully inadequate for a family living in a four bedroom property.

##### Highway Safety

- The development will impact the infrastructure of Low Town and Low Gate.
- The risk of accidents will be increased.
- Concerns over the structure of George street should excavations take place
- Nothing substantive has been proposed to mitigate the risk to vehicles.
- The parking provision for the detached dwelling is insufficient to accommodate the two vehicles.

##### Flood risk and drainage

- There is real concern that the development will increase flood risk. The combined impacts of floor risk from recently approved developments and those awaiting decision should be considered.
- Previous floods were very significant and affected properties on Low Town and further along the river in the village.
- There is no permit from the Environment Agency for the development
- The sewer drain has recently failed caused untreated sewage and waste water to flow down Low Gate into surface water drains and into the stream.

##### Trees, Landscape and ecology

- No emails, letters or signs were erected to notify neighbours of the removal of trees on the site and so no objections were received.
- The loss of natural wildlife habitats
- Although trees are shown on the latest plan to the rear of the dwellings given the civil engineering required to prevent George Street subsiding there will be no soil to support them.

## 8.0 CONSULTATION RESPONSES:

8.1 The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### 8.2 Statutory Consultees:

**K.C Highways Structures** – No objection subject to condition to secure details of the work impacting the B6116 George Street.

**The Coal Authority** – No objection subject to condition to secure details of instructive site investigations.

**The Environment Agency** – No Objection, the site is in flood zone 1 and the three properties are located more than 20m from the main river.

**K.C Environmental Health** – No objection subject to condition to secure the reporting of unexpected land contamination and the installation of 1 charging point per dwelling.

**K.C Highways Development Management** – Object, following receipt of amended plans, the works to construct the extended footway along with the provision of the sight lines shown cannot be provided because they are not within the red line boundary of the application site. In terms of the sight lines for plot 1, they are over third party land; access to plots 2 and 3 is at an acute angle across the Low Gate/Low Town junction; existing on-street parking on the opposite side of Low Town and the existing width of Low Gate would result in difficult turning and manoeuvre into and out of the proposed driveways.

### 8.3 Non-statutory Consultees:

**K.C Conservation and Design** – Object, the loss of this land is substantial harm as described by the NPPF and due to the impact does not preserve or enhance the setting of the conservation area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The NPPF requires that great weight is afforded to the retention of the heritage asset and it is not considered that this application complies with that requirement.

**K.C Ecology** – No objection subject to the condition to secure an Ecological Design Strategy.

**K.C Trees** – No objection subject to a condition to secure soft landscape details and further details of the proposed trees in terms of species, size and maintenance.

## 9.0 MAIN ISSUES

- Principle of development
- Visual amenity/local character
- Residential amenity
- Highway issues
- Representations
- Other matters



## **10.0 APPRAISAL**

### **Principle of development**

- 10.1 Policy LP1 of the Kirklees Local Plan states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 10.2 The application has no specific allocation within the Kirklees Local Plan. As such, Policy LP24 of the KLP is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.
- 10.3 The application site is situated within the Kirkburton Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the Conservation Area. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.
- 10.4 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework also reiterate this guidance.
- 10.5 The application site follows the road layout of George Street, gently following the curve of the road from North West to South East which relatively steeply drops to the West onto Low Street. The site was once heavy with mature trees which sat behind stone walls which act as retaining walls and are a positive feature of the Conservation Area. The properties on Low Gate are domestic in scale and are considered to contribute to the significance of the area in terms of the nature of this part of the village. Notwithstanding the loss of trees on the site (subject to approved Tree Work applications) the openness of the site allowing views across and down to Low Gate with the walls allowing a strong sense of enclosure along with the topography, is a significant feature of the conservation area which would be lost if the site was developed for residential purposes.
- 10.6 It is considered by Officer's that in light of the above, the proposed development does cause significant harm to the Conservation Area which is not considered to offer any public benefit and as such does not comply with Policy LP 35 of the Kirklees Local Plan and paragraphs 201 and 196 of the NPPF. The principal of built form within this location would not be considered to be acceptable against guidance within the Policies LP24 and LP35 of the KLP and Chapters 12 and 16 of the NPPF.

### **Impact on visual amenity**

- 10.7 Policy LP24 of the KLP states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by the National Planning Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local character ...while not preventing or discouraging appropriate innovation or change (para.127 of the NPPF).
- 10.8 The application site is situated within the Kirkburton Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the Conservation Area. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.
- 10.9 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework also reiterate this guidance.
- 10.10 The design of the proposed dwellings add features in the form of integral garages and roof terraces that are not in-keeping with the architectural style of the low key cottages that are within the immediate surroundings and which are an indicator of the history of Kirkburton. As such, the features would, in the view of officers, appear out of place. It is taken into consideration that a similar proposal for the erection of 2 no. dwellings was approved to the South of the site at 42-44 Low Town which introduced similar features. However, it is considered that due to the prominent location of this application site at a higher level than the existing dwellings, the dwellings would appear dominant and incongruous within the street scene. In the location of the application site, the proposed design and features would be not considered acceptable.
- 10.11 The site is set behind stone walls which are a positive feature of the Conservation Area which create a sense of enclosure. The access driveways will remove the walls onto Low Gate and remove the sense of enclosure and create a gap which will cause harm to the setting of this part of the Conservation Area.
- 10.12 In summary, there would be harm to the visual amenity enjoyed by occupiers of neighbouring properties and harm the setting and character of the Conservation Area. As such, the application is considered to not comply with Policies LP1, LP24 and LP35 of the KLP and guidance contained within Chapters 12 and 16 of the NPPF.

### **Impact on residential amenity**

- 10.13 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the KLP states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

- 10.14 The closest neighbouring dwellings which could be impacted by the development are 1 Low Gate; 2 George Street; 11 Low Town; 2 – 18 Low Town and 3 School Hill.
- 10.15 1 Low Gate is a three storey detached dwelling located to the South East of the application site. The dwelling is directly adjacent to a pathway/stairs which connects Low Gate to George Street. The West elevation of the neighbouring dwelling has a number of windows, none of which appear to be serving habitable rooms. Plot 1 is proposed to the West of the dwelling with a terrace above the proposed side garage and set of doors to access the terrace. It is considered that due to the difference in levels of the dwellings, separation provided by the pathway and no habitable room windows within the adjacent elevations there would be no undue impact on residential amenity.
- 10.16 2 George Street is a two storey dwelling located to the North East of the application site to the rear of 1 Low Gate. The dwelling has a window within the West elevation which appears to serve a non-habitable room. As the proposed dwellings are set to the South of the site at a much lower level, there is considered to be no impact on residential amenity of the neighbouring dwelling.
- 10.17 11 Low Town is a two storey cottage style dwelling set to the South of the application site. The dwellings will be at a lower level than the proposed dwellings. There is a proposed separation distance of 18m between the front elevations which are at an angle to one another. Due the elevated position of the proposed dwelling and close proximity to the existing dwelling, the dwelling will create a dominant feature. However, due to the orientation of the dwellings there is considered to be minimal impact on overlooking and overshadowing.
- 10.18 Property nos. 8 to 18 are two storey semi-detached and terraced dwellings directly adjacent to the site on Low Town. No's 16 and 18 have a proposed separation distance of 17m to plot 2 where numbers 2 to 12 have a separation distance of 12.3m from plot 3. The proposed dwellings will also be at a much higher level than the existing dwellings. Due to the close proximity and difference in land levels it is considered that the existing dwellings will be impacted by overlooking to the detriment of the established level of residential amenity because, in the opinion of officers, the proposal would not maintain appropriate distances between buildings, contrary to policy LP24 (b) of the KLP.
- 10.19 3 School Hill is a two storey detached dwelling set to the North East of the application site on George Street. The proposed dwellings will be located at a much lower land level than the existing dwelling which is divided by George Street and excessive planting and trees. As such it is considered that there would be no impact to the residential amenity of these occupants.
- 10.20 In summary, there would be harm caused to the residential amenity enjoyed by occupiers of neighbouring properties. As such, the application is not considered to comply with Policies LP1 and LP24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the NPPF.

### **Highway Safety**

- 10.21 The application site is located between Low Town to the East, Low Gate to the South and B6116 George Street to the North. The B6116 links A629 Penistone Road with Kirkburton, Shelley, Skelmanthorpe and the A636 Wakefield Road at Scissett.
- 10.23 The proposed development includes the erection of a pair of semi-detached houses (Plots 1 and 2) with attached single garages and a detached dwelling with integral garage. Each of the proposed dwellings has two off-street parking spaces to the frontage with access onto Low Gate and Low Town.
- 10.24 There is a considerable level difference between George Street and Low Town and Low Gate. As such structural engineering measures will be required to ensure that the public highway above is not compromised, this can be secured via condition should the application be approved.
- 10.25 The proposed access to Plots 2 and 3 are at an acute angle across the Low Gate and Low Town junction. As a result of the existing parking on the opposite side of Low Town and the existing width of Low Gate, vehicles will experience difficulty turning and manoeuvring into and out of the proposed driveways. The proposed access across the existing Low Gate and Low Town Junction is not considered to be in the interests of highways safety.
- 10.26 The proposed footway to the frontage is not considered to be to an acceptable width. Highways DM would require the footway to be 2.0m in width so as to be of an appropriate width, in the interest of pedestrian safety.
- 10.27 The original comments received by the K.C Highways DM Officer requested the red line boundary plan to be amended to include the steps to the Eastern side of the site. The amended plan fails to include these steps. As the steps are not included within the red line of the application site, this means that the sight lines shown cannot be provided as those for Plot 1 would need to go over third party land, which cannot be controlled.
- 10.28 For the reasons outlined above in that the proposed access is across an existing junction; existing footways are narrow and have not been shown to be sufficiently widened, turning and manoeuvre will be difficult and sight lines into Low Gate and Low Town will be sub-standard the proposed development is considered to not comply with guidance within Policies LP21 and LP22 of the KLP.

### **Coal Mining Legacy**

- 10.29 The application site falls within the defined high risk development area, therefore, the application site and surrounding area there are coal mining features and hazards which would need to be considered. As required, the applicant submitted a Coal Mining Risk Assessment (dated 1<sup>st</sup> February 2019) by Beam Consulting Engineers Ltd. The report considers there to be moderate risk to the proposal from historic unrecorded coal mining at shallow depth. Accordingly, appropriate recommendations are made that intrusive ground investigation works are considered necessary.

- 10.30 Following consultation with the Coal Authority, a condition is recommended for the results of the site investigations to be submitted to the Local Planning Authority to evidence that the site can be made safe and stable for the proposed development, in accordance with Chapter 15 of the NPPF.

### **Contaminated Land**

- 10.31 The application is not identified as being within an area which could be impacted by land contamination. However, it is recommended that, should planning permission be granted, a condition be added for any contamination not previously identified by the developer to cease works and notify the Local Planning Authority, in accordance with Policy LP52 of the KLP and Chapter 15 of the NPPF.

### **Trees and Ecology**

- 10.32 Until recently the application site provided considerable tree cover. Following two Tree Work applications, the trees were removed due to their poor condition preventing the serving of a Tree Preservation Order (although a number of the trees were still protected by virtue of the Conservation Area setting).
- 10.33 The proposed plan proposes replacement tree planting within the scheme. The plans evidence that the planting can be achieved to a reasonable amount. Officers would request however, that further details are submitted by way of a condition to secure a soft landscaping scheme which provides full details of the proposed planting (species, size etc.) and proposed maintenance, should the application be approved.

### **Representations**

- 10.34 53 representations were received following the period of public consultation for the application. In so much as the point have not been addressed above, officers respond as follows:

### **Objections (34)**

#### **Highway Safety**

- The development will increase the amount of traffic in the area from the narrow area of North Street from George Street to Low town. It is already difficult to pass due to the amount of parked cars.  
**Response:** A full assessment of the impact on highway safety is addressed in the above report
- Low Gate is used a short cut and cars have a tendency to come at speed. This is worrying for the proposed dwellings which would reverse onto the blind bend.  
**Response:** A full assessment of the impact on highway safety is addressed in the above report
- The cars would not be parked in the garages and so would be more cars parked on Lowgate.  
**Response:** A full assessment of the impact on highway safety is addressed in the above report
- The location of the driveway of plot 3 is questioned as to the safety due to the close proximity to the narrow and busy part of Low Town.  
**Response:** A full assessment of the impact on highway safety is addressed in the above report

- The dwellings will bring increased visitor parking on the highway.  
**Response:** A full assessment of the impact on highway safety is addressed in the above report
- It is unclear from the plans as to whether the current footpath will remain which is frequently used.  
**Response:** The proposed plans will retain and improve the footpath.
- The dwellings will have a total of 11 bedrooms with only six parking spaces. It is likely that more than six cars will be owned by the occupiers so where would the other vehicles be parked?  
**Response:** A full assessment of the impact on highway safety is addressed in the above report
- Delivery vehicles experience problems accessing low gate  
**Response:** A full assessment of the impact on highway safety is addressed in the above report
- The traffic issue is compounded at the start and end of the school day as parents park where space is available.  
**Response:** A full assessment of the impact on highway safety is addressed in the above report
- The garage sizes are too small to park a car  
**Response:** A full assessment of the impact on highway safety is addressed in the above report
- Low Town is used by farm traffic which requires additional space to pass  
**Response:** A full assessment of the impact on highway safety is addressed in the above report

#### Visual Amenity

- The proposed dwellings will impact on the character of the area  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- Is this overdevelopment of the site as there appears to be a lot of houses for the size of the plot.  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- Low Lane is suffocating with houses being squeezed in everywhere.  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The majority of the houses within the conservation area are stone built, two storey dwellings and not three storey as stated.  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- From George Street there is a view to the South across Low Town towards All Hallows Church. If the dwellings are built this view will be lost.  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The loss of trees has already resulted in a loss of amenity
- **Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The majority of existing dwellings are cottage style.
- **Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.

- The proposed dwellings do not reinforce the tight street line which defines the area  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The use of glass balustrades on top of flat roof garages are alien to the area  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The use of tone quoins on the detached dwelling looks out of place on a property of this size.  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The development will dominate due to the height and density  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- Discrepancy with materials stated.  
**Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.

#### Residential amenity

- The dwellings will be in close proximity to existing dwellings adjacent. This will impact on overshadowing and a loss of view.  
**Response:** The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report.
- As the dwellings will be elevated they will overlook the adjacent dwellings.  
**Response:** The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report.
- The dwellings will be closer than the advised 22m separation distance to adjacent properties.  
**Response:** The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report.
- The distance between habitable rooms of existing dwellings is not sufficient.  
**Response:** The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report.

#### Trees, landscape and ecology

- The site was once covered in mature trees which offered much pleasure. Last year the trees were all cut down in one day without any prior warning to the neighbours.  
**Response:** The application site was subject to an approved tree work application to remove the trees
- There has already been a marked decrease in the number of birds and wildlife following the loss of the trees  
**Response:** The impact of the proposed development on trees and ecology has been addressed fully in the above report
- The proposed development will not include trees to replace those removed.  
**Response:** An amended plan was submitted which shows that a number of trees will be planted as part of the scheme

- The removal of the trees has already increased the level of noise from the B6116  
**Response:** The impact of the proposed development on trees and ecology has been addressed fully in the above report

#### Drainage

- Low Gate/Low Town becomes a river during heavy rainfall. The change of use of the site from undeveloped land will increase the volume of water into the highway and the potential for flooding will increase.  
**Response:**
- The area has been subject to flooding in the past.  
**Response:**
- The additional homes will increase the pressure on the sewage and foul water network  
**Response:**
- The Environment Agency should be consulted in relation to flood risk.  
**Response:**
- It is questioned that the stream is not within 20m of the application site.  
**Response:**

#### Other Matters

- There has been no thought to the provision of affordable houses.  
**Response:** The level of proposed housing is under the threshold to provide affordable housing as part of the development
- The plans are unclear as to the height of the dwellings above road level.  
**Response:** The dimensions of the proposed dwellings are documented in the above report
- The noise will be unbearable for those living close to the site in addition to the dust and grime.  
**Response:** The impact of the development during the construction phase is not a material consideration.
- The site backs onto a major road and supports the structure by means of an embankment.  
**Response:** The impact of the proposed development in highway structures is addressed fully in the above report

#### *Representations received following initial amendment submitted 26.03.2019*

#### Support (6)

- From 1930 – 1950 there were 6 dwellings on the land.  
**Response:** The comment in support is noted and has been considered in the above report. It is however acknowledged that there is no evidence of such houses on the site.
- The land is currently unused and has not been maintained  
**Response:** The comment in support is noted and has been considered in the above report
- The development will strengthen the walls on all boundary walls and ensure that a new additional path is installed at the bottom of the public steps.  
**Response:** The comment in support is noted and has been considered in the above report
- The land will be smarter and better kept.  
**Response:** The comment in support is noted and has been considered in the above report



- The buildings will be built in keeping with surrounding properties.  
**Response:** The comment in support is noted and has been considered in the above report
- The 8 no parking space in addition to the new parking permits will help parking issues.  
**Response:** The comment in support is noted and has been considered in the above report
- There is a similar approved development at no. 42 Low Town  
**Response:** The comment in support is noted and has been considered in the above report
- The design improves the area and adds value to the village.  
**Response:** The comment in support is noted and has been considered in the above report
- The new plan includes improvements to the paths and steps to and from Low Town. Low Gate and George Street  
**Response:** The comment in support is noted and has been considered in the above report
- The amended plan has increased parking spaces, increased garage space, extra tree planting and altered design elements  
**Response:** The comment in support is noted and has been considered in the above report
- The increased benefits to the local area with sight from Low Gate to Low Town should be considered
- **Response:** The comment in support is noted and has been considered in the above report
- No consideration has been made to the previous planning permission for 2 and 3a Low Gate which have to also reverse in or out onto the road.  
**Response:** the application has been assessed in light of up-to-date highway safety guidance and, for the reasons set out in the 'highway safety' section of this report and, when taking into account the position of the application site, the parking layout is not considered to be in the interest of highway safety or efficiency.
- The difference in design from 11 Low Town to 2a, 2, 3 and 1 Low Gate including 'newish' house is unsubstantial.  
**Response:** the recent planning permission has been taken into account when assessing this proposal. A full assessment in relation to the impact on visual amenity and the historic significance of the conservation has been set out in the report above. Officers have significant concern regarding the design of the new dwellings.
- There are more birds etc on the land now than there was previously.  
**Response:** Noted
- Kirklees Council recommended and approved the application for the removal of the trees on the site.  
**Response:** Noted
- The perimeter wall to the side of Low Town and Low Gate has previously had access to the land. There are also dropped curbs.  
**Response:** Noted and a full assessment in relation to highway safety is set out in the main report above.
- The land is private with no 'right of way' for pedestrians. The land does not have safe access points to the stairs/step area. This will be improved by the new project. New lighting and hand rail will also be added.  
**Response:** Noted and this has been addressed in the 'highway safety' of this report.

- There are clear signs of previous footings/cellars of the properties on the land at the North Road level. The current retaining wall is in good condition.  
**Response:** Noted however, the land has predominantly reverted back to natural, open land and its loss as a valuable open space within the conservation area is not supported by officers.
- No wildlife or protected creatures have officially been sighted or located previously on the land.  
**Response:** Noted and officers are not objecting to the scheme on ecology matters.
- The amended plans incorporate comments from conservation to keep the houses within the materials and look of current properties on Low Town and Low Gate.  
**Response:** Noted
- Kirklees is full of villages that have tight roads, small potential building plots and unusual circumstances. Some common sense has to be taken with site visits to consider the surrounding properties, area and previous property situations.  
**Response:** Each application is considered on its own merit and assessed against the development plan and national planning policy. In this instance, for the reasons set out in this assessment, the proposals are not considered acceptable from a number of reasons.
- Garages on Low Town all lead directly to the road also.  
**Response:** Noted however, none has the same specific relationship as the application site.
- The land is not green space. It is within a conservation area but is unallocated land.  
**Response:** Noted; the land does not have any specific allocation as open land however, as referred to, it is within the designated conservation area and, in the opinion of officers, does have significance within the conservation area and should be retained as an area of open land.
- Why should the trees be replaced on this project when the council approved the application for them to be removed?  
**Response:** the trees that were removed were in a poor state and their removal was approved via a Tree Works application which has a different set of criteria for consideration than a planning application. In regard to the planning application, careful consideration has to be given to matters such as ecological or visual enhancements, and therefore, should planning permission be granted, a condition is recommended regarding the landscaping of the site.
- The road wall was strengthened in the 1930's. The Council should take responsibility for this if works are still needed.  
**Response:** Noted. As set out in the main report, consultation has been carried out with the Council's Highways Structures section. Furthermore, it is set out in paragraph 179 of the NPPF that "*where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner*".
- The new dwellings will help local businesses and more houses in Kirkburton which are needed.  
**Response:** Noted however, in the opinion of officers, this does not outweigh the recommended reasons for refusal.

- The site area is not affected by flooding.  
**Response:** Noted and there are no objections from officers in regard to flood risk or drainage.
- The Parish Council have commented on the project but have not been to look or discuss the finer proposals of the layout  
**Response:** Noted
- The guidance has been met for the parking requirements on the site  
**Response:** For the reasons set out in the 'Highway safety' section of this report, this is not the view of officers.
- No objections or comments were submitted with regards to the removal of the trees  
**Response:** Noted and, as part of the Tree Work application, the removal of the trees was agreed.

## Objections (7)

### Highway safety

- Since the parking permit was introduced on Low Town, parking on the surrounding streets has not improved.  
**Response:** Noted and the concern of officers has been set out in the Highway Safety section of this report.
- The new plans do not confirm that the dimensions of the garages have altered to be able to park a car  
**Response:** Noted and the concern of officers has been set out in the Highway Safety section of this report.
- Removing the wall will not improve visibility as the view is blocked by an existing house.  
**Response:** Noted and the concern of officers has been set out in the Highway Safety section of this report.
- The residents of Low Fold are now parking on Low Town on a daily basis.  
**Response:** Noted and the concern of officers has been set out in the Highway Safety section of this report.
- The Council need to take action and make local business owners and employees park elsewhere. This is the real issue with parking in the village.  
**Response:** Noted however, this is outside of the remit of the planning application.
- The development will have an impact on the structural walls  
**Response:** Noted and consultation has been carried out with Highway Structures.
- The plans show parking for 8 no. cars but the supporting statement talks of only 6 additional cars.  
**Response:** Noted however, there is sufficient information to assess the planning application.
- The area is already congested and line of sight are made worse because of parked cars.  
**Response:** Noted and the concern of officers regarding the impact on highway safety and efficiency is set out in the 'Highway Safety' section of this report.
- The footpath running from west to east has been in use and this will be removed. This path is in regular use and is maintained by number of residents and should be retained.

**Response:** Noted and, as set out in the 'Highway Safety' section of this report, officers would seek improvements to the footpath however, this cannot be achieved via the application as submitted.

- Vehicles frequently exceed 20mph and some in an aggressive manor.  
**Response:** Noted and the concern of officers regarding the impact on highway safety and efficiency is set out in the 'Highway Safety' section of this report.

#### Visual amenity

- The land is now unkept and the outlook is worse.  
**Response:** Noted and as assessment of visual amenity and the impact on the significance of the conservation area is set out in the report above.
- Infilling and over development could ruin the character of the town which seems to draw so many in to visit.  
**Response:** Noted and as assessment of visual amenity and the impact on the significance of the conservation area is set out in the report above.
- The protection of the historic areas should be retained  
**Response:** Noted and as assessment of visual amenity and the impact on the significance of the conservation area is set out in the report above.

#### Drainage

- There is a culverted stream running under the adjacent road (Low Gate). This development will further increase the risk of flooding to homes in the area.  
**Response:** Noted and, as set out in the main report, there has been no objection raised by the Environment Agency in regard to the application.

#### Other matters

- The site was previously kept tidy by the Burton Environmental Group as a Green space. It was not an eyesore.  
**Response:** Noted

*Representations received following receipt of amended plans submitted 1.08.2019*

#### Support (3)

- The parking is a problem now and will not be made worse by the development. It is made worse already by the parking permit scheme  
**Response:** Noted however, there is significant concern raised by officers regarding the impact on highway safety and efficiency.
- The loss of trees is a different application which there were no objections  
**Response:** Noted and addressed by above.
- There is no official pathway. A new pathway will be added as part of the development  
**Response:** Noted and addressed by above.
- There are no official sightings or protection of wildlife on the site.  
**Response:** Noted and addressed by above.
- The site is not designated land  
**Response:** Whilst the site is unallocated it is within the 'designated' conservation area.
- 8 no parking spaces are adequate for the development  
**Response:** Noted however, there is significant concern raised by officers regarding the impact on highway safety and efficiency.

- There are 6-7 different designs of houses in the immediate area  
**Response:** Noted however there is significant concern raised by officers in regard to the overall design of the proposed dwellings in this particular location.
- Several other homes have drive's/garages that back onto or reverse into the road.  
**Response:** Noted however there is significant concern raised by officers in regard to highway safety and efficiency because of the location of the site.
- The flood risk assessment shows no risk of flooding on the site  
**Response:** Noted and officers do not object to the proposal of flood risk grounds.
- The houses will not be higher than the existing properties adjacent on George Street/North Road.  
**Response:** Noted and there is significant concern raised by officers in regard to the impact of the proposals on residential amenity.

#### Objections (4)

##### Visual Amenity

- The designs are not sympathetic to the surrounding areas.  
**Response:** Noted and addressed previously
- There is a question of the distance between the new and existing dwellings on Low Gate.  
**Response:** Noted and, as set out in the 'residential amenity' section of this report, there is significant concern regarding the proximity to some neighbouring dwellings and the unacceptable impact this would have.

##### Highway Safety

- The development will impact the infrastructure of Low Town and Low Gate.  
**Response:** Noted and addressed previously
- The risk of accidents will be increased.  
**Response:** Noted and addressed previously
- Concerns over the structure of George street should excavations take place  
**Response:** Noted and addressed previously

##### Flood risk and drainage

- There is real concern that the development will increase flood risk. The combined impacts of floor risk from recently approved developments and those awaiting decision should be considered.  
**Response:** Noted and addressed previously
- Previous floods were very significant and affected properties on Low Town and further along the river in the village.  
**Response:** Noted and addressed previously
- There is no permit from the Environment Agency for the development  
**Response:** The Environment Agency have not stated that a permit is required.

- The sewer drain has recently failed causing untreated sewage and waste water to flow down Low Gate into surface water drains and into the stream.  
**Response:** Should planning permission be granted, the applicant would be required to seek separate consent from Yorkshire Water regarding drainage connection.

#### Trees, Landscape and ecology

- No emails, letters or signs were erected to notify neighbours of the removal of trees on the site and so no objections were received.  
**Response:** A Tree Work application follows a separate procedure to a planning application.
- The loss of natural wildlife habitats  
**Response:** Noted however, this has not been a matter of objection raised by officers.

10.35 It is apparent from the representations received that there is both support and objection to the proposals. Officers have carefully considered all of the representations received and, when assessed against the relevant policies set out in the Development Plan along with national planning policy guidance, the proposals raise significant concern. As such, the comments in support of the scheme do not outweigh the significant concern that officers have set out in the main assessment.

## **11.0 CONCLUSION**

- 11.1 Taking all material considerations into account, for the reasons outlined above, the principle of the erection of 3 no. dwellings on the application site would adversely harm the visual amenity and character of the Kirkburton Conservation Area which would not be outweighed by any benefit to the public. The proposed development would also be considered to have an undue impact on the level of residential amenity of the dwellings adjacent at 11 and 2 – 18 Low Town due to overbearing and overlooking.
- 11.2 Furthermore, the proposed development is not considered by Officer's to be acceptable from a highway safety perspective as the proposed access is across an existing junction; existing footways are narrow and have not been shown to be sufficiently widened, turning and manoeuvre will be difficult and sight lines onto Low Gate and Low Town would be substandard.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.4 It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. The application is therefore recommended for refusal.

**Background Papers:**

***Link to the application details:-***

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90190>

Certificate B signed and dated 28.01.2019

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## KIRKLEES METROPOLITAN COUNCIL

### PLANNING SERVICE

#### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

#### PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

5 SEPTEMBER 2019

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Planning Application 2019/91529

Item 12 – Page 33

#### Outline application for erection of one detached dwelling

99, Knowl Road, Mirfield, WF14 9RQ

#### Procedural matter:

The initially submitted location plan indicated that the bin store and the parking for 99 Knowl Road would be outside the red line. It is appreciated that the whole of the site is currently in the ownership of the applicant however for clarification purposes the agent has submitted an additional plan indicating, in blue, all land owned by them.

#### Representations:

Two objections have been received from the same interested party with respect to the amended details. Any new issues raised which have not been included in the committee report have been summarised below based on the amended plans and additional detail with officer responses.

- The development in its current form would be contrary to Local and National Policy.  
**Response:** *The application has been fully considered having regards to both the Kirklees Local Plan and the National Planning Policy Framework as outlined in the officer report. The application is considered, by officers, to comply with the relevant policies.*
- The application should be deferred from the committee agenda as the neighbours were not informed of the officer's recommendation or the inclusion of the application on the agenda for September 5<sup>th</sup>.  
**Officer Response:** *The website and neighbour notification letters notes that the Local Planning Authority do not inform interested parties of relevant committee dates either in writing or by site notice.*
- The amended drawings appear to include additional information rather than changes to the scheme which appears to remain the same as initially proposed.  
**Officer Response:** *The scheme has been reduced substantially in terms of height from the initially proposed with the eaves height being reduced from 5m to 3m and the overall height being reduced from 8.1m to 6.5m.*
- The site section is misleading.  
**Officer Response:** *This application is for outline permission including scale and access. Officers have carried out a site visit and have*

*considered to impact upon occupants along York Grove, particularly 1 York Grove which is the closest property which would be affected (when considering the indicative position of the new dwelling). The topography of the site has been fully appreciated by Officers and the relationship which would be formed with the neighbouring properties. As such, the proposed 'scale', in the opinion of officers, is acceptable.*

- The west elevation of the new dwelling is that which will face the bungalows on York Grove. It is enormous and truly oppressive with its vast, largely unbroken and featureless roof and walls.

**Officer Response:** *It is acknowledged that there would be some impact on the neighbouring properties. However, the overall height of the scheme has been reduced at the officer's request during the course of the application and this, together with the orientation of the new dwelling relative to the existing properties along York Grove, is considered to allow for a development which would have an acceptable impact on residential amenity.*

- The south elevation is overwhelming with considerable overlooking potential including a potential balcony.

**Officer Response:** *This application is for outline planning permission assessing scale and access. At this stage, the appearance of the dwelling, as shown on the submitted plans, is for indicative purposes only. However, Officers have still considered the potential impact of a dwelling in this location on the neighbouring occupants. Given the indicative orientation / appearance of the new dwelling relative to the neighbouring properties, the opportunities for overlooking are not considered to be significant.*

- The existing ground levels will be built up to create a new domestic garden.

**Officer Response:** *This application is for outline planning permission considering scale and access. The section detail indicates only very minor changes to the existing land level. However, as part of the reserved matters (layout, appearance and landscaping) full topographical details, including any changes to land levels, would need to be shown on the submitted plans.*

- The drawings and scheme remain woefully poor with little detail. The design of the dwelling remains anonymous contributing nothing to the character and distinctiveness of the area.

**Officer Response:** *This application is for outline permission considering access and scale at this time only. As such, full elevational/detailed drawings are not required at this stage and consideration in terms of the 'appearance' of the dwelling would take place at reserved matters, should outline permission be granted.*

## **RECOMMENDATION:**

**The amended plan publicity has now ended, and as such, the recommendation set out on page 22 of the agenda is updated as follows:**

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

**Change of use of A1 (Retail) to Snooker lounge and games room D2 (Assembly and Leisure) (within a Conservation Area)**

**Mina House, 47-51, Daisy Hill, Dewsbury, WF13 1LF**

*Additional comments from agent:*

The agent has submitted a statement in support of the proposed snooker/games room. Within the statement it is stated that the applicant would be willing to accept a temporary permission in order to assess the impact of the proposed use.

**Officer response:**

*A temporary permission is not considered to be acceptable for the reasons outlined within the reason for refusal.*

*We have received allegations that the snooker/games room has started operating from the unit following reports dating from March 2019. An update has also been received from the Dewsbury Policing team who are monitoring the site due to concerns.*

**Erection of 3 dwellings (within a Conservation Area)**

**adj, 1, Lowgate, Kirkburton, Huddersfield, HD8 0SE**

Ecology

A number of representations received made reference to the type of wildlife on the site which has been impacted by the removal of the trees. An informal consultation was undertaken with the K.C Ecology Officer who after assessing the site has requested for a condition to be added to the permission for measures to be included to secure ecological enhancements, should the application be approved.

Environment Agency

The Environment Agency were contacted by a resident of Low Town following the comments with 'no objection' to the proposed development. The resident provided evidence as to the position of the culvert directly to the Environment Agency. As a result of the information received, the Environment Agency have re-assessed the application and issued a holding objection as the proposal involves building within close proximity to a culverted main river. The information submitted to date by the applicant has not demonstrated there is no risk of increased flood risk as a result of this activity and subsequently the Environment Agency cannot confirm whether it would be likely to grant a flood risk activity permit for this development without further information.

Following discussions with the Environment Agency, whilst this is not considered to substantiate a reason for refusal at this stage, if Members are minded to approve, the application would need to be delegated back to Officers to secure further information prior to any decision being issued.

### Representations

Two representations were received following the publishing of the agenda. Any new issues raised which have not been included in the committee report have been summarised below based on the amended plans and additional detail with officer responses:

#### *Objections*

- The plans do not appear to be to scale and are therefore only rough approximations  
**Response:** The plans have been electronically scaled and officers are satisfied demonstrate sufficient detail to enable an assessment of the scheme to be made.
- The areas of garden are not sufficient; the back elevation shows an angle of approximately 45 degrees which is not usable space  
**Response:** The level of residential amenity offered to future residents of the proposed dwellings is assessed within the report contained in the agenda.

#### *Support*

- This application is very sensible. The applicants have changed and provided all requirements that they have been asked for.  
**Response:** The comments in support are noted and a full assessment of the amended details is included within the report.

The applicant has also submitted two photographs of the application site to evidence that the sight lines can be achieved.

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