

Public Document Pack



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

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Wednesday 27 November 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 December 2019**.

(A coach will depart the Town Hall, at 10.15am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Reception Room, 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".

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 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
Labour Group – Vacancy

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

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

Green

K Allison
S Lee-Richards

Independent

C Greaves
T Lyons

Labour

M Kaushik
W Simpson
M Sokhal
H Uppal

Liberal Democrat

A Marchington
A Munro

Agenda

Reports or Explanatory Notes Attached

Pages

1: Appointment of Chair

To appoint a Chair of the Sub-Committee for the remainder of the 2019/2020 municipal year.

2: Membership of the Committee

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

3: Minutes of Previous Meeting

1 - 4

To receive the Minutes of the previous meeting of the Sub-Committee held on 17 October 2019.

4: Interests and Lobbying

5 - 6

The Councillors will be asked to say if there are any items on the Agenda about which they might have been lobbied. The Councillors will 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.

5: 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.

6: 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.

7: Site Visit - Application 2019/92734

Erection of extensions and dormer windows to front at 9 Chapel Fold, Staincliffe, Batley.

(Estimated time of arrival at site – 10.30am)

Contact Officer: Sarah Longbottom, Planning Services

Wards

Affected: Batley West

8: Site Visit - Application 2019/92381

Change of use from retail/office to preparation and packaging of food, alterations to existing outbuilding and installation of vent at 52 Wellington Street, Batley.

(Estimated time of arrival at site – 10.50am)

Contact Officer: Louise Bearcroft, Planning Services

Wards

Affected: Batley East

9: Site Visit - Application 2019/90382

Change of use from motor cycle showroom and sales to mixed use at Brookroyd Mills, 678 Bradford Road, Batley.

(Estimated time of arrival at site – 11.10am)

Contact Officer: Rebecca Drake, Planning Services

Wards

Affected: Batley West

10: Local Planning Authority Appeals

7 - 14

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: Julia Steadman, Planning Services

Wards

Affected: Cleckheaton; Kirkburton

Planning Applications

15 - 16

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 December 2019.

To pre-register, please contact 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: 2017//92291

17 - 34

Erection of 19 dwellings with associated infrastructure and landscaping at Rock Villa Development at land off Warwick Road, Batley.

Contact Officer: Chris Carroll, Planning Services

Wards

Affected: Batley East

12: Planning Application - Application No: 2019/90382

35 - 44

Change of use from motor cycle showroom and sales to mixed use at Brookroyd Mills, 678 Bradford Road, Batley.

Contact Officer: Rebecca Drake, Planning Services

Wards

Affected: Batley East

13: Planning Application - Application No: 2019/92381 45 - 56

Change of use from retail/office to preparation and packaging of food, alterations to existing outbuilding and installation of vent at 52 Wellington Street, Batley.

Contact Officer: Louise Bearcroft, Planning Services

Wards

Affected: Batley East

14: Planning Application - Application No:2019/92734 57 - 66

Erection of extensions and dormer windows to front at 9 Chapel Fold, Staincliffe, Batley.

Contact Officer: Sarah Longbottom, Planning Services

Wards

Affected: Batley West

15: Planning Application - Application No: 2019/92982 67 - 76

Variation condition 2 (plans) on previous permission 2014/94021 for erection of one dwelling (within a Conservation Area) at East Paddock, 3, Deer Croft, Farnley Tyas, Huddersfield.

Contact Officer: Sarah Longbottom, Planning Services

Wards

Affected: Kirkburton

16: Planning Application - Application No: 2019/92739 77 - 88

Variation of Conditions 2 (plans) and 4 (materials) on previous permission 2015/93715 for erection of detached dwelling, extension to existing dwelling and formation of parking area at 51 High Street, Hanging Heaton, Batley.

Contact Officer: Rebecca Drake, Planning Services

Wards

Affected: Dewsbury East

17: Planning Application - Application No: 2019/92710

89 - 100

Reserved matters application pursuant to outline permission 2017/93347 for erection of 32 dwellings land off, Fieldhead Lane, Birstall, Batley.

Contact Officer: Bill Topping, Planning Services

Wards

Affected: Birstall and Birkenshaw

18: Exclusion of Public

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

19: Planning Application - Application No: 2019/92710

To receive exempt information in respect of Agenda Item 17.

Planning Update

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

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 17th October 2019

Present: Councillor Paul Kane (Chair)
Councillor Mahmood Akhtar
Councillor Michelle Grainger-Mead
Councillor John Lawson
Councillor Fazila Loonat
Councillor Andrew Pinnock
Councillor Nosheen Dad
Councillor Cathy Scott
Councillor Charlotte Goodwin
Councillor Graham Turner
Councillor Steve Hall

Apologies: Councillor Mussarat Pervaiz
Councillor Kath Taylor

1 Membership of the Committee

Apologies for absence were received on behalf of Councillors Pervaiz and K Taylor.

2 Minutes of Previous Meeting

RESOLVED – That the Minutes of the Meeting held on 5 September 2019 be approved as a correct record.

3 Interests and Lobbying

Councillors Akhtar, Dad, Grainger-Mead, Kane, Loonat, Scott and Turner advised that they had been lobbied on Application 2019/90155.

Councillor Dad advised that she had been lobbied on Application 2019/91766.

Councillor Grainger-Mead declared an 'other' interest in Application 2019/91346 on the grounds that she knew the applicant and left the meeting during the consideration and determination of the application.

4 Admission of the Public

All agenda items were considered in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

Planning Sub-Committee (Heavy Woollen Area) - 17 October 2019

7 **Site Visit - Application No: 2019/91766**

Site visit undertaken.

8 **Site Visit - Application No: 2019/91346**

Site visit undertaken.

9 **Site Visit - Application No: 2019/90155**

Site visit undertaken.

10 **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.

11 **Planning Application - Application No: 2019/91529**

The Sub-Committee gave consideration to Application 2019/91529 – Outline application for erection of one detached dwelling at 99 Knowl Road, Mirfield.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Tony Dennis (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 timeframe for submission of reserved matters
- in accordance with plans
- sightline provided/retained
- parking areas provided, surfaced and drained
- entrance widened to 6m and wall reduced for the extent shown on the submitted plan
- reporting of any unexpected land contamination
- 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
- provision of electric vehicle charging point (one charging point per dwelling with a dedicated parking space)
- footnote relating to an aboricultural method statement
- footnote relating to suggested construction hours due to the close proximity of unrelated residential properties

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

For: Councillors Akhtar, Dad, Goodwin, Grainger-Mead, S Hall, Kane, Lawson, Loonat, A Pinnock, Scott and Turner (11 votes)

Against: (no votes)

12 Planning Application - Application No: 2019/90155

The Sub-Committee gave consideration to Application 2019/90155 – Change of use and alterations to convert trade counter retail unit to function room at former Harrison’s Electrical Warehouse, Huddersfield Road, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Eric Appleton (on behalf of the applicant).

Under the provisions of Council Procedure Rule 36(1), the Sub-Committee received representations from Councillor Asif and Councillor Ahmed.

RESOLVED – That the application be deferred in order to allow the applicant to provide further information to address the recommended reasons for refusal relating to the impact assessment and highways safety.

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

For: Councillors Akhtar, Dad, S Hall, Kane, Loonat and Scott (6 votes)

Against: Councillors Grainger-Mead, Goodwin, Lawson, A Pinnock and Turner (5 votes)

13 Planning Application - Application No: 2019/91766

The Sub-Committee gave consideration to Application 2019/91766 – Raising of roof to form third floor extension at 1-3 Park Street, Heckmondwike.

Under the provisions of Council Procedure Rule 36(1), the Sub-Committee received a representation from Councillor Kendrick (ward member).

RESOLVED – That the application be refused on the grounds that;

(i) The proposed extension by virtue of its scale and prominent location of the dwelling would result in a dominant development which would not appear subservient to the original building, resulting in an incongruous feature within the street scene. The proposal would not promote good design and would be unduly harmful to the visual amenity of the area, contrary to Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework (ii) The erection of an additional storey to nos. 1-3 Park Street would result in a building which would have an overbearing and overshadowing impact on both the outdoor amenity space and the living accommodation of occupants of nearby dwellings. As such, the proposal would fail to provide a high standard of amenity for future and neighbouring occupiers. To permit such a development, which would be unduly harmful to the residential amenity of neighbouring occupiers, would be contrary to Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework, and (iii) The proposed extension, due to the location of habitable room windows on the south elevation would result in an increase in overlooking due to the elevated nature of the windows above those on the rear elevation of the dwellings on Parker Road. As such, the proposal would fail to provide a high standard of amenity for future and neighbouring occupiers. To permit such a development, which would be unduly harmful to the residential amenity of neighbouring occupiers, would be contrary to Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Planning Sub-Committee (Heavy Woollen Area) - 17 October 2019

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

For: Councillors Goodwin, Grainger-Mead, Lawson, A Pinnock, Scott and Turner (6 votes)

Against: (no votes)

Abstained: Councillors Akhtar, Dad, S Hall, Kane and Loonat.

14 **Planning Application - Application No: 2019/91346**

The Sub-Committee gave consideration to Application 2019/91346 – Erection of detached dwelling with integral garage adjacent to The Hall, Liversedge Hall Lane, Liversedge.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Stuart Wrathmell (applicant's agent) and Sarah Reid (applicant).

Under the provisions of Council Procedure Rule 36(1), the Sub-Committee received a representation from Councillor Kendrick (ward member).

RESOLVED – That the application be refused on the grounds that the proposed 4 bedroom detached house within the garden of Liversedge Hall would cause a high level of harm to the significance of the Grade II Listed Building and would impact upon the aesthetic and historical value of the Hall by reason of its visibility from the Hall, resulting in the loss of soft landscaping and further reduce land associated with it since the proposed dwelling, together with the existing two dwellings developed in the garden area would leave it with only half of the gardens that it benefitted from when re-modelling took place in the late 19th Century, and a fragment of the land to which it was associated from the medieval period until the early 20th Century. The installation of a blue plaque to raise awareness of the history of the Hall has been proposed by the applicant and would be of a public benefit, albeit limited in nature when weighed against the high level of harm of the proposed house on the setting of the listed building. As such, the public heritage benefits are not outweighed by the high level of harm to the setting of Liversedge Hall and the principle of the proposed house is unacceptable, contrary to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies LP24 and LP35 of the Kirklees Local Plan, as well as chapters 12 and 16 (particularly paragraphs 194 and 196) of the National Planning Policy Framework.

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

For: Councillors Dad, Kane, Lawson, Loonat, A Pinnock, Scott, Turner (7 votes)

Against: (no votes)

Abstained: Councillors Akhtar, Goodwin and S Hall

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 DECEMBER 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: Cleckheaton and Kirkburton

Ward councillors consulted: No

Public or private: Public

1. Summary

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

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

- 2.1 2017/62/93517/E - Erection of 1.5m fence on-top of dry-stone front wall and erection of gate at 78A, Westgate, Cleckheaton, BD19 5HH. (Officer decision) (Dismissed)
- 2.2 2018/60/93850/E - Outline application for erection of one detached dwelling at rear of, 1, Yew Tree Road, Shepley, Huddersfield, HD8 8DT. (Officer decision) (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
- 9. Background Papers and History of Decisions**
Not applicable



Appeal Decision

Site visit made on 8 October 2019 by L Wilson BA (Hons) MA

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/Z4718/D/19/3234772
78a Westgate, Cleckheaton, BD19 5HH

- 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 Luke Clough against the decision of Kirklees Metropolitan Council.
 - The application Ref 2017/62/93517/E, dated 5 October 2017, was refused by notice dated 11 July 2019.
 - The development proposed is described as securing a 1.5 Metre fence on-top of the Coping stones of the dry-stone wall running along the boundary wall at the front of the property and fitting a gate in place with a post box so no access required.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

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

Main Issue

3. The application that led to this appeal is retrospective. The main issue is the effect of the fence on the character and appearance of the street scene, and linked to that, whether the proposal compromises security.

Reasons for the Recommendation

4. No. 78a is a two-storey semi-detached dwelling. The property and garden sit higher than the highway. In the street scene there are commercial uses and residential properties; a range of boundary treatments are present which includes fencing, hedging and walls. The Council state the front boundary previously consisted of a number of established shrubs with open views into the front garden area, this is not disputed by the appellant.
5. The solid timber fence runs along the front boundary of the site and sits above the boundary wall. The fence appears in stark contrast to the adjoining boundary treatment. Due to the fence's solid design, height, length and siting in a prominent location it has a harmful impact upon the street scene as it appears as a dominant and incongruous feature. The applicant states they intend to treat the fence and add hanging baskets, although this would improve the appearance of the fence it would not overcome the harm identified.

6. Whilst the fence might reduce natural surveillance there is nothing before me to indicate that it has, or would, compromise the security of the property. The first-floor windows of no. 78a overlook the garden and Westgate, additionally there are a number of properties which have windows facing the dwelling. The appellant considers the fence improves security and safety, prevents litter, help confine their pet dog and deter people from sitting on the wall. Nonetheless, the development has a visually harmful effect upon the quality of the street scene given the location of the fence. These considerations do not justify visually harmful development.
7. The appellant states they will erect the fence behind the boundary wall if the appeal is dismissed. Be that as it may, even if there is a realistic prospect of a fence being erected under permitted development rights, the appeal fence has a harmful effect upon the street scene.
8. For these reasons, the development has an unacceptable visual effect on the character and appearance of the street scene. Consequently, it conflicts with Policies LP2 and LP24 of the Kirklees Local Plan Strategy and Policies (2019) and the National Planning Policy Framework.

Conclusion and Recommendation

9. On the available evidence the fence does not compromise the security of the property. However, the development has a significant adverse visual effect on the character and appearance of the street scene to which I attach significant weight. For the reasons given above, I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

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

A U Ghafoor

INSPECTOR



Appeal Decision

Site visit made on 13 August 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2019

Appeal Ref: APP/Z4718/W/19/3223317

1, Rear of Yew Tree Road, Shepley, Huddersfield HD8 8DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Louise Denning against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/60/93850/E, dated 20 November 2018, was refused by notice dated 17 January 2019.
 - The development proposed is a detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with approval of access and layout being sought, and appearance, landscaping and scale reserved for future consideration. I have dealt with the appeal and considered the submitted plans on this basis.
3. The Council's decision notice refers to Policies D2, BE1, BE2 and BE12 of the Kirklees Unitary Development Plan (the UDP). The Kirklees Local Plan (the Local Plan) was adopted on 27 February 2019 and replaces the UDP which has now been superseded. The Council have provided the relevant up to date Policies with their Statement of Case, and I am satisfied that there has been an adequate opportunity for those interested in the appeal to address the updated policy position.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the area, and the living conditions of adjacent occupiers with particular regard to outlook and privacy.

Reasons

Character and Appearance

5. The appeal site is located in Shepley, a village characterised by undulating topography, and traditional period sandstone terraced dwellings. The prevailing pattern of development is partly characterised by rows of terraces that line the street. The appeal site is located in between two separate terraces of 1 to 21 Yew Tree Road and 33 to 51 Yew Tree Road. These are both traditional sandstone terraces, each dwelling having a garden plot which

they overlook, separated by a shared access track, this layout is typical of these period properties and contributes to the distinctive character and appearance of the area. Due to the topography of the area, the appeal site is at a prominent elevated position, above 33 Yew Tree Road.

6. Whilst the proposal is outline, the appellant seeks approval of the access and layout, and has submitted a layout plan which shows how the dwelling would be positioned within the site, and its relationship with surrounding properties. The siting of the dwelling behind Nos 1- 21 would not respect the prevailing pattern of existing buildings surrounding the site. Furthermore, a detached dwelling would not be in keeping with the terraced style of dwellings which surround the site and given its elevated position it would appear as an incongruous feature within its surroundings.
7. The proposed dwelling would be to the side of number 31 Yew Tree Road, which forms part of another terrace. However, irrespective of the site being adjacent to another dwelling it still falls behind the building lines identified above and would not respect the character and appearance of the area for that reason.
8. Consequently, the proposed dwelling would result in an incongruous feature, that would harm the character and appearance of the area. As such it would fail to enhance its immediate setting and would not accord, in that regard, with Policy LP24 of the Local Plan and paragraph 127 of the Framework, which collectively seek to ensure that new development the form, scale, layout and details of all development respects and enhances the character of the townscape.

Living Conditions

9. The proposed dwelling would be positioned behind 1 Yew Tree Road, which currently overlooks the appeal site and benefits from an open aspect across existing gardens. The positioning of the proposed dwelling would result in the loss of this outlook, and the scale of the detached dwelling shown on the layout plan would be likely to appear dominant and overbearing when viewed by the occupiers of 1 Yew Tree Road.
10. Due to the close proximity identified above, there would also be likely to be a significant amount of overlooking and loss of privacy caused to the occupiers of 1 Yew Tree Road. The layout plan shows the front elevation positioned to face towards the access, in an attempt to off-set, and angle any overlooking. However, due to the close proximity, this would not prevent the significant overlooking that would be likely to result.
11. 33 Yew Tree Road is positioned at a lower level beneath the appeal site and has a rear garden that would be positioned behind the rear elevation of the proposed dwelling. The submitted plans show that the proposed rear garden would be relatively short in length and would not provide sufficient distance between the habitable room windows on the rear of the proposed dwelling and the private garden space of No 33. Consequently, it appears likely that the proposed development would result in substantial overlooking and loss of privacy to the occupiers of No 33.
12. Whilst the proposed development is in outline, from the evidence provided I am not satisfied that these issues would be satisfactorily addressed at the reserved

matters stage, such that the proposed development would result in harm to the living conditions of neighbouring occupiers.

13. Consequently, the proposed dwelling would be likely to appear overbearing and cause loss of privacy to existing and future occupiers of 1 Yew Tree Road and would overlook the private garden of 33 Yew Tree Road. On this basis the proposed development would not accord, in that regard, with the criteria set out in Policy PLP24 of the Local Plan which seeks to ensure that new provides a high standard of living conditions for future and neighbouring occupiers.

Other Matters

14. I have considered the concerns raised by local residents in relation to the effect of the development highway safety with regards to the condition of the access, visibility, congestion and parking, and have noted that the Council have no concerns as such matters could be controlled through planning conditions. These are matters that do not affect my findings on the main issues.

Conclusions

15. For the reasons identified above the appeal is dismissed.

R Cooper

INSPECTOR

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

PLANNING POLICY

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

National Policy/ Guidelines

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

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

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

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

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

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Dec-2019

Subject: Planning Application 2017/92291 Erection of 19 dwellings with associated infrastructure and landscaping Rock Villa Development, Land off Warwick Road, Batley, WF17 6AN

APPLICANT

Farmah Enterprises

DATE VALID

31-Jul-2017

TARGET DATE

30-Oct-2017

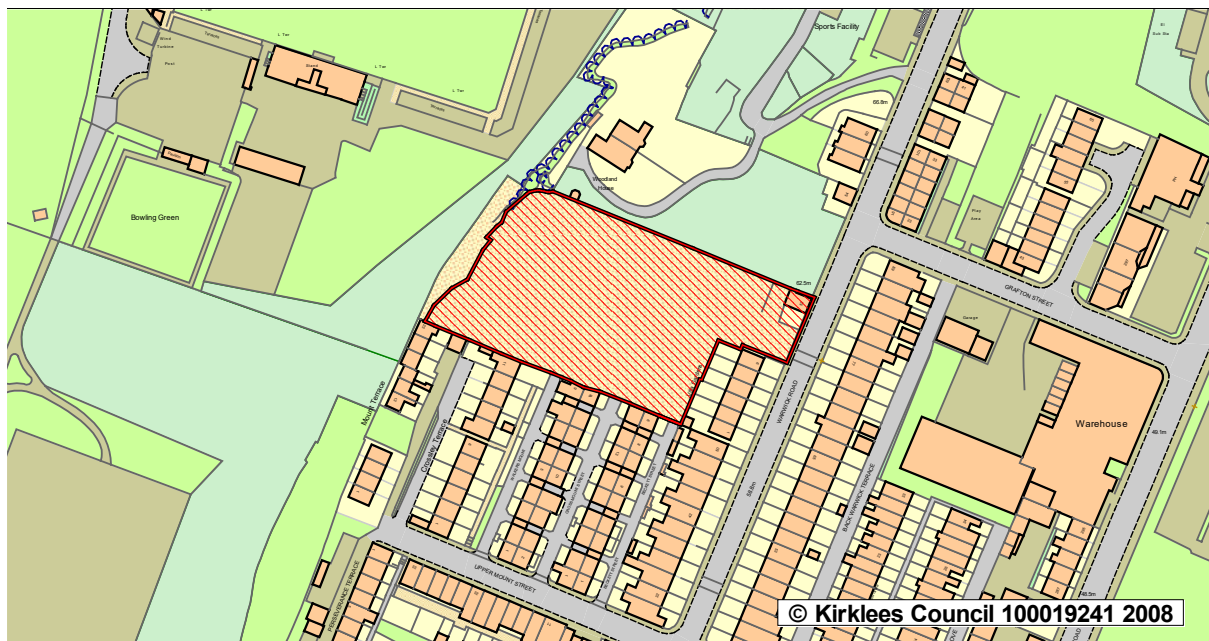
EXTENSION EXPIRY DATE

31-Jul-2019

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Batley East

Yes

Ward Members consulted
(referred to in report)

POSITION STATEMENT:

For Members to note the content of the report and presentation and to grant officers a further period of time to conclude negotiations on the outstanding highway matters and s106 Agreement.

1.0 INTRODUCTION:

1.1 The Council's Officer-Member Communication Protocol provides for the use of Position Statements at Planning Committees. A Position Statement would usually be provided prior to an application being formally considered by the Planning Committee. However, in this case the application is brought to the Heavy Woollen Sub-Committee as a Position Statement in relation to progress with regards to highway matters, housing mix and the s106 Agreement.

1.2 The Heavy Woollen Sub-Committee resolved to approve the application on 1st June 2018. The resolution was:

"That the application be delegated to officers to impose conditions and approve, and authority be delegated to the Head of Planning and Development to issue the decision notice, subject to the resolution of issues relating to highways matters, including highways safety and site access (The Sub-Committee resolved to approve the application contrary to the Officer's recommendation)."

1.3 Since this resolution, officers have had numerous discussions with the applicant regarding highway matters. In addition, the Council's legal team have recently been instructed to carry out a section 106 agreement to secure the necessary planning obligations for Public Open Space and Affordable Housing, as well as the implementation of a temporary drainage system.

2.0 SITE AND SURROUNDINGS:

2.1 The site measures 0.54 hectares (1.34 acres) and comprises a steep sloping parcel of land which is generally overgrown. It slopes up steeply from Warwick Road with levels at Warwick Road being *circa* 61m AOD rising up to 84m AOD at the rear of the site. Warwick Road lies to the west of, and runs parallel to, Bradford Road.

- 2.2 Historical maps show that the top of the site was once occupied by a dwelling (Rock Villa) with the slope of the site comprising gardens associated with the dwelling. This was apparently demolished in the 1960's.
- 2.3 The site is sandwiched between different residential developments which run along the western side of Warwick Road. Beyond the western boundary of the site and over the crest of the slope is Batley Rugby League Club.
- 2.4 To the south of the site is a high density arrangement of dwellings on streets located off Upper Mount Street. On the northern boundary are a number of trees, none of which are protected by a preservation order.

3.0 PROPOSAL:

- 3.1 The proposal is a full application for the erection of 19 dwellings, comprising a mix of two, three, four and five bedroom units which would be arranged as townhouses with terraced rear gardens.

- 3.2 The units would comprise:

3 No. Five Bedroom Eight Person Dwelling @ 177m²
2 No. Four Bedroom Six Person Dwelling @ 143m²
10 No. Three Bedroom Six Person Dwelling @ 126m²
4 No. Two Bedroom Three/Four Person Dwelling @ 78m²

- 3.3 Parking Provision:

4 No. Parking Spaces per Five Bedroom Dwelling
3 No. Parking Spaces per Four Bedroom Dwelling
2 No. Parking Spaces per Three Bedroom Dwelling
4 No. Visitor Parking Spaces

- 3.2 Gardens and areas surrounding the site would be supported by a number of retaining walls to address the significant level differences across the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2016/20216 – Pre-application advice given in October 2016 based on 22 dwellings. This set out that the scheme was generally considered acceptable subject to design amendments and subject to an off-site contribution to public open space and 20% affordable housing. In terms of highways impacts, officers set out advice which included the following:

“...Sightlines of 2.4 x 43 metre sight lines will need to be provided onto Warwick Road. It is noted that the sightlines as shown are over third party land and the provision of the sightlines would therefore be outside of the applicant's control...”

92/03897 – Erection of residential development (9 dwellings) - The six properties to the left of the proposed junction (opposite side to No 52) were built as part of the application, however, the road and 3 other dwellings were not built.

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

- 5.1 After the planning committee, officers engaged with the agent to discuss the revisions to the proposal to address the outstanding highway matters explained in paragraph 1.2 of the report. Amendments to the proposal include a revision to the highway layout and parking provision.
- 5.2 Additionally, plans and supporting information have been submitted by the applicant which now propose a change in the design, housing mix and affordable housing offer. These changes are discussed further within section 8.0 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).

6.2 Kirklees Local Plan (2019):

Relevant policies are:

- LP1** – Presumption in favour of sustainable development
- LP3** – Location of New Development
- LP7** – Efficient and effective use of land and buildings
- LP11** – Housing Mix and Affordable Housing
- LP20** – Sustainable Travel
- LP21** – Highway safety and access
- LP22** – Parking
- LP24** – Design
- LP27** – Flood Risk
- LP28** – Drainage
- LP30** – Biodiversity and Geodiversity
- LP32** – Landscape
- LP35** – Historic Environment
- LP48** – Community facilities and services
- LP51** – Protection and improvement of local air quality
- LP52** – Protection and improvement of environmental quality
- LP61** – Urban Green Space
- LP62** – Local Green Space
- LP63** – New Open Space

6.3 Supplementary Planning Guidance / Documents:

- Interim Affordable Housing Policy (2016)
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Highways Design Guide SPD
- Planning Practice Guidance
- National Design Guide

Many policies within the National Planning Policy Framework are relevant to this proposal and, where relevant, are referred to in the main report text.

National Planning Guidance:

- 6.4 **Chapter 2** – Achieving sustainable development
- Chapter 5** – Delivering a sufficient supply of homes
- Chapter 8** – Promoting healthy and safe communities
- Chapter 9** – Promoting sustainable transport
- Chapter 11** – Making effective use of land
- Chapter 12** – Achieving well-designed places
- Chapter 15** – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by site notice and neighbour notification letters. A total of 18 letters of objection were received. These were summarised and addressed within the original committee report. No further public consultation has been carried out.

8.0 APPRASIAL

- 8.1 The purpose of this Position Statement is to focus on those matters that were delegated back to officers to resolve. These are highways matters, including highway safety and site access.
- 8.2 The Position Statement also focuses on the changes to the proposal in relation to the proposed housing mix and financial contributions towards affordable housing and public open space to be secured by section 106 agreement.

Highways

- 8.3 Policy LP21 of the Local Plan aims to encourage modes of sustainable travel and to ensure that new developments achieve a safe and suitable access, without materially adding to existing highway problems or undermining the safety of all users of the network. This policy objective is supported by paragraph 108 of the NPPF, which states that specific applications for development should ensure that:
 - a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 8.4 As detailed in the original committee report, Warwick Road is a classified road which runs generally parallel to Bradford Road (A652) and provides a main thoroughfare for the large urban area which resides to the west of Bradford Road. It runs from Batley Carr to the south to Taylor Street, which lies immediately to the west of Batley, thus providing a peripheral link between the two urban areas. The applicant's original submission included a snapshot of traffic movements in May 2018 over a 7 day period. It showed approximately 1200 daily two way movements. Two way movements generally spike between 1500 and 1700 on weekdays comprising between 120 and 185 movements per hour. The proposed development, given its relatively small scale, is not considered to lead to a significant impact on network capacity.

- 8.5 There are schools along Warwick Road to the north and south and properties facing Warwick Road generally front the road. There is a mosque and Islamic centre to the south. Whilst it is acknowledged that properties adjacent to the site have in-curtilage parking, on-street parking is particularly evident along certain stretches of the road due to a lack of in-curtilage parking associated with the older terraced properties and at times associated with the school peak. Objectors have referred to parking issues being prevalent in the area. In addition, the street appears to be well used by local people to move between local shops, the school and the mosque and Islamic centre. Warwick Road includes a series of speed reduction features (speed bumps) which suggests that excessive vehicle speed and road safety has been a concern.
- 8.6 The proposed development involves a simple priority junction onto Warwick Road which would be positioned in between no.52 Warwick Road on the northern side, and a row of terraced properties slightly set back from Warwick Road on the southern side known as 'Villa Gardens'. No52 Warwick Road faces the proposed access and the gable end of the property faces Warwick Road. Along the frontage is a stone wall with a prominent stone column feature on the corner abutting the existing footway.
- 8.7 The original committee report explained that the proposed visibility splay (i.e. 2.4m set back and 13m in distance) to the north from the proposed junction along Warwick Road would not accord with the visibility splays set out in Manual for Streets (i.e. 2.4m set back and 43m in distance). This was due to the proximity of the wall and pillar on the corner of the proposed access associated with no.52. In order to address the deficiency in terms of an achievable visibility, the applicant carried out several speed surveys. However, Highways DM Officers considered that these readings were incorrectly carried out as the speed readings did not take the extents of the proposed visibility splays to enable a definitive recommendation to be given.
- 8.8 A planning update was provided at committee, which included the applicant's response to the original committee report, an additional speed survey report and a revised layout plan. The revised layout plan adjusted the site access in response to the speed surveys in order to achieve 2.4m x 23m in both directions from the proposed junction with Warwick Road.
- 8.9 The original committee report also raised issues with the proposed internal highway design, particularly with respect to levels and gradients. The planning update also explained how Highways DM officers requested additional information to be provided by the applicant, including:
- 11.85 refuse vehicle swept path analysis at the proposed junction with Warwick Road;
 - Longitudinal sections of the proposed internal layout;
 - An independent Stage 1 Road Safety Audit carried out of the proposed junction plateau at the site access with Warwick Road.

8.10 The planning update explained that the information supplied by the applicant may allow a suitable junction to be designed but this was dependent on the submission of additional detail as stated with the officer response above. As such, the officer recommended that the application be deferred to allow the applicant to submit further information in order to address outstanding highway safety concerns. As detailed in paragraph 1.2 of the report members have delegated the application to officers to impose conditions and approve.

8.11 After the committee, officers have held a meeting and have had numerous email correspondence with the applicant team to try and address the above matters and the following has been agreed:

1. Highways DM officers requested speed readings to be taken at the extents of the proposed visibility splays to enable a definitive recommendation to be given.

The applicant referred to planning application reference 2017/92772, where officers had recommended approval for the erection of 6 town houses at land adjacent to Woodland House, 2 Warwick Road, Batley, WF17 6AP. Highways DM officers confirm that application reference 2017/92772 included speed readings with an 85%ile speed reading of 19mph southbound. The recommended sight line for a 19mph speed is 23m. The visibility from the driveways in respect of application reference 2017/92772 would be 2.4m x 27m in both directions. The proposed development achieves 2.4m x 23m in a northerly direction. However, a plateau is proposed to ensure a reduction in vehicle speeds. Therefore, given the circumstances it is considered that the proposed development potentially achieves a safe access, subject to a condition requiring further details, concerning the plateau and details below.

2. Highways DM officers requested that a swept path analysis was provided, using an 11.85m refuse vehicle at the proposed junction with Warwick Road.

The applicant has provided plan reference WR-100-002 P2, which addresses this matter.

3. Highways DM officers have requested that longitudinal sections of the proposed internal layout are provided.

The applicant has provided site plans, including plan reference WR-100-001 P02 showing the levels and gradients of the proposed internal highway. The plans show an 8.9% (1 in 11) maximum gradient to the inside of the proposed highway bends. These gradients are considered to be acceptable. Longitudinal sections can be conditioned to be provided as part of the detailed design.

4. Highways DM officers have requested that an independent Stage 1 Road Safety Audit carried out of the proposed junction plateau at the site access with Warwick Road

Highways DM officers accept that this information can be secured by planning condition.

5. The site plans only show a single width driveway to the frontage of plot 7 which has a double garage. The proposed driveway should therefore be increased in width.

The applicant has subsequently revised the plans to show a double width driveway to the front of plot 7.

- 8.12 Draft conditions, which have been agreed with the applicant's agent are included in section 10.0 of this report.
- 8.13 It is considered that with the above conditions, the proposal would accord with Policy LP21 of the KLP and paragraph 108 of the NPPF, in seeking a safe and suitable access arrangement with Warwick Road and internal road layout.

Do Members have any comments in relation to the draft planning conditions agreed with the applicant's agent, in relation to the above matters on highway safety and access?

Design, Housing Mix and Affordable Housing

- 8.14 During the course of negotiations the applicant has submitted revised plans and information, primarily to address the outstanding highway matters. However, as demonstrated in the following table the latest plans and supporting information now show a slightly different housing mix and affordable housing offer.

House Type	Original Plan (no. of dwellings)	Latest Plan (no. of dwellings)
Type 1 Dwelling: 4 Bedroom (6 Person)	1	1
Type 2 Dwelling: 5 Bedroom (8 Person)	2	2
Type 3 Dwelling: 4 Bedroom (6 Person)	2	1
Type 4 Dwelling: 5 Bedroom (8 Person)	1	1
Type 5 Dwelling: 3 bedroom (6 Person)	9	10
Type 6 Dwelling: 2 Bedroom (3/4 Person) – Affordable housing	4	4

- 8.15 No justification has provided within the supporting information about the proposed revisions to the planning application.
- 8.16 In terms of design, the introduction of one more dwelling that is 'house type 5' means a greater number of long, narrow plots with dormer windows, creating a built form with more vertical emphasis in the proposed street scene. This house type has already been considered acceptable and the proposed internal streets would still be defined by town houses. When assessing street scene plans, officers do not consider that such proposals would have any adverse impact on the visual character of the street scene. Also, given the separation distances between the dwellings it is considered that there would be no adverse impact on the proposed and existing residential amenity.
- 8.17 The proposal would deliver a greater number of 3 bedroom dwellings, but as shown in table 7.1 of the Kirklees Council's Strategic Housing Market, there is the greatest need in the Kirklees district for this type of dwelling unit. Furthermore, the proposal would also provide some 4 and 5 bedroom dwellings. As such, officers still consider that such a proposal would contribute positively to the Batley and Spennings Dale sub area's housing mix.

- 8.18 With respect to affordable housing, the applicant had originally proposed to include four (21%) affordable dwellings in the development, which were plots 3, 4, 13 and 14 and were all two bedroom dwellings. At the time, officers (and members) welcomed the proposed affordable housing contribution and recommended that the units were split between two affordable rent and two intermediate units. The original proposal would fully accord with Policy LP11 of the KLP in ensuring that 20% of the total units would be affordable housing and would be provided on site. However, no section 106 agreement has ever been drafted or secured.
- 8.19 Since planning committee, the applicant had submitted a revised layout showing no affordable housing, this was apparently due to financial constraints related to topography. However, no viability appraisal or suitable justification was ever provided to demonstrate this issue. As such, further negotiations have taken place with the applicant and the latest proposals revert back to the provision of four (21%) affordable dwellings being provided on site. These are plots 3, 4, 13 and 14 and are all two bedroom dwellings. The type and mix of affordable housing shall be secured by section 106 agreement and draft Heads of Terms have been provided to the Council's Legal officers.
- 8.20 At the time of writing this report, Strategic Housing have been re-consulted and their comments will be provided within the planning update. However, it is considered that the proposal now accords with Policy LP11 of the Local Plan and Chapter 5 of the NPPF.

Do Members agree with officers that the proposed amended design, housing mix and affordable housing contribution is still acceptable and accords with the original committee resolution?

Public Obligations

- 8.21 In accordance with paragraph 56 of the NPPF planning obligations should only be sought where they meet the following three tests:
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.

Public Open Space

- 8.22 The original committee report for 19 dwellings sought a contribution of £50,600 is required. In addition, an off-site contribution towards an existing LAP/play area on Grafton Street would be required. In total a contribution of £94,701 would be required. This financial contribution would still be required and would ensure that the proposed development was in accordance with Policy LP63 of the Local Plan. This is to be secured as part of the S106 Agreement.

Affordable Housing

- 8.23 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. The applicant has offered four affordable units on-site which is fully policy compliant. The Council would wish to see two affordable rent and two intermediate units. As set out above, this shall be secured as part of the S106 Agreement.

Drainage

- 8.24 In line with Policies LP27 and LP28 of the KLP, the Council would also seek a long term maintenance and management of the drainage proposals. This would be secured through a management company before which the Statutory Undertaker can adopt the system and in the event adoption of such system is not undertaken.
- 8.25 At the time of writing the report the applicant had not completed a draft S106 Agreement.

Do Members have any questions in relation to the proposed planning obligations?

9.0 CONCLUSION

- 9.1 Members are asked to note the contents of this report. Members' comments in response to the question listed above (and summarised below) would help and inform any further ongoing negotiations with the applicant.
- **Do Members have any comments in relation to the draft planning conditions agreed with the applicant's agent, in relation to the above matters on highway safety and access?**
 - **Do Members agree with officers that the proposed amended design, housing mix and affordable housing provision is still acceptable?**
 - **Do Members have any questions in relation to the proposed planning obligations?**
- 9.2 A formal extension of time to the application's determination period has been agreed with the agent to Friday 6th December 2019.
- 9.3 Dependant on the outcomes of the committee, officers shall seek a further period of time to conclude the S106 negotiations should this be required.

10.0 DRAFT PLANNING CONDITONS AND REASONS

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

3. Prior to any superstructure works details of the materials to be used in the construction of the external surfaces of the development, including all external fixtures, fittings, facing brickwork, and window frames as well as bin storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained.

Reason: In the interests of the visual amenity and character of the surrounding area and to accord with Policy LP24 of the Kirklees Local Plan as well as Chapter 12 of the National Planning Policy Framework.

4. No building shall be occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, formulated in conjunction with conditions 11 and 19. The scheme shall include indications of all existing trees and plants on the land, and details of any to be retained, together with measures for their protection, in the course of development. The approved scheme shall be implemented so that planting is carried out no later than the first planting season following the occupation of the building(s) or the completion of the development whichever is the sooner. All planted materials shall be maintained for five years and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted unless the council gives written consent to any variation.

Reason: In the interests of the visual amenity and character of the surrounding area and to accord with Policies LP24 and LP32 of the Kirklees Local Plan as well as Chapter 12 of the National Planning Policy Framework.

5. Development shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This is a pre-commencement condition to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.

6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 5, development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This is a pre-commencement condition to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 6, development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This is a pre-commencement condition to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 7. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

10. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

11. Notwithstanding the submitted plans and information, details of all boundary treatments within and on the edge of the site shall be submitted and approved in writing by the Local Planning Authority before any dwelling is first occupied. The development shall then be completed in accordance with the approved details before the dwelling to which the boundary treatment relates is first occupied and thereafter retained.

Reason: To ensure that visual amenity, residential amenity and crime prevention are safeguarded in accordance with Policy LP24 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

12. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and thereafter retained throughout the lifetime of the development.

Reason: To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental well-being and to accord with Policies LP27 and LP28 of the Kirklees Local Plan and the National Planning Policy Framework. This is a pre-commencement condition to identify any flood risk and/or drainage impacts and the mitigation required which need to be approved and implemented at an appropriate stage.

13. Development shall not commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:

- phasing of the development and phasing of temporary drainage provision.
- include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

Reason: To ensure the provision of adequate temporary means of drainage, in the interests of amenity, environmental well-being and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

This is a pre-commencement condition as flood risk and siltation can increase as a result of early site works and mitigation measures need to be approved and implemented at an appropriate stage.

14. No development shall take place until a scheme detailing the proposed internal adoptable estate roads have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audits covering all aspects of work. Before any building is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Reason: To ensure that suitable access is available for the development and in the interests of highway safety in accordance with Policies LP21 and LP24 of the Kirklees Local Plan, the Highways Design Guide Supplementary Planning Document as well as the National Planning Policy Framework. This is a pre-commencement condition as any internal roads intended to be adopted will need to be designed at an appropriate stage of the development process.

15. Notwithstanding the details shown on the approved plan, the development shall not commence until a scheme detailing the provision of a raised plateau at the junction of the proposed estate road and Warwick Road, construction specification, surfacing, drainage, kerbing, Transport Regulation Orders and associated highway works together with an independent safety audits covering all aspects of work has been submitted and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved scheme has been implemented and thereafter retained throughout the lifetime of the development.

Reason: To ensure that suitable access is available for the development and in the interests of highway safety in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework. This is a pre-commencement condition to ensure that the necessary works to Warwick Road are designed and implemented at an appropriate stage to address any potential highway safety matters associated with the proposal.

16. Before the development commences a scheme detailing the location and cross sectional information together with the proposed design and construction details for all new retaining walls adjacent to proposed adoptable highways shall be submitted to and approved by the Highway Authority in writing. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: To ensure that suitable road layout and access can be achieved in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework. This is a pre-commencement condition to ensure that the appropriate structures are designed and implemented at an appropriate stage to establish a safe and accessible highway layout.

17. Before the development commences a scheme detailing the location and cross sectional information together with the proposed design and construction details for all new surface water attenuation culverts/ tanks located within the proposed highway footprint shall be submitted to and approved by the Highway Authority in writing. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: To ensure that suitable road layout and access can be achieved in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework. This is a pre-commencement condition to ensure that the appropriate structures are designed and implemented at an appropriate stage to establish a safe and accessible highway layout.

18. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

19. Prior to occupation of the development hereby approved, secure, covered and conveniently-located cycle parking (for use by staff of and visitors to the development hereby approved) shall be provided and shall be retained thereafter.

Reason: In the interests of encouraging the use of sustainable transport modes, and to accord with Policies LP21 and LP22 of the Kirklees Local Plan as well as the Highways Design Guidance Supplementary Planning Document.

20. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include details of the following:

- (i) a timetable of all works, including hours for site preparation, delivery of materials and construction;
- (ii) details of point(s) of access for construction traffic, vehicle sizes and routes, times of vehicle movements and, signage;
- (iii) pre-development road condition surveys of Warwick Road;
- (iv) the parking of vehicles of site operatives and visitors;
- (v) loading and unloading of plant and materials;
- (vi) storage of plant and materials used in constructing the development;
- (vii) the erection and maintenance of security hoarding;
- (viii) wheel washing facilities;
- (ix) measures to control the emission of dust and dirt during construction;
- (x) a scheme for managing and the recycling/disposing of waste resulting from construction works.
- (xi) location of any portable cabin structures.

The development shall be carried out strictly in accordance with the CMP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Upon completion of the development, post-development road condition surveys and a schedule of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development.

Reason: In the interests of the amenity of the locality and in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework. This is a pre-commencement condition as construction works may have an impact on the amenity of the locality and therefore, a scheme is required in order to mitigate impacts prior to any works taking place on site.

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Class A of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To protect the visual amenity of the area and to satisfactorily protect the residential amenity of nearby occupiers, in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

22. Prior to occupation of the development hereby approved details of storage and access for collection of wastes from the development shall be submitted to and approved in writing by the Local Planning Authority. The works comprising the approved details shall be implemented before first occupation and shall be so retained thereafter.

Reason: In the interests of amenity and highway safety, to comply with the Council's sustainability objectives, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan as well as the Highways Design Guidance Supplementary Planning Document.

23. No superstructure works shall take place until a scheme of details of finished floor levels of each dwelling, and details of levels of their curtilages and adjacent estate road, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the details so approved and no dwelling shall be occupied until the works relating to that property have been completed. These shall be so retained for the lifetime of the development.

Reason: To ensure the development is in character with its surroundings, in the interests of neighbour amenity, and in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

24. No development shall take place until an Ecological Design Strategy (EDS) addressing mitigation, compensation, enhancement and restoration has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:

- a. Purpose and conservation objectives for the proposed works.
- b. Review of site potential and constraints.
- c. Detailed design(s) and/or working method(s) to achieve stated objectives.
- d. Extent and location/area of proposed works on appropriate scale maps and plans.
- e. Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g. Persons responsible for implementing the works.
- h. Details of initial aftercare and long-term maintenance.
- i. Details for monitoring and remedial measures.
- j. Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: In the interests of assessing the biodiversity impact of the site and achieving a biodiversity net gain in accordance with Policy LP30 of the Kirklees Local Plan and the National Planning Policy Framework. This is a pre-commencement condition to ensure that the necessary ecological work addressing mitigation, compensation, enhancement and restoration are carried out at an appropriate stage of the development process.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: Adoption under Section 38 of the Highways Act. It is brought to the Applicants' notice that the Highway Development, Investment & Regeneration, Civic Centre 3, Market Street, Huddersfield HD1 2JR (Kirklees Street Care: 0800 7318765 or 'Highways.Section38@kirklees.gov.uk') must be contacted to discuss road adoption arrangements under Section 38 of the Highways Act 1980.

NOTE: All new storm water attenuation tanks/pipes/culverts with internal diameter/spans exceeding 0.9m must be located off the adoptable highway where possible. Any decision to locate these facilities within the adoptable highway footprint must be accompanied with a full risk evaluation report with particular reference to their proposed inspection, structural assessment and maintenance regime in compliance with the CDM Regulations 2015 requirements.

Furthermore, all new precast pipes/ culverts/storage tanks proposed for use within the footprint of an adoptable highway must comply with the Specification for Highway Works (SHW-Series 500 or 2500) and/or must be accredited with a BBA (The British Board of Agrément Roads and Bridges) or HAPAS (Highway Authority Product Approval Scheme) or equivalent certificate.

The adopting authority (i.e. Yorkshire Water) will also be required to produce and submit a legally binding undertaking to the Highway Authority explicitly stating that they have a full understanding of their obligations in relation to the systematic and cyclical inspection and structural assessment of any attenuation structure located within the highway footprint, in full compliance with the Well-managed Highway Infrastructure – A Code of Practice 2016 or any corresponding superseding document thereafter.

NOTE: All contamination reports shall be prepared in accordance with CLR11, PPS23 and the Council's Advice for Development documents or any subsequent revisions of those.

NOTE: A 13A EV charge point does not comply with current government guidance (published 03 November 2016), which is the "Minimum technical specification - Electric Vehicle Home charge Scheme (EVHS)" from the Office for Low Emission Vehicles (OLEV). This document gives minimum specifications for various charging speeds. A minimum of 16A continuous current demand as listed in the OLEV document is required.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours Mondays to Fridays 08.00 and 13.00hours, Saturdays With no working Sundays or Public Holidays In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Background Papers:

Web site link providing details of the planning application, including submitted drawings, information and previous committee report (and update), along with the previous committee resolution:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92291>

Certificate of Ownership –Certificate A signed and dated 22/06/2017

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Dec-2019

Subject: Planning Application 2019/90382 Change of use from motor cycle showroom and sales to mixed use Brookroyd Mills, 678, Bradford Road, Batley, WF17 8ND

APPLICANT

Jen Motor Cycle Centre

DATE VALID

18-Feb-2019

TARGET DATE

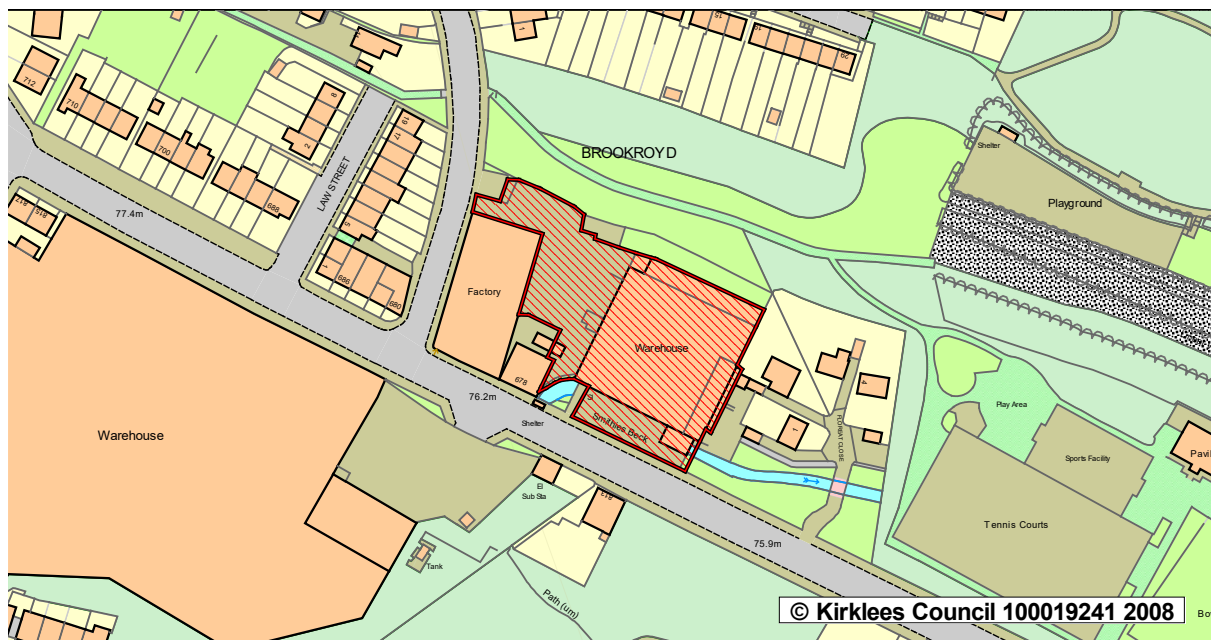
15-Apr-2019

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Batley East

No

Ward Members consulted

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Pandor. Councillor Pandor has concerns regarding the application on the highway safety grounds, stating that *'the committee needs to see first-hand that parking is a major issue in that cars are parked on the pavements on both sides.'*
- 1.2 The Chair of the Sub-Committee has confirmed that Cllr Pandor's reasons for referral to committee are valid having regard to the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to Jem's Speed Shop located on Bradford Road, Batley. The business operates over 2no floors with an upper level adjacent to Bradford Road and a lower level which can be accessed via the car park at a lower level. To the front of the building is an area of hardstanding which is used for parking and to the rear is a larger car park area which is accessed from Brookroyd Lane.
- 2.2 There are commercial properties to the north (rear) and western side of the building. To the east of the application site are the residential properties of Floreat Close.

3.0 PROPOSAL:

- 3.1 The site was granted planning permission in 2016 for use of the former warehouse as a motorcycle display area and ancillary café. The applicant contends that the business has evolved organically and this application seeks to regularise the development on the application site as well as increase the size of the restaurant space.

3.2 As such, this application is retrospective and relates to a change of use of the site to a mixed use development. The mixed use development is orientated around the display and sale of motorbikes but would contain a restaurant with bar on the upper level. The lower level would contain the majority of the motorbikes to be displayed as well as a coffee/sales area. Adjacent this area would be 5 units comprising of a craft beer bar, tattoo parlour, hairdresser, vintage shop and a general merchandise unit.

3.2 A parking layout plan has also been submitted.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2016/94040 – Change of use from warehouse to motor cycle display area and ancillary café – approved

2018/90710 – Change of use of motor cycle sales area to restaurant – withdrawn

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

5.1 A planning application was previously submitted for the formation of a restaurant on the site (2018/90710). However, after undertaking a site visit with enforcement officers it became clear that the use of the site went beyond solely motorbike sales and needed regularising. As such, that application was withdrawn and this application was submitted which seeks permission to regularise the current development on the site as well as expand the restaurant size.

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 (2019):

The following policies are considered relevant:

- **LP 1** – Presumption in favour of sustainable development
- **LP 2** – Place shaping
- **LP 13** – Town centre uses
- **LP 16** – Food and drink uses and the evening economy
- **LP 21** – Highway safety and access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 27** – Flood risk
- **LP 52** – Protection and improvement of environmental quality

6.3 National Planning Policy Framework:

- **Chapter 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 7** – Ensuring the vitality of town centres
- **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

6.4 Supplementary Planning Guidance:

- **Highways Design Guide** Supplementary Planning Document

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 As a result of the publicity period, 4no representations have been received.

A summary of the comments received is set out below:

- Concern about opening hours and whether the restaurant element would operate as a separate element;
- Highway safety and parking including the submission of photographs;
- Concerns about signage to the front of the building and the fact that these relate to the diner as opposed to the bikes thus emphasising the predominance of the restaurant element;
- Concerns about the accuracy of the parking plan;
- Concern about the noise from the motorbikes;
- Concern about the proposed opening hours and noise.

7.2 Councillor Pandor and Councillor Yusra Hussain have been in contact during the course of the application and have raised concerns in relation to highway safety.

7.3 Councillor Pandor objects to the application on the highway safety grounds, stating that *'the committee needs to see first-hand that parking is a major issue in that cars are parked on the pavements on both sides.'*

8.0 **CONSULTATION RESPONSES:**

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: Amended plans were submitted during the course of the application which have been reviewed by KC Highways DM. No objection is raised subject to conditions.

8.2 **Non-statutory:**

KC Environmental Health: No objection subject to conditions in relation to hours of operation and details of the kitchen extraction system have been submitted.

KC Policy Planning: No objection based on the Sequential information submitted and the specific requirements of that business. This is subject to conditions.

9.0 MAIN ISSUES

- Principle of development
- Highways Issues
- Residential amenity
- Visual amenity
- Drainage issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site currently has planning permission to operate as a motorbike sales area, however, the business has developed organically and it is considered that the use of the site had gone beyond solely its consented use. As such, the application seeks to regularise the current mixed use as well as expanding the restaurant use.
- 10.2 The application site is unallocated on the Kirklees Local Plan (KLP). Policy LP13 of the KLP states that town centres and local centres should remain the focus for shopping, commercial, cultural and social activity. This notion is reinforced in Chapter 7 of the NPPF. These policies assert the aim of ensuring the vitality of town centres by applying a sequential test to planning applications for main town centre uses that are not in an existing centre and only if suitable sites are not available in town centre and edge of centre locations, should out of centre locations be considered. Due to the uses proposed, Policy LP16 of the KLP is also considered relevant which relates to food and drink uses and the evening economy.
- 10.3 A sequential assessment has been submitted during the course of this application which has been reviewed by KC Planning Policy Officers. It states that ‘the size of the outlet basically precludes any alternative site, especially since this site is fully owned by the applicant’ and ‘there are no similar sized units available within the Birstall or Batley Centres, similarly the use requires car parking and cycle parking on site to promote sales’.
- 10.4 Planning Practice Guidance states that land ownership does not provide a justification for particular market and locational requirements. However, KC Planning Policy states that vehicle showrooms generally require a large floor area to display goods. The Council is not aware of any units within or on the edge of Birstall District Centre, Batley and Dewsbury town centres that are available and that would be suitable for the proposal.
- 10.5 The applicant states that ‘the concept of the business will remain the same with motor cycle sales being the major business.’ The proposal also includes a restaurant and small individual retail units occupied by a craft beer bar, tattoo parlour, hairdresser and general merchandise all of which are main town centre uses but are part of the ‘visitor attraction’ complimenting the motor cycle sales business and adding to its viability.

- 10.6 KC Planning Policy advise that conditions are applied to restrict the uses and floorspace to those that have been applied for (and as shown on the submitted plans) in order to ensure that the vitality of town and local centres is protected. It is also recommended that the hairdressers and tattoo parlour are restricted to appointment only for the same reason. Subject to the aforementioned conditions, the application is considered to have an acceptable impact in relation to town centres and complies with the relevant local and national planning policy.

Highway issues

- 10.7 The application site is located off Bradford Road, Batley and the access to the car park is taken from Brookroyd Lane. The A652 Bradford Road is a 30mph two way single carriageway main distributor road with a hatched central reserve, footways on both sides and street lighting present. There are safety (speed) cameras to each side of the proposal site.
- 10.8 KC Highways DM comment that there are reported parking issues in the area along Bradford Road and 'Keep Clear' markings are installed to neighbouring Floreat Close. When the application was originally submitted, the main highway concern was the provision of a suitable level of parking for the proposals in order to maintain highway safety by avoiding inconsiderate on street parking. This has been indicated as a concern by local residents.
- 10.9 The amended drawing of proposed car/motorcycle parking was received during the course of the application and shows that 23 formal car parking spaces and 33 informal motorcycle parking spaces can be formed within the application site. The parking should also include a suitable number of mobility spaces (at 6% of the proposed car parking spaces) located near accessible doors. The marking of accessibility spaces may result in the slight reduction of available spaces. KC Highways DM request that the provision of these accessibility spaces should be conditioned. The applicant has stated that the gas storage tank adjacent to the premises is due to be removed at some time in the future and this will create additional parking.
- 10.10 The applicant has agreed to progress measures to manage parking on Bradford Road adjacent to the access with Floreat Close and the uncontrolled crossing to the east of the site. This will involve funding the TRO process. However, as this requires approval under a separate process, this element shall be conditioned (and a subsequent S106 Agreement when discharging the condition).
- 10.11 The applicant also indicated that parking management would be used for busy days. KC Highways DM require more detail of this; trigger points for the management, processes, responsibility of staff, signs, processes to deal with parking for events etc. This shall be provided in a brief Car Park Management Plan and shall be conditioned.
- 10.12 In summary, KC Highways DM consider that the proposal is acceptable in principle in relation to highway safety. Subject to the above conditions being applied, the application is considered acceptable in relation to highway safety and would be compliant with the aims of Policies LP21 and 22 of the KLP.

Residential Amenity

- 10.13 No physical works are proposed to the application site meaning that there are no associated additional impacts from the built form.
- 10.14 However, the impact on the occupants of the nearby neighbouring properties has been considered during the course of this application. KC Environmental Health has been consulted and raise no objections to the proposal in principle. However, they request a condition be imposed relating to the details of the ventilation system (including noise and odour control) to be submitted to the Council.
- 10.15 In relation to the times of operation, these have been reviewed by KC Environmental Health who request that a condition restricts openings hours of the motorcycle sales element to between 0830 -1700 Monday to Sunday and the restaurant use to 0830 – 2300 Monday to Sunday. Further restrictions in relation to deliveries and dispatches are also sought. This is necessary in order to protect the amenity of nearby neighbouring occupants and in accordance with the aims of Policies LP24 and LP52 of the Kirklees Local Plan as well as the guidance within the NPPF.

Visual Amenity issues

- 10.16 No external alterations are proposed to the application building in this application. As such, the application would have a neutral impact on visual amenity.

Flood Risk issues

- 10.17 The application lies within 20m of a river. Due to the location of the river, part of the site lies within Flood Zone 2. The Environment Agency were consulted on the previously withdrawn application and raised no objections, referring to their standard advice. Discussions have been held with the EA on this application who have confirmed that the current application would not alter their stance.
- 10.18 The application does not propose to alter the finished floor levels nor the entrance points to the building. The overall floorspace would also remain unchanged as a result of the application. Following discussions with the Lead Local Flood (LLFA) Authority, a condition is recommended to be imposed requiring the submission of a flood evacuation plan. As such, the proposed development is considered to have an acceptable level of impact in relation to flood risk and complies with the aims of Policy LP27 of the KLP and Chapter 14 of the NPPF.

Representations

- 10.19 A total of 4no representations have been received. These are set out below and responded to by officers as follows:
- Concern about opening hours and whether the restaurant element would operate as a separate element
Response: KC Environmental Health have recommended a condition in relation to the opening hours. The openings hour for the restaurant are proposed to be later than the sales area but this would still be operated as a part of Jem's Speed and not as a separate unit

- Highway safety and parking including the submission of photographs
Response: a detailed assessment in relation to highway safety is set out above.
- Concerns about signage to the front of the building and the fact that these relate to the diner as opposed to the bikes thus emphasising the predominance of the restaurant element
Response: Concerns in relation to the signage have been passed to KC Enforcement Officers to investigate. A condition restricts the amount of floorspace for the restaurant such that it cannot exceed that proposed under this application
- Concerns about the accuracy of the parking plan
Response: this has been reviewed by KC Highways Officers who are satisfied with the amended parking plan
- Concern about the noise from the motorbikes
Response: KC Environmental Health have reviewed the application and requested conditions
- Concern about the proposed opening hours and noise
Response: KC Environmental Health have reviewed the application and requested conditions

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development 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 Planning and Development)

1. In accordance with plans
2. Restricting the additional uses and their floorspace
3. Restricting hairdressers and tattoo parlour to appointment only basis
4. Restricting the size of the restaurant
5. Provision of parking spaces (including accessible spaces)
6. Car parking management plan
7. Measures to manage parking
8. Kitchen extraction system
9. Hours of Delivery and Dispatch - no deliveries to or dispatches from the premises outside the hours of 0730 and 1800 Monday to Friday and 0800 and 1300 Saturdays.
10. Opening of motorcycle sales - 0830 to 1700 Monday to Sunday.
11. Opening of the restaurant/bar element – shall not be open to customers outside the hours of 0830 to 2300 Monday to Sunday
12. Submission of flood evacuation plan.

Background Papers:

Application website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90382>

Certificate of Ownership – Certificate A signed and dated 02/02/2019.

Link to previous approval (2016/94040) for the Change of use from warehouse to motor cycle display area and ancillary café

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f94040>

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Dec-2019

Subject: Planning Application 2019/92381 Change of use from retail/office to preparation and packaging of food, alterations to existing outbuilding and installation of vent 52, Wellington Street, Batley, WF17 5HU

APPLICANT

K Hans

DATE VALID

30-Jul-2019

TARGET DATE

24-Sep-2019

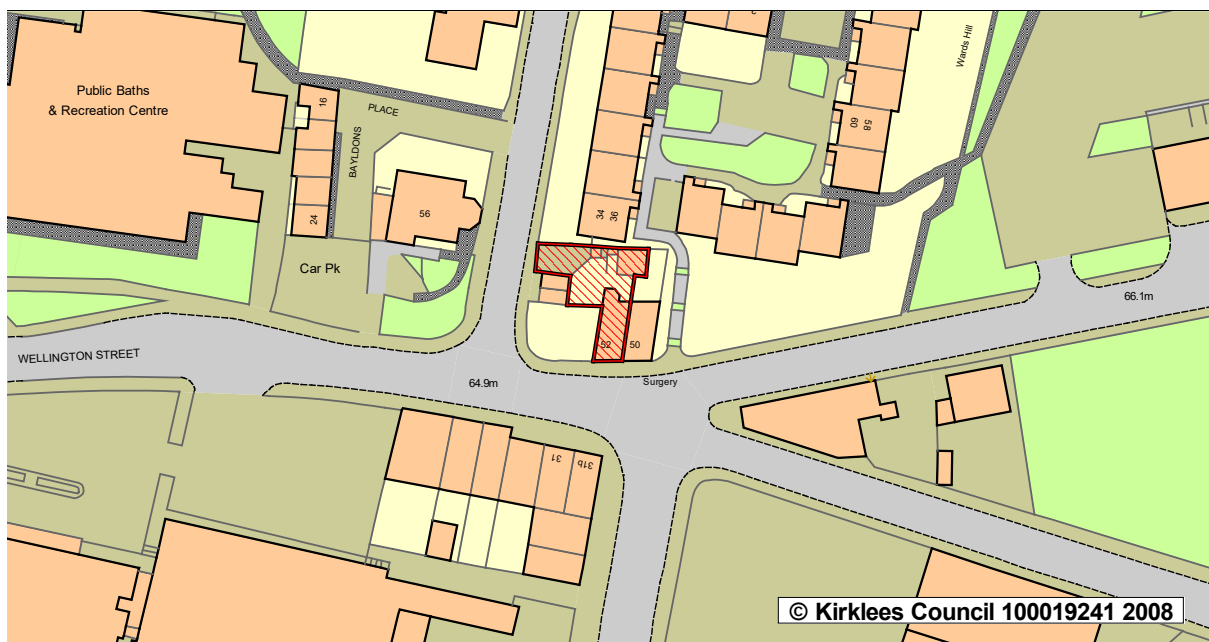
EXTENSION EXPIRY DATE

09-Dec-2019

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Batley East Ward

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 The application is for the proposed change of use of No.52 Wellington Street at Batley from retail/office use to preparation and packaging of food, and for alterations to the external outbuilding.
- 1.2 The application is referred to Heavy Woollen Planning Sub-Committee at the request of Councillor Habiban Zaman for the following reasons:

“With this application there are issues regarding hours of operation which I object to. I would like the planning committee to make a decision on them.

I would also like a site visit to determine the effect on surrounding properties, particularly the impact on elderly residents”

- 1.3 The Chair of the Sub-Committee has confirmed that Cllr Zaman’s reasons for referral to committee are valid having regard to the Councillor’s Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site relates to a shop/office unit at no. 52 Wellington Street in Batley. The building appears to be vacant when viewed from Wellington Street with the shop front closed and secured by a roller shutter, however as witnessed on the site visit, the building is in use for the preparation, packaging and delivery of food with staff observed preparing food on the ground floor of the building.

2.2 The building itself occupies a corner plot with Wellington Street running to the south of the site and Hanover Street to the west. Access to the site is provided from Hanover Street to the rear of the plot and within the rear yard area is an outbuilding. The site is within a mixed commercial and residential area and is unallocated on the Kirklees Local Plan.

3.0 PROPOSAL:

3.1 The application seeks planning permission for the change of use of No.52 Wellington Street from retail/office to the preparation and packaging of food. Evidence from the site visit confirms the business is already in operation within the main building.

3.2 Planning permission is also sought to use the rear outbuilding for cooking purposes, with external alterations proposed which include the erection of a small store extension accessed by external steps, and the installation of an extractor / air vent.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2009/90960 – Change of use from shop/office to takeaway/fast food operation – Refused

2015/93429 – Change of use from shop/office to hot food takeaway – Conditional Full Permission

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

5.1 The applicant was asked to clarify what external works they have already undertaken to the outbuilding and to show these on a scaled plan to be assessed as part of the planning application. Details of a vent have also been submitted.

5.2 Discussions have taken place with the applicant regarding the proposed hours of use. Environmental Services have suggested a restriction on operating hours, and a variation to this was discussed with both the applicant and Environmental Services.

6.0 PLANNING POLICY:

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

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

6.3 Kirklees Local Plan (2019):

- **LP1** – Presumption in favour of sustainable development
- **LP2** - Place Shaping
- **LP16** – Food and Drink uses and the evening economy
- **LP21** – Highways and access
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environment quality

6.4 National Planning Policy Framework:

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 9** – Retaining and town centres
- **Chapter 12** – Achieving well-designed places

6.5 Supplementary Planning Guidance:

- **Highways Design Guide** Supplementary Planning Document

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 As a result of the initial publicity, seven objections have been received. A summary of the comments is set out below:

Impact on residential amenity

- No.52 is already been used for food preparation and sandwich making to distribute. The noise affects residents at all times of the day and night with vans bringing and taking food.
- No.52 has been preparing and delivering food for a long time. There are deliveries of chicken and bread at approximately 1am, 3am and 6am.
- Concern about noise during construction, noise from the air vent, the workers in the kitchen and from vehicles when loading and unloading.
- Concern about fumes from cooking outside and coming into neighbouring homes.
- Concerned about noise from vans and the air vent.
- Concern about existing deliveries in the night.
- The air vent is for cooking in the room and concern about smell to neighbouring residents.

Highway Safety Matters

- All surrounding roads have double yellow lines.
- Parking is an issue with yellow lines and the junction.
- Concern about extra traffic for loading/unloading.

Other Matters

- The plans claim it is for change of use but it is to create a kitchen in the derelict outhouse.
- The applicant is already running a fast food service (Happy Snacks) and never opens the front door shutters.
- The business does not appear to have a good hygiene certificate.
- There are already rats in the area.
- There is an issue with overgrown trees and concerned this could be a fire hazard.
- The outdoor building has only one door exit.
- The applicant is installing a gas cylinder to supply the outbuilding.

Amended Plans Publicity

The revised description of development to include the proposed alterations to the outbuilding and the additional plan was advertised by neighbour letter. As a result of this publicity four representations have been received. The matters raised are summarised below:

Highway Safety

- There is no suitable access and layout in the interests of highway safety, they have vans and park on the yellow line blocking the pathway to the adjacent shop. This is affecting movements and is a big hazard to other roads users as the exit is very close to the junction.
- The bins are put for collection outside blocking the neighbouring garage door.
- Concern how it will affect parking with the constant and unpredictable timings of deliveries blocking drives and causing an obstruction.

Other Matters

- Happy Snacks are running a business and it appears that the food safety regulations is not being followed correctly and it appears that the advice from Food Safety team regulation was not taken when starting this business.
- Question the safety of the installation of a gas cylinder.
- Do not want an increased risk of rat infestation which is highly likely as it is already an issue.
- With the use of an air vent, the issue of odours spreading in the nearby air is inevitable.

8.0 CONSULTATION RESPONSES:

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:

K.C Highways Development Management – No objections following receipt of amended plans. The revised layout shown on drawing 2019-52WS-02 shows the parking spaces amended to 2.4m wide and these are now acceptable for staff parking spaces. The bin storage area shown is also suitable for all sizes of commercial refuse containers recommended by the Kirklees Cleansing team. The position is also considered acceptable.

8.2 Non-statutory:

K.C Environmental Services – No objections subject to conditions regarding the provision of Electric Vehicle Charging Points and the submission of details relating to odour/extract ventilation system. A condition restricting the hours of use is also advised.

9.0 MAIN ISSUES

- Principle of development
- Highway Safety issues
- Residential amenity
- External alterations / Impact on Visual amenity
- Other matters
- Representations
- Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 The application seeks planning permission for the change of use of No.52 Wellington Street from a retail/office use to a use for the preparation and packaging of food. Planning permission is also sought for alterations to the rear outbuilding to include a small extension and installation of an air vent.
- 10.2 On first view, No.52 Wellington Street appears vacant with the principal elevation shut and secured by a roller shutter and the fascia sign advertising a former business occupier. However, a business is being operated from the building for the preparation, packaging and delivery of food. It is also proposed to use the outbuilding in the rear yard area for these purposes and the application seeks permission for the installation of a vent to this outbuilding.
- 10.3 It is noted that planning permission has been previously granted for the change of use of the premises to a hot food takeaway. Although this does not appear to have been implemented, the proposal for a food preparation business is a similar type of use. It is considered that the proposed use of the building for the preparation and delivery of food in this mixed use area just outside of the local centre of Batley would, in principle, be acceptable. This is however subject to an assessment of, amongst other things, the impact on highway safety and the impact on the amenity of occupants of neighbouring residential properties.

Highway Safety issues

- 10.4 No.52 Wellington Street in Batley occupies a corner plot with Wellington Street running to the south of the site and Hanover Street to the west. Vehicular access to the site is provided from Hanover Street to the rear of the plot. A number of concerns have been raised in the representations received regarding the impact on highway safety. The concerns include that there is no suitable access and layout with vans parking on yellow lines creating a hazard to other roads users, concern that surrounding roads have double yellow lines and that the site exit is very close to the junction, concern about additional traffic in the area and the impact on parking with deliveries causing an obstruction.
- 10.5 This application is for the change of use from retail/office to preparation and packaging of food within an existing building and outhouse with off street delivery space. The access to the site is off Hannover Street, this is a 30mph two-way single carriageway residential access road of approximately 5.5 metre width with footways on both sides and street lighting present. There are TRO parking restrictions ('No Waiting at Any Time') around the junction with Wellington Street in order to protect visibility and access at the junction. Wellington Street has 'No Waiting' (Mon to Sat 8am to 6pm) TROs to the front of the site, 'No Waiting at Any Time' TRO markings opposite and a limited waiting parking bay to the front of a parade of shops opposite.
- 10.6 The site benefits from a previous conditional permission for a change of use to a hot food take away (planning application reference 2015/93429). It is considered by officers that the current proposals would have a reduced impact on the operation of the local highway network than the previous permission.

- 10.7 The previous permission included two parking spaces to the rear of the premises that were deemed suitable as staff parking, Highways Development Management requested that these be shown on a proposed block plan. The applicant has provided a block plan showing two spaces, each measuring 2.4m x 4.8m, which are acceptable to Highways Development Management for staff parking spaces.
- 10.8 The application as initially submitted did not include details of waste collection. The applicant has now provided details of a space for bin storage measuring 1.2m x 1.7m which is considered to be suitable for all sizes of commercial refuse containers recommended by the Kirklees Cleansing team. The location is approximately 12m from the edge of the adopted highway and would be suitable as a collection location to avoid any obstruction of the access, footway or surrounding accesses and is considered acceptable to officers.
- 10.9 Subject to the provision of the parking spaces and the bin storage and collection area, as identified on the amended site plan, the proposals would be safe from a highways perspective, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan, as well as the Highways Design Guide SPD.

Residential Amenity

- 10.10 The site is located within a mixed commercial and residential area. The nearest neighbouring residential properties which have the potential to be affected by the proposal are those located to the north of the application site at Wards Hill Close. A number of concerns have been received regarding the impact on amenity with concerns including how the existing business is being operated with activities occurring at early hours of the day, and concerns about noise and smell. There are concerns about the hours of operation and odours.
- 10.11 The business is being operated from the building for the preparation, packaging and delivery of food, however it is also proposed to use the outbuilding to the rear for these purposes, to include the cooking of food, and the application seeks permission for the installation of a vent.
- 10.12 Environmental Services have assessed the proposal and do not raise any objections to operating the business from the existing property and the outbuilding. This is however subject to a number of conditions. Firstly, the proposed hours of use. Environmental Services recommend that no activities shall be carried out, including deliveries or dispatches, outside the hours of 0730 to 1730 Monday to Saturday and 0800 to 1700 Sundays. The applicant has raised concern about the proposed restriction to the opening hours and requested consideration be given to starting at 0600 seven days a week. They have provided the following statement:

“It is vital for our business operations that the delivery of the ingredients is made early in the morning. This allows us to start preparing our products as soon as staff start arriving on site and ensure that our products are on the shelves of our retail customers in a timely fashion. The timings are essential for a business-like hour, as consumers tend to buy our packaged food products just before starting work and around lunch time. The delivery of ingredients is made using a small van, and the process takes less than 15min. The packaged boxed ingredients are unloaded to the premises manually by a single person and no machinery is used. I can therefore assure you that no

disturbance will be caused to nearby residents as a result of the delivery. The premises being located adjacent to a busy main road means that the engine noise from the delivery vehicle will be no more audible from the nearby residential premises, than the noise created by passing traffic at this time of the day”

- 10.13 Environmental Services have considered this, however they are only satisfied for the business to operate at the earliest from 0700 Monday to Saturday in order to protect the residential amenity of occupiers of neighbouring properties. The proposed hours of operation, in accordance with the comments from Environmental Services can be secured by condition.
- 10.14 The second concern is about noise and odour. Environmental Services have recommended a condition to secure details of the installation of any kitchen extract ventilation system to include details of treatments of emissions and filters to remove odours and control noise emissions. The applicant has submitted details of an extractor that would be fitted. Environmental Services have assessed the information provided but still require details of how loud the extract system would be when heard from the nearest residential properties. Accordingly, it is still appropriate to include a condition to secure further details of the extract ventilation system. Subject to the imposition of this condition, details of noise and odour are addressed.
- 10.15 With the inclusion of the above suggested conditions, suitable mitigation measures which would reduce noise and odour pollution to an acceptable level to protect the quality of life and well-being of neighbouring people as well as the wider area would be achieved, in accordance with Policy LP52 of the KLP as well as Chapter 15 of the NPPF.

External Alterations / Impact on Visual Amenity

- 10.16 The proposal includes alterations to the existing outbuilding, as shown as plan Ref 2019-52 WS - 02. These include the construction of a small store area which has already been completed on site, and the provision of an extractor / vent. It is considered that the proposed construction of the store area, which is only small in scale, would preserve visual amenity subject to it being faced appropriately (officers would expect either brick facing to match the main outbuilding or, because of its small scale and unobtrusive position, a render finish), which can be secured via suggested condition. With the inclusion of such a condition, there are no objections raised by officers in regard to this extension. The matter regarding the proposed extractor / vent has been discussed in detail above and, due to the mixed use nature of the surrounding area, such equipment at the premises would not, in the opinion of officers, appear incongruous within the area.
- 10.17 Due to the minor nature of the external works, the proposals would promote good design in accordance with the aims of Policy LP24 of the KLP as well as Chapter 12 of the NPPF.

Other Matters

- 10.18 *Air Quality* – In accordance with Government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, Policies LP24 and LP51 of the KLP and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development, officers seek the provision of one electric vehicle charging point to be provided to serve the staff parking. The purpose of this is to promote modes of transport with low impact on air quality. A condition is recommended to secure this.
- 10.19 *Climate Change* – Chapter 12 of the KLP relates to climate change and states that “Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development”. This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development. Furthermore, the inclusion of an electric vehicle charging point to serve one of the staff parking spaces, which is recommended to be secured via condition, would contribute positively to the aims of climate change.

Representations

- 10.20 A total of 10 letters of representation have been received in response to the initial and amended plan publicity. The concerns raised regarding the impact on residential amenity and highway safety have been addressed in detail above. In so far as other matters raised have not been addressed above, officers respond as follows:
- 10.21 The plans claim it is for change of use but it is to create a kitchen in the derelict outhouse.
Response: This part of the proposed development has been assessed above and this element is considered acceptable by officers from both a visual and residential amenity perspective.
- 10.22 The applicant is already running a fast food service (Happy Snacks) and never opens the front door shutters
Response: This was observed at the time of the site visit however, the application needs to be considered having regard to relevant material planning considerations, principally, policies set out in the KLP and the NPPF.
- 10.23 The business does not appear to have a good hygiene certificate / it appears that the Food Safety regulations is not being followed correctly and it appears that the advice from Food Safety team regulation was not taken when starting this business
Response: It is recommended that the applicant contact the Food Safety Team of Environmental Services to discuss food safety and hygiene requirements. This is not a material planning consideration.

- 10.24 There are already rats in the area
Response: Environmental Services have been part of the consultation process with this application. Pest control is a matter to be referred to the relevant department and is not a material planning consideration.
- 10.25 There is an issue with overgrown trees and concerned this could be a fire hazard / The outdoor building has only one door exit
Response: Fire safety is a matter separate to the planning process.
- 10.26 Question the safety of the installation of a gas cylinder
Response: This is a matter covered under separate regulation and is not a material planning consideration.
- 10.27 *Ward member comments:-* Councillor Habiban Zaman has raised issues regarding the hours of operation, and has requested a site visit to determine the impact on surrounding properties particularly the impact on elderly residents. An assessment of the proposed hours of operation and the impact on neighbouring residential properties has been considered in detail above. It is considered by officers that subject to imposing a condition that no activities shall be carried out, including deliveries or dispatches outside the hours of 0700 to 1730 Monday to Saturday and 0800 to 1700 Sundays, there would be no undue detrimental impact on the amenity of occupiers of neighbouring properties. Furthermore, details of any extract system is required to be submitted to and approved in writing by the Local Planning Authority before installation.

11.0 CONCLUSION

- 11.1 The proposed use of the building for the preparation and delivery of food in this mixed use area outside of the local centre of Batley is acceptable in principle. With the inclusion of appropriate conditions, as set out in the main assessment above, there would be no detrimental impact on highway safety or residential amenity.
- 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 Planning and Development)

1. The development shall be begun not later than the expiration of three years
2. The development shall be carried out in complete accordance with the plans and specifications
3. No activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the times of 0700 to 1730 Monday to Saturday and 0800 to 1700 Sundays.
4. Details of the installation and/or erection of any kitchen extract ventilation system, including details of the methods of treatments of emissions and filters to remove odours and control noise emissions to be previously approved in writing by the Local Planning Authority.
5. An electric charge point to be installed.
6. Parking and bin storage/collection area to be provided in accordance with details shown on drawing no. 2019-52WS-02.
7. Details of the external finish of the side extension on the outhouse to be submitted to and approved in writing by the Local Planning Authority.

Background Papers:

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92381>

Certificate of Ownership B signed – Notice served on:

- 50 Wellington Street, Batley
- 130 Purlwell Lane, Batley

Link to history planning application 2015/93429 :

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f93429+>

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Dec-2019

Subject: Planning Application 2019/92734 Erection of extensions and dormer windows to front 9, Chapel Fold, Staincliffe, Batley, WF17 7AY

APPLICANT

Mr & Mrs W Akhtar

DATE VALID

16-Aug-2019

TARGET DATE

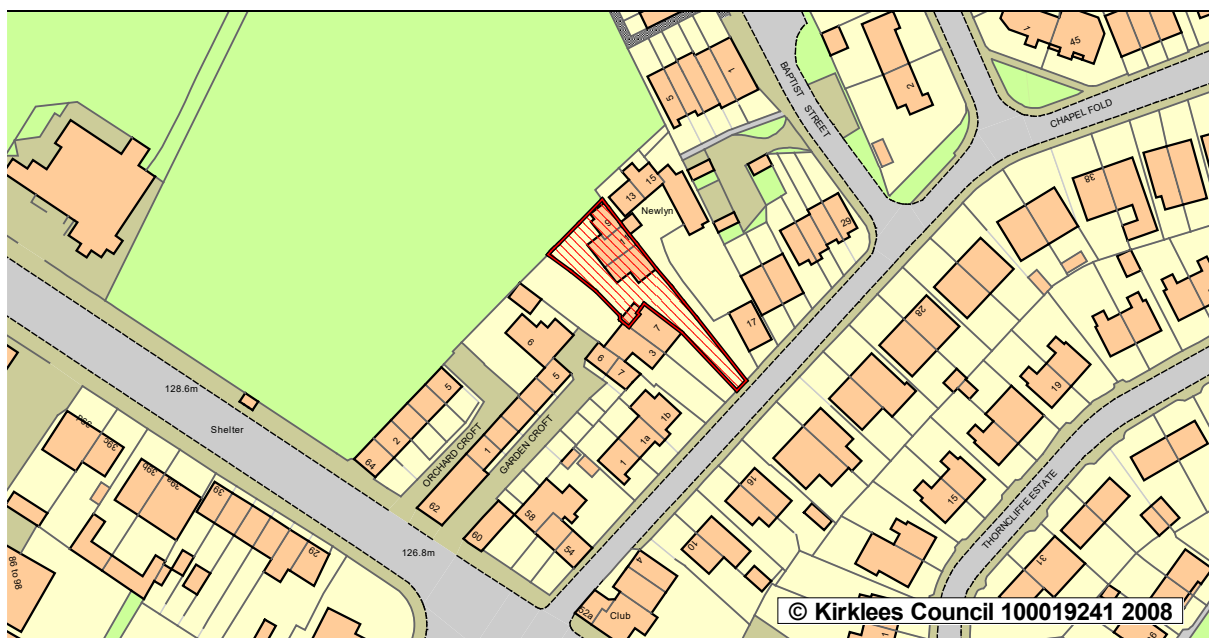
11-Oct-2019

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Batley West

YES

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub-Committee at the request of Ward Councillor Gwen Lowe for the following reason:

"I am concerned about the impact on the amenities of the neighbouring properties, in terms of both overshadowing and the formation of an overbearing and oppressive impact. Therefore, I would like to request this is taken to committee and that members visit the site and carefully consider the harm which would be caused"

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

2.0 SITE AND SURROUNDINGS:

2.1 9 Chapel Fold, Staincliffe, Batley is detached stone built dwelling set away from the main road. The property does appear to have been two dwellings in the past. The frontage would appear to have been the south facing elevation although the features have been obscured by the addition of single storey extensions to the front. There is also a side extension which currently provides the property with a garage. The dwelling is accessed off a shared drive from Chapel Fold and there is a very modest garden area to the south of the property.

2.2 To the north west of the dwelling are playing fields. There is an empty property to the south west with a painted stone finish to the south east and a small courtyard grouping of three properties to the north and north east.

3.0 PROPOSAL:

3.1 The applicant is seeking planning permission for an extension over the garage and increasing the height of the roof with the formation of two dormers.

- 3.2 The area of the garage is proposed to be extended with a first floor, stepped extension with no increase in the footprint and including a pitched roof form. The walls of the first floor extension over the garage are proposed to be rendered.
- 3.3 The eaves height of the main house would be increased from 5.5m to 5.8m and the overall height of the dwelling would increase from 7m to 9.2m. The walls are proposed to be built up using stone of the main elevation with render to the side and rear.
- 3.4 The two dormers would each be set up 0.5m from the eaves with a width of 3.5m, an eaves height of 1.2m and an overall height of 2.3m with a set down from the apex of the new roof of 0.3m. The dormers are proposed to be clad with dark grey uPVC cladding.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 There have been no previous planning application for this property. However, the applicant did submit a formal pre-application enquiry referenced 2019/20101 for advice on how to potentially extend the property. The submitted plans do appear to be in line with the discussions that took place during the pre-application process.

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

- 5.1 An error on the floor plans / elevations was corrected during the course of the application regarding the window openings on the rear elevation.

6.0 PLANNING POLICY:

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

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

6.3 Kirklees Local Plan (2019):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP21** – Highway safety
- **LP 22** – Parking
- **LP 24** - Design

6.4 National Planning Policy Framework:

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

6.5 Supplementary Planning Documents:

- **Highways Design Guide** Supplementary Planning Document

7.0 PUBLIC/LOCAL RESPONSE:

7.1 As a result of the above publicity, one representation has been received which expressed the following concerns:-

- The submitted plans do not show the relationship with the neighbouring properties, nos.13, 15 and 15a Chapel Fold.
- The plans submitted do not accurately indicate the height of the neighbouring no.13 Chapel Fold and indicate that there is a gap between the properties which does not exist.
- There are no properties with the Fold which are as high as the planned 2nd floor extension and as such this will not fit in with the historical nature in which the Fold has developed.
- The floor plans indicate 4 windows on the rear elevation when the elevation shows three windows.
- The increase in height will result in a largely blank wall facing onto the neighbouring 15a Chapel Fold in close proximity reducing light and resulting in a loss of view.
- The two new windows would result in a loss of privacy.
- The increase in height would result in a loss of light and overshadowing of the neighbouring 13 Chapel Fold.
- Very concerned about how any extension built directly above existing walls will be carried out so that it does not impinge on neighbouring properties during construction :-
 1. on the kitchen and outbuildings of no 13, that adjoin the rear wall of No.9
 2. by encroaching upon the access to the long path to and from the courtyard

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

None necessary

8.2 **Non-statutory:**

None necessary

9.0 MAIN ISSUES

- Principle of development
- Visual amenity
- Residential amenity
- Highway issues
- 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. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.
- 10.2 These issues, along with other policy considerations, will be addressed below.

Visual Amenity

- 10.3 The property is located on a residential street with a mix of house types in terms of age, design, size and use of materials. Dependent upon design, scale and detailing, it may be acceptable to extend the host property.
- 10.4 *First floor extension over garage:* The surrounding properties vary in terms of their age, height and style. As such, the extension proposed over the garage would not appear out of character with the wider area. Furthermore, the stepped design in terms of the height would allow the extension to appear subservient to the main house. The dwelling is currently a mix of stone and render. As such, the use of render for the extension would be acceptable and the detailing is considered to form an acceptable relationship with the host property. It is considered therefore that the proposed first floor extension over the garage would comply with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would form a subservient addition to the property and as such is acceptable in terms of visual amenity.
- 10.5 *Increase in height of dwelling:* The increase in the eaves height is modest at 0.3m although it is appreciated that the overall increase to the roof is more substantial. However, the properties in the area are a mix of heights, styles and ages with no standard vernacular. The use of stone on the main elevation with render on the side and rear walls would be in-keeping with the main house and the detailing is considered to be acceptable. As such, although the scheme would not strictly comply with point (c) of Policy LP24 in terms of the formation of a subservient addition to the dwelling, it is considered to be acceptable when taking into account the varied character of the area and compliant with the overall aims of Policy LP24 of the Kirklees Local Plan point (a).
- 10.6 *Dormers:* The dormers would be sited within the main roof form facing into the applicants own garden area with a degree of prominence from the playing fields adjacent. The dark grey uPVC cladding proposed would form an acceptable relationship with the main roof form and, on balance, with the other extensions proposed, the dormers are considered to be acceptable in terms of visual amenity.

- 10.7 *Summary:* It is acknowledged by officers that the works proposed would alter the character of the host property and its appearance significantly. However, the area does not have a standard vernacular house type in terms of style or height. Furthermore, the property at present has no distinguishing architectural features worthy of preservation. As such, it is the opinion of officers that the alterations to the overall character of the property are not considered to be unacceptable. Having taken the above into account, whilst the character and scale of the property would change, the proposed extensions would not cause significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout to the property in keeping with the existing building and the aims of chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 10.8 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 c) of the KLP, which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.
- 10.9 *6 Orchard Croft:* A vacant property, known as 6 Orchard Croft to the south west. Although this property is currently empty, it could be brought back into use in the future and as such consideration needs to be given to the impact of the proposed development on potential future occupiers. The separation provided by the garden of the host property and the neighbouring 3 Chapel Fold's garden between the buildings is such that the extensions and alterations proposed would have limited opportunity to cause harm to the potential occupiers of 6 Orchard Croft.
- 10.10 *Impact on 7 Chapel Fold:* The neighbouring property to the south occupies an angled position relative to the host property and given this spatial relationship, the proposed extensions would have limited opportunity to affect the amenity of the occupiers of the neighbouring 7 Chapel Fold.
- 10.11 *Impact on 13, 15 & 15a Chapel Fold:* The first floor extension together with the increase in the height of the dwelling would potentially impact on the grouping of properties to the rear. There would be some potential overshadowing in the middle of the day and given the resultant bulk and massing, an overbearing and oppressive impact. However, the orientation between the host property and no.13/13 minimises the potential for any undue overbearing impact upon these occupants. In terms of 15 Chapel Fold, the separation provided by the courtyard area is considered to lessen the impact.
- 10.12 *Summary:* In all, officers acknowledge that the proposal would result in substantial additions to the original building which would impact upon the residential amenity of surrounding occupants due to the close-knit nature of the host dwelling and its neighbours. However, for the reasons set out above, officers are of the opinion that the proposals would not result in any significant adverse impact upon the residential amenity, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of minimising the impact on residential amenity of neighbouring occupiers as well as Paragraph 127 (f) of the National Planning Policy Framework.

Highway issues

- 10.13 The proposals would result in some intensification of the domestic use and the loss of the garage. However, the property does have parking to the front and side which is considered to represent a sufficient provision. The scheme would not result in any additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the KLP.

Representations

- 10.14 One representation has been received which expressed the following concerns which are addressed by officers as follows:-

- The submitted plans do not show the relationship with the neighbouring properties 13, 15 and 15a Chapel Fold.

Response: *Although submitting plans which accurately indicate the relationship with the neighbouring properties would be helpful, this is not required and officers are satisfied that an informed recommendation can be made. A site visit was carried out (as is standard practice with each planning application) and the case officer considered the site and its surroundings. The site visit for this application was carried out 06/09/2019.*

- The plans submitted do not accurately indicate the height of the neighbouring 13 Chapel Fold and indicate that there is a gap between the properties which does not exist.

Response: *Although the plans submitted do have an indicative outline of the neighbour to the rear, the officer does not rely only on the plan. As set out above, a site visit for this application was carried out 06/09/2019 and the relationship between the host property and the neighbour to the rear was fully appreciated on site.*

- There are no properties within the Fold which are as high as the planned 2nd floor extension and as such this will not fit in with the historical nature in which the Fold has developed.

Response: *Chapel Fold does have some diversity in the style and age of dwellings. However, it is fully appreciated that the increase in height proposed would be at a higher level than the neighbouring properties. That does not necessarily mean that this would be out of place given the diversity in character of the properties.*

- The floor plans indicate 4 windows on the rear elevation when the elevation shows three windows.

Response: *Clarification has been sought by the case officer and an amended plans has been received showing 4 windows on the floor plan and elevation.*

- The increase in height will result in a largely blank wall facing onto the neighbouring 15a Chapel Fold in close proximity reducing light and resulting in a loss of view.

Response: *A right to a view is not protected in terms of planning policy. However, Officers would consider whether a proposal would have an overbearing or oppressive impact. It is appreciated that the "courtyard" between the host property and the neighbours at 13-15a Chapel Fold is modest with approximately 12m between the host property and the neighbouring 15a Chapel Fold. The residential amenity section of this report goes into more detail with regards to this issue.*

- The two new windows would result in a loss of privacy.

Response: *These windows are detailed as being obscure glazed and non-opening. This measure is considered to be sufficient to ensure no loss of privacy.*

- The increase in height would result in a loss of light and overshadowing of the neighbouring 13 Chapel Fold.

Response: *The proposed increases in height would overshadow the neighbouring properties, with no.13 having a reduction in light from approximately lunchtime and nos.15 & 15a suffering the impact in the later afternoon. However, the increase in the height of the original house would only be minimal. Whilst it is appreciated that the overall bulk and massing over the existing garage would be greater, there would still be some modest degree of separation which would reduce the potential harm. The residential amenity section of this report does go into more detail with respect to this issue.*

- Very concerned about how any extension built directly above existing walls will be carried out so that it does not impinge on their properties during construction :-

1. on the kitchen and outbuildings of no.13, that adjoin the rear wall of No.9

2. by encroaching upon the access to the long path to and from the courtyard

Response: *Access is a private issue and the Local Planning Authority has no powers to become involved with this. However, the grant of a planning permission would not confer upon the applicant a right to utilise the neighbours land.*

Other Matters

- 10.15 There are no other matters considered relevant to the determination of this application.

11.0 CONCLUSION

- 11.1 To conclude, officers acknowledge that the proposal would result in an increase in the bulk and massing of the host building however, from a visual amenity perspective, due to the varied character of the area, it is the opinion of officers that the proposal would promote good design, subject to materials used matching those on the original dwelling. It is noted above that, due to the close-knit nature of the host dwelling and its surroundings, the proposal would have some impact upon residential amenity however, for the reasons set out in the main report, this is not, in the opinion of officers, to such a degree so as to warrant refusal of the scheme.

- 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 Planning and Development)

1. Standard 3 year timeframe for commencement of development.
2. Development to be completed in accordance with the submitted plans and information.
3. Facing and roofing materials to match those used on the host dwelling.

Background Papers:

Web link to the application details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92734>

Certificate of Ownership –Certificate B signed and dated 11.8.2019:

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Dec-2019

Subject: Planning Application 2019/92982 Variation condition 2 (plans) on previous permission 2014/94021 for erection of one dwelling (within a Conservation Area) East Paddock, 3, Deer Croft, Farnley Tyas, Huddersfield, HD4 6UL

APPLICANT

J Radcliffe & Sons Ltd

DATE VALID

02-Oct-2019

TARGET DATE

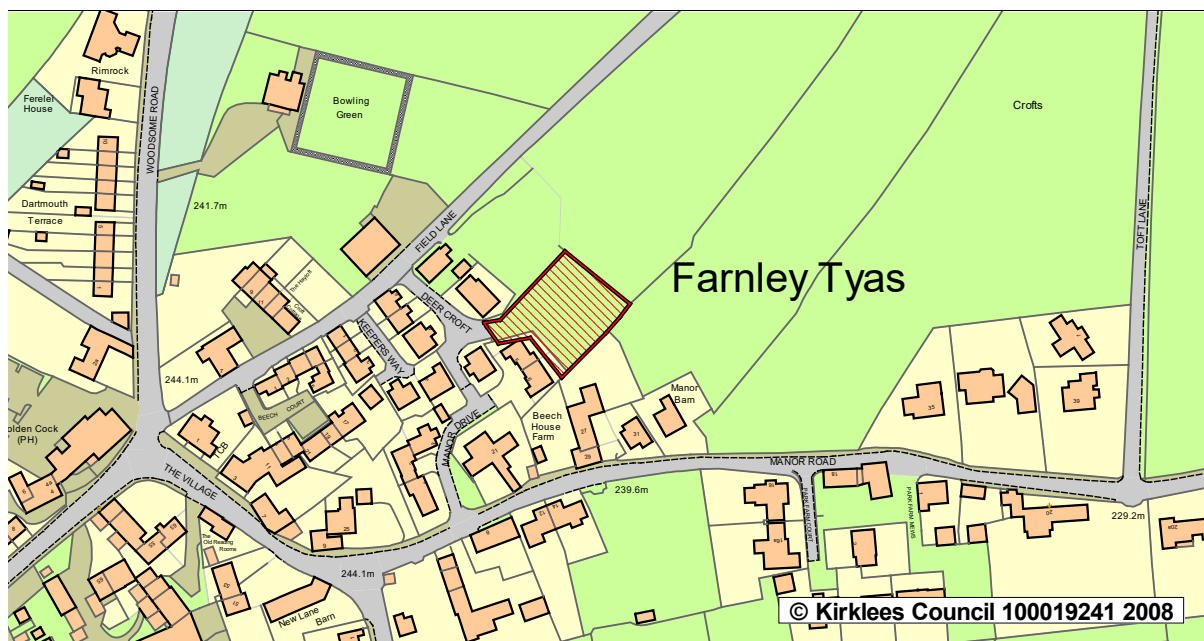
27-Nov-2019

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Kirkburton

Yes

Ward Members consulted

RECOMMENDATION:

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

- **Await expiration of amended plan site publicity (end date: 2 December 2019)**
- **Complete the list of conditions including those contained within this report;**
- **Secure a Supplemental S106 Agreement to cover the following matter:**
 - **Off-site contribution for affordable housing.**

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

1.0 INTRODUCTION:

1.1 The application is brought to the Heavy Woollen Planning Sub Committee at the request of officers due to previous member interest in the site and wider Beech Farm development. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The site itself is unallocated on the Kirklees Local but is within the Farnley Tyas Conservation Area which covers the majority of the village. The Conservation Area was designated as an area of high architectural and historic interest in the 1980's; it is a rural village of largely stone built houses where houses within the conservation area are close knit and appear to have been developed along the principal thoroughfares but also in an organic nature. The houses vary in date but many appear to be of 18th and 19th century origin. Beech Farmhouse, is Grade II listed and forms part of a range of buildings, laid out in a typical 90 degree arrangement; it is of early 19th century origin and incorporates a number of vernacular features typical of an agricultural building of this date. The existing setting of this building is mixed, with large modern farm buildings to the rear interspaced with natural green space which sweeps up to the buildings environs in an intimate fashion. Historically and up until the 1950's Beech Farm's setting has largely been characterised by an open setting with the modern farm buildings appearing on mid-20th century maps.

- 2.2 The site has recently undergone re-development with the existing agricultural buildings being demolished and replaced with a residential development of terraced, semi-detached and detached dwellings. The application site is one of two plots remaining on the site as a whole.

3.0 PROPOSAL:

- 3.1 The application seeks the variation of condition 2 on the previous approval referenced 2014/94021 for the erection of one dwelling. The current proposal relates to alterations to the design and appearance of the dwelling, however the proposed dwelling would still be two storeys in scale occupying an L-shaped layout with a parking and turning area to the front, in accordance with the original approval. Access would be taken from Deer Croft, as previously approved. Areas of amenity space would be located to the side and rear of the dwelling.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2019/90164 – (West Paddock) - Erection of detached dwelling with integral garage – pending consideration

2014/94021 – Erection of one dwelling - Section 106 full permission

2011/92306 – Conservation Area Consent for demolition of redundant farm structure on Beech Farm - Approved

2011/92253 – Outline application for redevelopment of Beech Farm for residential use including demolition of existing farm buildings, proposed biomass boiler - Approved

2011/92308 – Construction of three dwellings and associated highways improvements - Approved

2014/90777 – Erection of 2 dwellings - Approved

2014/90975 – Erection of 7 dwellings - Approved

2014/92355 – Erection of 5 dwellings - Approved

2014/92203 – Erection of 5 dwellings - Approved

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

- 5.1 During the course of the application, amendments were requested with respect to the design of the proposed dwelling as Officers raised concern with respect to visual amenity because of the proposed resultant bulk and massing of the development as well as the impact of this on views of the site from the Green Belt. The applicant subsequently amended the plans in accordance with the advice of Officers.

5.2 A further amendment has been requested in relation to the treatment of the boundary between the dwelling and adjacent paddock, and this is awaited. Officers have advised the applicant that a solid boundary treatment needs to be provided across the full width of the rear boundary (except for a sloped access to one side). This is to ensure that there would be no encroachment into the wider Green Belt (of domestic garden).

6.0 PLANNING POLICY:

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

6.2 The application site is unallocated but is within the designated Farnley Tyas Conservation Area.

6.3 Kirklees Local Plan (2019):

LP 21 – Highway Safety and Access

LP 22 – Parking

LP 24 – Design

LP 35 – Historic Environment

6.4 National Planning Policy Framework (NPPF):

Chapter 5 – Delivering a sufficient supply of homes

Chapter 12 – Achieving well designed places

Chapter 13 – Protecting Green Belt Land

Chapter 16 – Conserving and enhancing the historic environment

6.5 Supplementary Planning Guidance:

Highways Design Guide Supplementary Planning Document

7.0 PUBLIC/LOCAL RESPONSE:

7.1 As a result of site publicity, 6 representations have been received. The comments received are summarised as follows:

- One of the conditions on original permission related to site levels (Condition 25). This condition has not been addressed and level of the site has increased further due to tons of waste material from the Park Farm development being dumped there from May 2019 to date.
- Request that when application to discharge Condition 25 is submitted, the applicant submits details of the registered disposal site where the waste is to be taken in addition to the relevant paperwork.

- Drawing 203A still shows the level of the site to be higher than the top of the rear garden wall of no.27 Manor Road. Consider that this level may have been defined by the applicant because of the level of the two inspection chambers behind Nos. 5 and 6 Manor Drive which were raised by the addition of 1 metre pipes. The previous builder levelled the site prior to putting in foundations now in situ. Apart from the issue of site levels this means the drains are now much further below ground level should any problems arise.
- There are now even more windows on the first floor as plans have been amended to extend this floor. The size of the dwelling means that neighbouring properties will be overlooked by even more windows.
- The scale of the building proposed is contrary to the character and appearance of the Beech Farm development as a whole and also contrary to the visual amenity of the conservation area. It would also have a detrimental impact on the openness of the Green Belt surrounding it.
- If the planning conditions are not enforced then the new house will overlook the surrounding properties in a conservation area.

7.2 Kirkburton Parish Council has been notified of the application and commented that *“The Parish Council objects to the variation and wants the original conditions to be retained, as any alteration would be detrimental to residential and visual amenity”*

7.3 Amended plans relating to the house design have been received and subsequently re-advertised. Should any further comments be received, these shall be reported in the update.

8.0 CONSULTATION RESPONSES:

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:

None

8.2 Non-Statutory:

KC Conservation and Design – No objections following receipt of amended details relating to the house design.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 The application seeks to make some minor material changes to the original application under s73 of the Town and Country Planning Act 1990. In this instance, the applicant seeks to vary condition 2 of the original approval referenced 2014/94021 with respect to the proposed house type. The amendments include:

- Replacement of garden room with two storey extension
- Addition of two storey, part oak framed element to rear elevation
- Oak framed canopies over front and rear doors
- Inclusion of solar panels to rear roof plane
- Addition of dormers within roof plane of garage to facilitate accommodation within the roofspace

10.2 Under the s73 application process it is only the proposed changes to the application that fall to be considered along with the conditions that were imposed on the original permission.

Urban Design issues, including heritage considerations:

10.3 Following receipt of amended plans, it is considered by officers that the overall design of the proposed dwelling would maintain the traditional appearance which has been retained across the wider development. The appearance of this particular dwelling would therefore harmonise with others already approved and constructed elsewhere within the Beech Farm development. As stated previously, this particular dwelling is significantly larger than others within the development. The design would however, maintain the overall feel and architectural style which is important to ensuring a successful cohesive re-development. As referred to above, during the course of the application, amendments were sought in order to reduce the bulk and mass of the dwelling and its resultant impact when viewed from the Green Belt to the east, and to retain the appearance of the building as having organically evolved, with subordinate elements. The Council's Conservation and Design Officer has raised no objections to the proposals from a heritage perspective, considering the development to preserve the significance of the Conservation Area.

10.4 The materials proposed for the dwelling, as previously approved, would consist of natural stone walls and natural stone roof slates. These are considered acceptable and would harmonise with the surrounding development and wider conservation area. It would also be consistent with the approach taken with the recently approved scheme elsewhere within Manor Drive and Beech Court (located to the west). Hard landscaping and boundary treatments would also harmonise with those of the wider development. Any approval would be conditional upon samples of these materials being submitted prior to works on the superstructure of the dwelling commencing, should planning permission be approved.

- 10.5 As has been stated previously, it is important to achieve a mix of properties within the development in terms of size of dwellings and their designs. Having a whole development which has the same design and appearance is not considered appropriate in this instance as it would not achieve a successful housing development in this conservation area context.
- 10.6 On the basis of the above, it is therefore considered that the design and scale of the proposed dwelling would preserve the significance of the asset (in this case, the Farnley Tyas Conservation Area) as well as the character of the wider area as a whole and therefore accords with the Policies LP24 and LP35 of the KLP as well as chapters 12 and 16 of the NPPF.

Residential Amenity

- 10.7 Whilst this development relates to a small part of the site, it is important to also assess any potential impact to the rest of the development of Beech Farm. The current application is one of the last to be dealt with at the site and since its submission, the remainder of the site has been redeveloped for residential purposes. As such, the nearest properties which would be affected by the proposed development are nos.5 and 6 Manor Drive to the west.
- 10.8 The current proposal includes a two storey element to the south elevation of the dwelling where there was previously proposed to be a garden room of single storey scale. Whilst additional habitable room windows would therefore be located within the west elevation of this part of the dwelling, facing Nos. 5 and 6 Manor Drive, the separation distance between the properties would still be considered adequate so as to ensure that there would be no significant detrimental impact upon the residential amenity of both existing and future occupiers. This overall relationship was previously established to be acceptable by the approval of the original permission.
- 10.9 With respect to site levels, the submitted section A-A reflects the arrangement which was considered to be acceptable at the time of approval of application ref 2014/94021.
- 10.10 In all, the proposal is considered to remain acceptable from a residential amenity perspective and, in the opinion of officers, would continue to provide a high standard of amenity for future and neighbouring occupiers as well as maintaining an appropriate distance between the buildings, in accordance with Policy LP24 of the KLP as well as chapter 12 of the NPPF.

Highway issues

- 10.11 The current proposals would not involve any alterations to the access and parking arrangements than those previously approved. The proposals are considered to remain acceptable from a highway safety perspective, in accordance with Policies LP21 and LP22 of the KLP, as well as the aims of the Highways Design Guide SPD.

Representations

- 10.12 The comments raised in the representations are addressed by officers as follows:

One of conditions on original permission related to site levels (Condition 25). This condition has not been addressed and level of the site has increased further due to tons of waste material from the Park Farm development being dumped there from May 2019 to date.

Response: See comments made in paragraph 10.9 above.

Request that when application to discharge Condition 25 is submitted, the applicant submits details of the registered disposal site where the waste is to be taken in addition to the relevant paperwork

Response: Noted

Drawing 203A still shows the level of the site to be higher than the top of the rear garden wall of 27 Manor Road. Consider that this level may have been defined by the applicant because of the level of the 2 inspection chambers behind Nos. 5 and 6 Manor Drive which were raised by the addition of 1 metre pipes. The previous builder levelled the site prior to putting in foundations now in situ. Apart from the issue of site levels this means the drains are now much further below ground level should any problems arise

Response: Noted

There are now even more windows on the first floor as plans have been amended to extend this floor. The size of the dwelling means that neighbouring properties will be overlooked by even more windows.

Response: The impact of the development on residential amenity is considered to be acceptable, as set out above.

The scale of the building proposed is contrary to the character and appearance of the Beech Farm development as a whole and also contrary to the visual amenity of the conservation area. It would also have a detrimental impact on the openness of the Green Belt surrounding it.

Response: Amendments were sought to address this concern and to reduce the overall bulk and scale of the proposed new dwelling.

If the planning conditions are not enforced then the new house will overlook the surrounding properties in a conservation area.

Response: The impact of the development on residential amenity is considered to be acceptable. Condition 25 of the original approval would still remain relevant and would be re-imposed should the current application be approved.

Planning obligations

- 10.13 The original outline application for the development of the whole site was subject to a S106 Agreement for the provision of an off-site contribution for affordable housing. All subsequent applications for residential development on the Beech Farm site have therefore required supplemental S106 Agreements to be attached to them. As such, the same would be the case in respect of this application.

Drainage

- 10.14 The original application was accompanied by a drainage plan which relates to the whole (wider) site with surface water to be discharged via soakaways and mains sewer. The submitted details also indicated the use of permeable paving for the driveway. On this basis, there were no objections to the proposals from the Lead Local Flood Authority. The current application has not changed the previous proposals which were considered acceptable.

Other Matters

- 10.15 Where an application under s73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended.
- 10.16 To assist with clarity, decision notices for the grant of planning permission under s73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
- 10.17 In this case, none of the conditions have been discharged and so all conditions are to be repeated. The time limit condition remains as per the original permission.
- 10.18 The proposed changes to the permission do not require any additional conditions to be imposed.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The proposed development is considered to have no significant detrimental impact upon visual amenity or residential amenity, highway safety, the character of the Conservation Area or adjacent Green Belt.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Timescale for implementation (*to commence by 27 Aug 2022*)
2. Development in accordance with approved plans
3. Materials
4. Window Details
5. External Joinery
6. Gutters/Rainwater goods
7. Landscaping plan
8. Boundary Treatments
9. Removal of permitted development rights
10. Surfacing of parking and turning areas
11. Field Lane highway works
12. Unexpected Contamination
13. Drainage
14. Construction Management Plan
15. Extent of residential curtilage
16. Site levels

Background Papers:

Web link to application details -

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92982>

Certificate of Ownership – Certificate A signed and dated 02.10.2019

Web link to previous application 2014/94021 –

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f94021>

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Dec-2019

Subject: Planning Application 2019/92739 Variation conditions 2 (plans) and 4 (materials) on previous permission 2015/93715 for erection of detached dwelling, extension to existing dwelling and formation of parking area 51, High Street, Hanging Heaton, Batley, WF17 6DR

APPLICANT

C Goodwin, Charlotte
Goodwin Developments
Ltd

DATE VALID

16-Aug-2019

TARGET DATE

11-Oct-2019

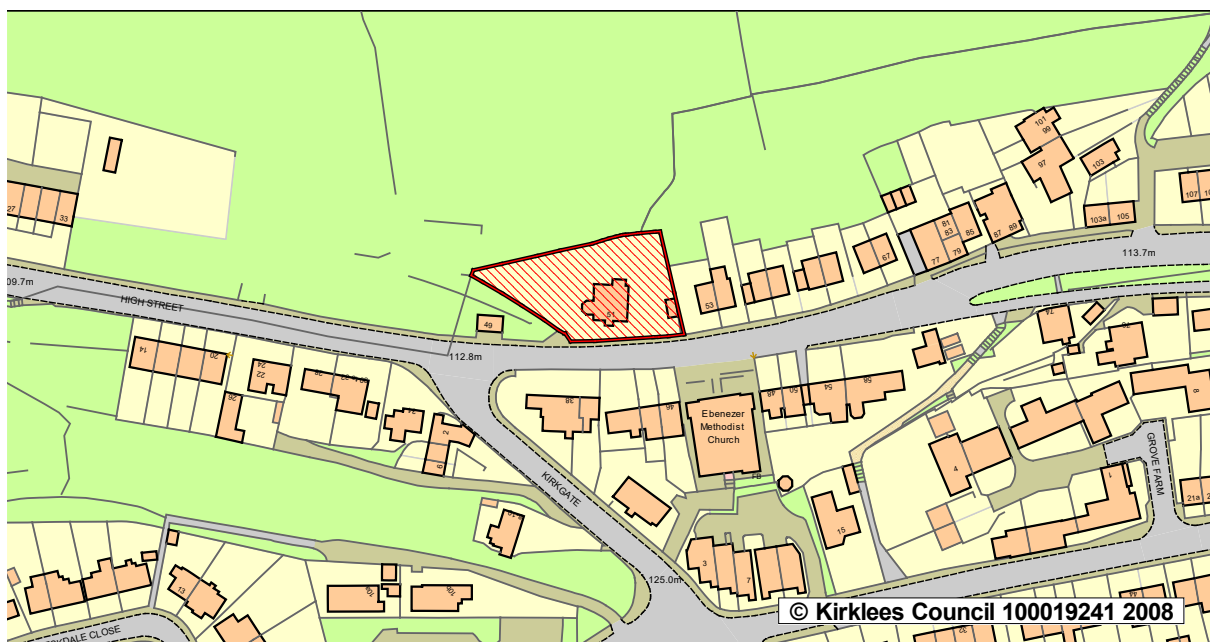
EXTENSION EXPIRY DATE

25-Oct-2019

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Dewsbury East

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub-Committee as the applicant is Charlotte Goodwin, an elected member of Kirklees Council.

1.2 This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 51, High Street, Hanging Heaton, is a detached house built into a steep north facing hillside with relatively recent extensions to the rear and western side. It is 3-storeys at the rear (north facing) and single storey to the front (south facing). To the eastern side is the plot of land for the proposed house, where currently there is a detached single garage and off street parking area at upper level accessed from High Street. To the rear of the garage is a retaining wall with overgrown garden at the base that slopes down and away in a series of terraces to the northern boundary at the bottom of the garden.

2.2 Beyond the boundary to the north are open fields of the lower valley and long distant views over Batley. To the south is High Street with stone built houses and church behind on raised ground. To the east are a line of more recent brick built semi-detached houses fronting onto High Street with gardens at the back sloping down and away from the rear elevation, terraced in places. To the west of the application site is a small commercial building and more north facing valley side.

3.0 PROPOSAL:

3.1 The applicant is seeking planning permission to vary conditions 2 (plans) and 4 (materials) on previous permission 2015/93715 for erection of detached dwelling, extension to existing dwelling and formation of parking area. The applicant proposes variation as follows:

- Condition 2 (approved drawings) – proposed new repositioned rectangular footprint, new roof design raising eaves and ridge height, 3 new dormer windows in the front roof slope, altering internal floor heights and layout, additional bedroom, alternative fenestration, and providing 3 off street parking spaces.
- Condition 4 (materials) – proposed use of artificial stonework to the front elevation and render to the remaining sides.

3.2 Further details of these changes are provided later in this report.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2011/90413 - First Floor Extension to Form Bedrooms and Bathroom. Conditional full permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2011%2F90413>

4.2 2015/93715 - Erection of detached dwelling and extension to existing dwelling, and formation of parking area. Conditional full permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2F93715>

4.3 2018/91159 - Erection of two storey side extension and extension to existing decking. Conditional full permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F91159>

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

5.1 During the course of the application there was a request for a streetscene drawing and a plan showing 3 off-street parking spaces. These are drawing numbers 1916/04 and 1916/02B respectively.

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.

Kirklees Local Plan (2019):

- 6.2 **LP 1** – Achieving sustainable development
- LP 2** – Place shaping
- LP 21** – Highway safety
- LP 22** – Parking
- LP 23** – Core walking and cycling network
- LP 24** – Design
- LP 53** – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

- 6.3 **Highways Design Guide** Supplementary Planning Document

National Planning Policy Framework:

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

- Chapter 2** – Achieving sustainable development
- Chapter 5** – Delivering a sufficient supply of homes
- Chapter 8** – Promoting healthy and safe communities
- Chapter 9** – Promoting sustainable transport
- Chapter 11** – Making effective use of land
- Chapter 12** – Achieving well-designed places
- Chapter 15** – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised via one site notice and letters delivered to addresses abutting the application site. This is in line with the Council's adopted Statement of Community Involvement.
- 7.2 Representation from occupants of one property were received in response to the Council's consultation. The following is a summary of the concerns raised:
 - Top storey windows will cause an invasion of privacy, this could be alleviated by repositioning them in the rear elevation.
 - Responses to these comments are set out later in this report.

8.0 CONSULTATION RESPONSES:

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:

K C Highways Development Management: No objection in principle, but plans should be amended to show 3 off street parking spaces.

The Coal Authority: No objections subject to repeating condition 6 on the original decision notice.

8.2 Non-statutory:

None

9.0 MAIN ISSUES

- Scope of this application
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Scope of this application

- 10.1 Section 73 of the Town and Country Planning Act 1990 concerns the “Determination of applications to develop land without compliance with conditions previously attached”, colloquially known as “varying” or “amending” conditions. S73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under S73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 10.2 When assessing S73 applications the previously-granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.
- 10.3 In this case, in the past a previous owner and agent confirmed that construction was well advanced for the extension of existing house (in relation to the 2015 permission). Subsequently planning permission was granted for two storey side extension (ref: 2018/91159). Its application form declared that work had already started on previous approval (2015/93715) and at the officer site visit an extension at ground floor level was under construction. At the officer site visit for the current proposal the 2018/91159 permission appears to have been implemented. Notwithstanding the above, the applicant could develop the site in accordance with the 2015 permission in relation to the proposed detached dwelling, and this fall-back is a material consideration to which significant weight must be given. The principle of the erection of a detached dwelling at this site has already been accepted by the council.

- 10.4 Alterations to planning policy and other material considerations that may have emerged since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the above paragraphs and the applicant's ability to complete the originally-approved development.

Urban Design issues

- 10.5 The extant permission would allow a 3-bed detached house with L-shaped footprint built into the hillside with 4-storey at the back (including one in the roof cavity) and integral single garage. There would be external access to the rear garden down both sides of the house.
- 10.6 The current proposal would provide a 4-bed detached house on a rectangular footprint approximately 0.5m wider but 3.0m shallower in depth. It would be in roughly the same position but set back from the road frontage a further 3.0m and projecting slightly less at the rear. Three levels at the back and two at the front (including roof space) and no integral garage. External access to the rear garden is restricted to the western side adjacent to the boundary with the existing house at 51, High Street.
- 10.7 When viewed within the street-scene the main difference is that the eaves and ridge height would be raised approximately 1.0m at the front and three separate dormer windows formed in the roof slope replacing velux windows.
- 10.8 Each dormer would be 1.2m wide with dual pitched roof set down from ridge around 1.1m and front elevation in line with the front wall of the house.
- 10.9 In terms of scale and in relation to the neighbouring properties to either side, whilst the currently proposed house would be slightly taller than 51, High Street, it would remain below the ridge level of 53, High Street.
- 10.10 The proposed new dormer windows would introduce a new feature into the street-scene however, given that the proposed property is further back from the road side and there are a variety of housing types and styles in the area, it is considered that the proposal would not significantly affect the residential character of the area.
- 10.11 With regards to external wall materials, condition 4 would require the extant planning permission to be built with natural stone walls to the front elevation and artificial stone for the side and rear elevations. The reason for this was in the interests of visual amenity and to accord with policy BE1 of the Kirklees Unitary Development Plan and Chapter 7 of the National Planning Policy Framework.
- 10.12 The current proposal seeks to change condition 4 to the use of artificial stone walling to the front elevation and render for the side and rear elevations. Given that the side and rear walls of 51, High Street are predominantly rendered and that the neighbouring property at 53, High Street appears to have stone effect brickwork to the front elevation, in officers' opinion the proposed change of external wall materials would also be in keeping with the character of the area. This is provided that the colour of render is cream / off white or similar to the stonework on the front elevation and this can be controlled by condition.

- 10.13 To conclude, the proposal would promote good design and enhance the character of the townscape. This is in accordance with policy LP24 of the Kirklees Local Plan and guidance given in chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 10.14 Outside the site boundary, the nearest neighbouring property is at 53, High Street. This is a relatively recently built semi-detached house to the east of the application site. It is 2-storeys at the front and 2 ½ storeys at the back, with raised terracing at the rear.
- 10.15 The current proposal is likely to have some additional overbearing and overshadowing impact upon the raised platform to the rear of this neighbouring property, as the proposed footprint would be approximately 1.0m closer to the mutual boundary and the overall height would be around 1.0m higher than the approved scheme. However, in officers' opinion this would not be significantly greater than the permission that can be implemented.
- 10.16 In terms of overlooking impact, no openings are shown in the facing elevation and it is recommended that new openings are controlled by condition. Provided that this is applied it is considered that the proposal would minimise impact on residential amenity of future and neighbouring occupiers, compliant with policy LP24 of the Kirklees Local Plan.
- 10.17 Should the applicant wish to erect a raised terrace on the rear elevation leading from bedrooms 3 and 4 at lower ground floor level then this is likely to require further planning permission.
- 10.18 In relation to nos.44 and 46 High Street, these are traditional 2-storey on the opposite side of the road and on raised ground. Whilst the current proposal would be taller than the already approved permission and has 3 dormer windows in the facing elevation, it is also set back a further 3.0m from the road side. As such there would be a separation distance of approximately 26.0m between elevations with High Street and garden areas located in between. Given this separation distance, it is considered that there would be very limited overshadowing or overlooking effect in these circumstances.
- 10.19 It is also noted that there are similar relationships between houses on opposite sides of the road, nearby and along other stretches of High Street.
- 10.20 In relation to the existing house at 51, High Street, in officers' opinion the current proposal is likely to have some additional overbearing and overshadowing impact, but relatively limited over and above that of the house already permitted.
- 10.21 In terms of overlooking no openings except a doorway at lower ground level are shown in the facing elevation and it is recommended that new openings are controlled by condition.

Highway issues

- 10.22 The site is accessed from High Street, a classified C road and at present there is a detached single garage and parking spaces on the site. This proposal amends the layout of the proposed detached dwelling. The proposed dwelling is shown set further back from the highway, and the previously proposed integral garage is omitted.
- 10.23 During the course of this application amended plans have been sought to provide 3 off street parking spaces. The revised plans have been assessed by the Council's Highways Development Management officers who raise no objection to the amended scheme subject to conditions relating to visibility, retaining walls, surfacing of parking areas and driveway gradient.
- 10.24 Provided the above conditions are applied, the proposal would be in the interests of highway safety and compliant with Policies LP21 and LP22 of the KLP.

Representations

- 10.25 Representation from occupants of one property were received in response to the council's consultation. The following is a summary of the concerns raised:

- Top storey windows will cause an invasion of privacy, this could be alleviated by repositioning them in the rear elevation.

Response: Given that this proposal sets the front elevation of the house approximately 3.0m further back from the road frontage and forms a separation distance of around 26.0m between front elevations with High Street in-between, in officers' opinion this would not be unduly detrimental to the residential amenities of the occupants of houses on the opposite side of the road. It is also noted that these properties are on raised ground and there are similar established relationships between houses on opposite sides of the road further along High Street.

Other Matters

- 10.26 ***Contaminated and unstable land (historic coal mining activity)*** - the application site falls within a defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards.
- 10.27 The Coal Authority previously commented on planning approval 2015/93715 in January 2016 and recommended the imposition of a condition to ensure intrusive site investigations and condition 6 was imposed accordingly.
- 10.28 The Coal Authority were consulted with the current proposal and raise no objections to the current proposal and that the condition referred to above needs to be duplicated on any re-issued consent. Provided this is done the proposal would comply with Policy LP53 of the KLP and the aims of chapter 15 of the NPPF.

- 10.29 **Air quality** - In order to promote sustainable methods of transport and to address district wide issues surrounding poor air quality, condition 7 was applied to planning approval 2015/93715 in relation to the approved dwelling. It required an electric vehicle recharging point to be installed prior to occupation. It is recommended to repeat this condition on any re-issued consent. This would be in accordance with the NPPF as well as 'air quality and emissions – technical guidance.

Conditions

- 10.30 S73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the previously-applied conditions (attached to the previous permission ref: 2015/93715, approved on 01/03/2016), and to update, revise, add to or delete redundant conditions as part of the assessment of the current application. Those conditions would normally be re-applied in any subsequent approval of a S73 application, as the effect of the S73 approval is the issue of a fresh grant of permission. It is, however, appropriate to review those conditions before they are re-applied in light of the council's decisions made since the original permission was granted. Several of the conditions of permission ref: 2015/93715 are no longer applicable, therefore their wording should be amended to remove the need for resubmissions of previously-approved details.
- 10.31 Each of the 13 conditions of permission ref: 2015/93715 is considered as follows:

Condition 1 (three years to commence development) - as permission ref: 2015/93715 has been implemented (development commenced with the erection of the extension), this condition does not need to be re-applied.

Condition 2 (approved plans and documents) – The wording of this condition would not change except to reflect relevant policies in the KLP. The list of drawings and documents on the new decision notice would be varied to include the drawings illustrating the proposed re-designed detached dwelling.

Condition 3 (sample of facing and roofing materials) – this condition would be re-applied in the interests of visual amenity, but updated to take into account relevant KLP policies.

Condition 4 (materials) – This condition would be re-worded to reflect the currently proposed walling materials.

Condition 5 (facing materials of the extension) – This condition would be removed as the extension has already been erected.

Condition 6 (intrusive site investigation works) – This condition would be re-applied as it has not been discharged and reworded to take into account relevant KLP policies, in the interests of human health and the environment.

Condition 7 (an electric vehicle charging point) - This condition would be re-applied and reworded to take into account relevant documents and KLP policies, in the interests of sustainable transport.

Condition 8 (surfacing of vehicle parking areas) – This condition would be re-applied in the interests of highway safety and sustainable drainage.

Condition 9 (gradient of driveway) – This condition would be reworded and re-applied in the interests of highway safety and to provide adequate and safe access to the site.

Condition 10 (clearance of sight-lines) – This condition would be re-applied and reworded to ensure adequate visibility in the interests of highway safety.

Condition 11 (details of footway crossings) – This condition would be reworded and re-applied in the interests of highway safety and to provide adequate and safe access to the site.

Condition 12 (retaining walls) – This condition would be re-worded and re-applied to ensure any new retaining structures do not compromise the stability of the highway.

Condition 13 (removal of permitted development rights) – This would be re-worded to reflect relevant KLP policies and re-applied in order to prevent overdevelopment of the site and not detract from the amenities of the neighbouring properties.

11.0 CONCLUSION

- 11.1 It is considered that the submitted plans for an alternative house design would still be acceptable in terms of visual and residential amenity, and the revised layout would not cause unacceptable highway impacts. The use of artificial stone to the front elevation and render elsewhere would also be acceptable in terms of visual amenity. Furthermore, the amendments are considered acceptable in relation to all other relevant planning matters.
- 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 The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

1. Development in accordance with the approved plans
2. Sample of all facing and roofing materials
3. Artificial stone to front elevation & render (colour to be approved) to other elevations
4. Intrusive site investigation works
5. One electric vehicle recharging point
6. Vehicle parking areas to be surfaced and drained
7. Driveway gradient
8. Nothing to be planted/erected within 2 metres of the back of the carriageway
9. Details of footway crossings
10. Details of Retaining walls
11. Removal of permitted development rights for extensions and out buildings within the curtilage of the new dwelling.

Background Papers:

Web link to application details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2F92739>

Certificate of Ownership – Certificate A signed and dated 16/08/2019

Planning application 2015/93715:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2F93715>

Planning application 2018/91159:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F91159>

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Dec-2019

Subject: Planning Application 2019/92710 Reserved matters application pursuant to outline permission 2017/93347 for erection of 32 dwellings land off, Fieldhead Lane, Birstall, Batley

APPLICANT

Stonewater Housing
Association

DATE VALID

13-Aug-2019

TARGET DATE

12-Nov-2019

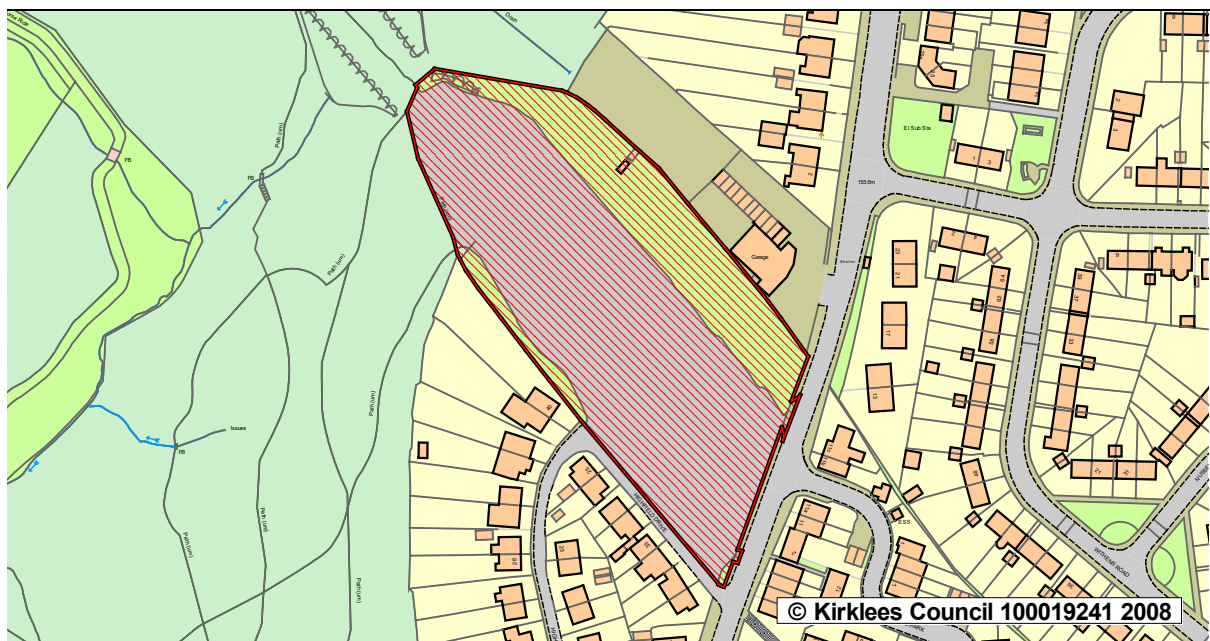
EXTENSION EXPIRY DATE

10-Dec-2019

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Birstall and Birkenshaw

Yes

Ward Members consulted

RECOMMENDATION:

DELEGATE approval of this reserved matters application and the issuing of the decision notice to the Head of Planning and Development in order to:

- **Secure the signing of a Section 106 Agreement to cover:**
 - **the provision and future maintenance of the 32 affordable houses;**
 - **provision and subsequent maintenance of the Public Open Space provided within the site**
- **Complete the list of all necessary and appropriate conditions, including those set out in this report**

1.0 INTRODUCTION

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

“I would like this application referred to sub-committee and a site visit arranged so that committee members can see the closeness and height of the existing properties that would have a visual and light impact on existing properties”.

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

2.0 SITE AND SURROUNDINGS

2.1 The site comprises an area of 1.05 Ha, roughly rectangular in shape, and is located on the western side of Field Head Road, Birstall. The site is a disused railway viaduct that has been backfilled. To the north of the site is a car repair and MOT centre, and to the south residential properties on Highfield Drive. The dwellings on Highfield Drive are at a lower level than the application site

2.2 To the west of the site is the Oakwell Country Park. The site is self-seeded, and also contains a number of mature trees, to the west that are part of a larger group Tree Preservation Order, that extends over large areas of Oakwell Country Park. The frontage onto Fieldhead Road, currently comprises a brick wall approx 1.5m in height.

- 2.3 The site is allocated for housing on the Kirklees Local Plan with a requirement that a cycle / pedestrian route be provided across the site.

3.0 PROPOSAL:

- 3.1 Reserved Matters approval is sought for the erection of 32 dwellings, located on the western side of Field Head Lane, Birstall. An outline application has been approved (2017/93347), as has the access point. The reserved matters applied for are: layout, scale, appearance and landscaping.
- 3.2 The scheme is for 100% affordable housing with 32no. 2 and 3 bed dwellings of which 24 will be for affordable rent, and 8 for shared ownership.
- 3.3 The access is taken off Field Head Lane (at the outline stage an illustrative layout showed two potential access points, but this has now been reduced to a single access point). The access extends to the west towards the tree line with Oakwell Park, with a number of drives serving terraced and semi-detached properties on the south and north-west of the site which present gables onto the road. To the north of the access road the dwellings face onto the access road. The proposal provides for 3no. pairs of semi-detached dwellings facing onto Field Head Lane, to the south of the access point, and the gable end of dwellings to the north.
- 3.4 At the top of the vehicular access point a cycle link point that connects to the informal link that descends the wooded slope into Oakwell Park is proposed. The trees on the slope are protected as well as being within the application site. These trees are to be retained as part of the scheme.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2017/93347 Outline application for residential - access approved
- 4.2 2019/91089 - Discharge of condition - approved
- 4.3 2019/91727 - Discharge of Condition - approved

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Additional information and sections were sought and provided during the course of the application.
- 5.2 Discussions with applicants and Oakwell Hall regarding the location of the cycle path, and how / where it links into the Oakwell Country Park.
- 5.3 Measures to protect the TPO'd trees provided and agreed.

6.0 PLANNING POLICY:

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

6.2 The site is allocated for Housing on the Kirklees Local Plan.

6.3 Kirklees Local Plan (2019):

- LP3 - Location of new development
- LP7 - Efficient and effective use of land and buildings
- LP11 - Housing mix and affordable housing
- LP20 - Sustainable travel
- LP21 - Highway safety and access
- LP22 - Parking
- LP23 - Core walking and cycling network
- LP24 - Design
- LP27 - Flood Risk
- LP28 - Drainage
- LP30 - Bio diversity and geodiversity
- LP32 - Landscape
- LP33 -Trees
- LP49 - Education and health needs
- LP63 - New open space

6.4 National Planning Policy Framework (NPPF):

- Chapter 5** - Delivering a sufficient supply of homes
- Chapter 8** - Promoting healthy and safe communities
- Chapter 9** - Promoting sustainable transport
- Chapter 11** - Making effective use of land
- Chapter 12** - Achieving well-designed spaces
- Chapter 14** - Meeting the challenge of climate change, flooding and coastal change.
- Chapter 15** - Conserving and enhancing the natural environment.

6.5 Supplementary Planning Guidance / Documents:

- Interim Affordable Housing Policy (2016)
- Highways Design Guide SPD
- Planning Practice Guidance
- National Design Guide

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been publicised by neighbour letters and site notices (and the time period for receipt of responses extended until October 1st 2019)

7.2 Ward Members have been notified.

7.3 To date there have been 3 representations, two objecting and one in support.

7.4 The two objections are summarised as follows:

- The proximity of the new dwellings, and their gables to the existing dwellings on Highfield Drive would have an adverse effect on residential amenity and result in loss of light.
- Field Head Lane already suffers from vehicle overload and people park in front of the site and also partly on the pavement. Additional traffic generated by this development will exacerbate this situation.
- The cycle pathway down to Oakwell Country Park should be located adjacent Highfield Drive, in between any development and the existing properties on Highfield Drive.
- Hopes that every effort will be made to retain as many of the trees and vegetation in situ.

7.5 The letter of support is summarised as follows:

- The propose route for a footpath into Oakwell Park indicate on the plan looks like a good option. It has least impact on the layout plan of the new houses, and its route would have least proximity to most properties in the new layout. The current well used footpath goes directly through the middle of the field (and so would be in the middle of the new development) and enters the park at the tree line, next to the tip of a Highfield Drives property's garden. A narrow high fenced path alongside Highfield Drive would become a loitering area, and dogs mess alley.

7.6 Cllr Elizabeth Smaje has made the following comments in relation to the proposals:

- As the height of the land is slightly higher than Highfield Drive I am concerned about the closeness of the new properties in particular the height of the three storey houses so close to existing properties is not acceptable. Highfield Drive itself is narrow and therefore the existing properties will be close the boundary of the new development. If new properties are higher than existing this is going to have an impact on visual impact and light.
- Boundary treatment is specified as fencing but there are existing trees that form a boundary for some of Highfield Drive now. Are trees going to be put back for those that are removed?
- Please ensure that public spaces are well lit and overlooked. The very real concern for the potential for ASB issues in the future needs to be taken into account. In relation to the footpath, please do not design in problems for the future. The footpath should be lit and motor bikes/quad bikes should not be able to get through. This does not seem to have been taken into consideration at all.
- The plans mention a "potential land grab", is this taken into consideration by planners and allowed?
- I note that there are no comments by Highways and would ask why?

- The matter in relation to highway work that was raised at outline in providing measures to slow traffic down on Fieldhead Lane does not appear to have been taken into consideration. There are a number of estate roads close to this new estate and the speed of vehicles travelling on Fieldhead Lane should be reduced. Fieldhead Lane is used by traffic trying to bypass J27 so is already very busy.
- If the above issues cannot be dealt with by planning officers and officers are minded to approve, I would like this application referred to sub-committee and a site visit arranged so that committee members can see the closeness and height of the existing properties that would have a visual and light impact on existing properties

8.0 CONSULTATION RESPONSES:

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 – The layout is considered to be satisfactory from a highway safety perspective, subject to some clarification on minor points which shall be addressed and reported in the update. Sufficient parking would be provided within the site to serve the development. Further details of the pedestrian/cycle route advised to be conditioned.

8.2 Non-statutory:

KC Ecologist - A condition requiring submission of biodiversity enhancement opportunities ie. bat and bird roost opportunities still required via the outline application.

KC Trees - No objections recommend conditions for protection of the trees during construction via a Method Statement.

KC Strategic Housing - Affordable housing policy requires 20% provision. Clearly 100% provision is welcome, as is the mix of tenure. Support this application.

KC Landscape and Parks - A development of this scale would normally generate the need for a LAP, plus other amenity and greenspace. An off-site lump sum of £57,523.00 would be required. Whilst the adjoining Oakwell Park is of high quality, it would be appropriate towards the proposed pathway/cycle link, and its connection with the existing circulation routes in the Oakwell Park including footpaths and bike trails. Improved landscaping within the site and street scene is required.

Police Architectural Liaison Officer – No fundamental objections to the plan. Attention needed to boundary treatments, and lighting, and to secure measures to prevent a misuse of the proposed pedestrian / cycle way.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highways Issues
- landscape Issues
- Section 106 issues

10.0 APPRAISAL

Principle /Policy

- 10.1 The site already has the benefit of an outline residential approval (referenced 2017/93347), and is allocated for housing in the adopted Local Plan. As such there is no objection to the site being developed for residential purposes. The current application is for Reserved Matters associated with the above referenced outline application.
- 10.2 On the outline approval conditions were added requiring the provision of both affordable housing and public open space within the scheme.
- 10.3 The scheme provides 32 no dwellings, all of which are affordable houses with 24 for affordable rent and 8 for shared ownership. The Council's adopted policy on affordable housing would require 20% provision ie. 6 in this case. As such, the scheme satisfies policy LP11 of the KLP, both in terms of quantity of units and mix of tenure.
- 10.4 The scheme makes provision for public open space (retaining the wooded slope at the western side of the site down into Oakwell Park), as well as a cycle path link from the site into Oakwell Park. The requirement for this link is included within the site allocation constraints in the Local Plan, and was previously indicated for such in the Unitary Development Plan, as well as a specific condition on the Outline approval. In addition to the requirement in the allocation policy LP23 of the KLP "Core walking and Cycling Network" is relevant.
- 10.5 The retention of the protected trees on the slope is welcome, and makes a contribution towards open space provision, however an off-site financial contribution of £57,523, would be required to accord with policy LP63 of the KLP. Utilising this contribution towards the improvement of the cycle link to the existing cycle and footpath network within the Oakwell Country Park would accord with policies LP63 (New Open Space) and LP23 (Core Walking and Cycling network" of the KLP.
(NB: The location of the cycle way is addressed below as part of the consideration of the layout and impacts on residential amenity and landscape issues.).
- 10.6 Local Plan policy LP7 seeks to ensure the efficient and effective use of land and buildings.

- 10.7 In this case, the site has a total area of 1.04 Ha, and the application seeks 32 dwellings ie. gross density just under 32 dwellings per Ha. Whilst the site is 1.04 Ha, this includes the wooded slope containing trees that are protected by a Tree Preservation Order. As such, the developable area of the site is actually just under 0.8 Ha which delivers a density of 40 dwellings per Ha.

NOTE: The outline application established the principle of residential development on this site, along with the total number of dwellings as well as the access point(s). A full assessment will be set out in the main agenda covering the remaining matters:-

Urban Design issues

- 10.8 This proposal is for Reserved Matters, and the issues of layout, scale, appearance and landscaping are all applied for at this stage.
- 10.9 The layout provides for a single vehicular access, as opposed to the previously requested two. As such, this enables a scheme providing an active frontage onto the road, following the demolition of the existing wall. The dwellings to the north of the access would be situated at right angles facing onto the access road, entering into the site.
- 10.10 The layout behind the frontage comprises a series of small cul-de-sacs, off the central access road, that links to the wooded hill side descending into Oakwell Park. The layout is considered to be satisfactory with appropriate distances between buildings being proposed, in accordance with policy LP24 of the KLP.
- 10.11 The house types ie. mainly semi-detached with some terraced properties, at the applied for density are comparable to the neighbouring residential areas, to the south and on the opposite side of the road.
- 10.12 The dwellings are two storey and are to be constructed of brick and tile, once again reflecting the scale and appearance of the neighbouring dwellings.
- 10.13 In this case, part of the layout involves the provision of the pedestrian / cycling route. The main access forms the initial part of the route, and then when the route meets the trees on the wooded slope, the route turns left, and then descends along a former track down to Oakwood Park. Adjacent to the "left turn" is an area of open space, with seating and a site for future public art.
- 10.14 The route of the access is a result of site constraints, ie. a very steep slope, and the effect on the minimum number of protected trees, thus retaining the woodland walk effect. Full details of the exact route of the pedestrian / cycle route is advised by officers to be secured via condition.

Residential Amenity

- 10.15 As previously set out, the proposed layout is considered to maintain appropriate distances between buildings and would provide a high standard of amenity for occupiers within and outside of the site. As such, residential privacy should be retained and adequate amenity space provided for the new dwellings. In terms of the relationship of Plot 11 relative to existing properties on Highfield Drive, which are at a lower level than the site, amendments to internal site levels have resulted in an amended scheme with a significantly

reduced finished height for Plot 11. Officers are therefore satisfied that the reduction in the ridge height would minimise impact on occupants of properties on Highfield Drive to an acceptable level. Furthermore, the separation distance between the gable of Plot 11 and dwellings on Highfield Drive is considered to be acceptable.

- 10.16 The other issue that affects the residential amenity of future occupants is the potential noise from the main road, as well as for properties proposed on the northern end of the site, the neighbouring car repair business. The issue of noise mitigation was raised at the outline application stage and is the subject of a condition. The applicant has submitted a noise mitigation strategy for the proposed layout as part of this application. Any agreed measures to the affected future dwellings would be secured via condition.
- 10.17 The main access serving these dwellings would also serve the access from Fieldhead Lane to the pedestrian / cycle route from the top of the cul-de-sac down the wooded slope connecting into Oakwell Park. As such there would be additional pedestrian and cycle traffic, but not sufficient to cause any material disturbance for the occupants of these dwellings. Also the occupants of the new dwellings would have easy access to the Oakwell Park facilities.
- 10.18 In all, the proposals, with appropriate conditions (imposed already at outline stage and as suggested above in terms of this reserved matters application), would provide a high standard of residential amenity for future and neighbouring occupiers, in accordance with the aims of policy LP24 of the KLP and chapter 12 of the NPPF.

Highways Issues

- 10.19 At outline stage the principle of access was agreed and the location. This reserved matters utilises the agreed access point, and includes the provision of a new pedestrian footpath along the site frontage, as required at outline stage. The layout is considered to be satisfactory from a highway safety perspective, subject to some clarification on minor points. This additional information shall be provided and resolved prior to the committee meeting, and included within the update.
- 10.20 There is sufficient parking for this development within the site ie. two spaces per unit, with none of the parking spaces accessed off Fieldhead Lane.
- 10.21 The provision of the pedestrian cycle way is required via the outline permission and to accord with Local Plan policy. The provision through the developed area of the site is satisfactory, however initial drawings showed only a pedestrian route and long sections need to be provided. As such before any dwellings are occupied, as set out at paragraph 10.14 of this report, a scheme to provide appropriate pedestrian / cycle routes between the site and Oakwell Park is recommended to be agreed via condition.
- 10.22 Subject to the receipt of the necessary clarifications, no objections raised subject to conditions, which would include the approval of the final details of the pedestrian / cycleway, a Construction Management Plan and the production of a Travel Plan.

Landscape Issues

- 10.23 Landscaping is a reserved matter on the outline approval, and is submitted for consideration at this point. There are distinct areas of this site: first a level area adjacent to Fieldhead Lane that is a filled area, overgrown, unkempt and suffering from fly tipping. This is the area where the new housing and access are proposed; and second, to the north-west of the site, a steep wooded slope that contains a significant number of trees that are protected. The site as a whole has been used unofficially to access the Oakwell Park, desire lines etc are evident all over the site.
- 10.24 The proposals for the residential area, seeks to retain, where possible, the few trees and shrubs along the northern and southern boundaries, as well as introducing new tree planting along the southern boundary. There are also areas of shrub planting on the gradients between the application site and Highfield Drive. The garden areas of the houses throughout are proposed to be lawned, with the street frontages onto Fieldhead Lane and parking areas throughout the site raised ornamental planting beds. Along the main access road, and at 3 points along the frontage, there are proposed green verges with new tree planting.
- 10.25 It is considered by officers that this scheme is satisfactory and accords with the guidance contained in the Council's Green Streets Initiative.

Pedestrian/Cycle route

- 10.26 The area of wooded slope to the north-west of the site is to be retained, as far as practicable, as woodland. However it is across this part of the site that a pedestrian / cycle route needs to be provided. There are a number of challenges with this ie. the steepness of the slope; the need to safeguard as many trees as possible, and the need for a meaningful connection to the existing network of routes that exist within Oakwell Park.
- 10.27 A pedestrian / cycle route would normally be required to be at least 3 metres wide, with hard surfacing, and relatively straight. The gradients on this site make this virtually impossible to achieve, and to provide a "zigzag" route to accommodate levels would use virtually the whole site, resulting in the loss of all of the trees.
- 10.28 An alternative, which separates the uses, has been negotiated ie. a pedestrian stepped path from the end of the vehicular cul-de-sac, turning to the left and running to the edge of the site along the route of a former track that was in use when the site was an embankment next to the railway line. This connects to a nature trail track in Oakwell Park. Secondly, an informal un-made off road route, compacted with edge protection where necessary. This would also terminate at the nature track in Oakwell Park.
- 10.29 It is considered by officers that this split provision is an appropriate form of the delivery on this site, maintaining as many of the trees as possible, with the pedestrian approach to Oakwell Park via a woodland maintained.
- 10.30 A condition requiring the detailed survey and specification for this option is recommended. It is recommended that the scheme be delegated to officers to approve via discharge of condition, prior to any of the dwellings approved being occupied.

Section 106 matters

- 10.31 This submission is a Reserved Matters application, however the outline approval, which had an indicative layout of the same numbers, contained planning conditions requiring the provision of affordable housing and Public Open Space (POS). As such, a policy compliant submission for 32 residential units would be 20% affordable housing ie. 6 units and the on-site POS already indicated plus an off-site POS contribution of £57,523.00, along with the provision of a pedestrian/cycleway.
- 10.32 The submission/offer is for 100% affordable housing ie. 32 units - 24 affordable rent and 8 shared ownership, and the on-site POS already indicated, as well as the provision of the pedestrian / cycle way ie. the applicants have submitted viability statement that indicates they are not able to deliver the 100% affordable and provide an off-site POS payment of £57,523.
- 10.33 The Housing Growth Section of the Council have confirmed that the submission by Stonewater Housing Association (a non-profit making organisation) in order to achieve 100% affordable housing will be funded by a combination private borrowing and Homes England grant, assessed against a value for money variety of delivery criteria.
- 10.34 Given the circumstances of this scheme, it is considered that, on balance, the additional affordable units provided ie. 24, outweigh the non-provision of the £57,523. It is also noted that in their comments, the Council's Landscape Service have confirmed that it would be appropriate for the off-site sum to be used towards the pedestrian / cycle route given the benefits that would accrue to Oakwell Park.
- 10.35 It is proposed to secure the affordable housing and the provision and on-site maintenance of the POS identified in the scheme via a Section 106 Agreement, as set out in the recommendation.

11.0 CONCLUSION

- 11.1 The principle of residential development has already been accepted on this site following the granting of outline permission and this current reserved matters scheme delivers an efficient use of the site as well as 100% affordable housing which make a useful contribution towards the Council's housing targets and towards the affordable housing needs of the local area.
- 11.2 The scheme retains the bulk of the protected trees on the wooded slope adjacent to Oakwell Park, as well as delivering a pedestrian / cycle access to that site that would be in-keeping with the surroundings.
- 11.3 The scheme is considered to satisfactorily reflect the nature of the surrounding housing, whilst resulting in a visual enhancement from what is a tipped and overgrown piece of land bounded by an engineering brick wall.

- 11.4 The scheme is recommended for approval subject to a section 106 Agreement and appropriate conditions.
- 11.5 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.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Standard Reserved Matters
2. In accordance with approved plans
3. Samples of materials
4. Protection of trees during development
5. Biodiversity enhancement opportunities
- 6 Highways - servicing, parking, maintaining visibility
7. Construction Management Plan
8. Travel Plan
9. Details of pedestrian / cycle route to be agreed and implemented, prior to the occupation of any of the approved dwellings.

NOTE: A number of issues on this site are already covered by existing conditions on the outline, including:

- Contamination and remediation;
- Noise attenuation;
- Drainage

Background Papers:

Application and history files:

Web link to reserved matters application details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92710>

Web link to original outline application details (2017/93347):

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93347>