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

Julie Muscroft

The Democracy Service

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Please ask for: Andrea Woodside

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Wednesday 5 February 2020

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 13 February 2020**.

(A coach will depart the Town Hall, at 9.50am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Dewsbury Town Hall.)

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

Councillor Steve Hall (Chair)
Councillor Mahmood Akhtar
Councillor Nosheen Dad
Councillor Charlotte Goodwin
Councillor Michelle Grainger-Mead
Councillor John Lawson
Councillor Fazila Loonat
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor Kath Taylor
Councillor Graham Turner
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: Membership of the Committee

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

2: Minutes of Previous Meeting

1 - 6

To approve the Minutes of the meeting of the Committee held on 9 January 2020.

3: Interests and Lobbying

7 - 8

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

4: Admission of the Public

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

5: Deputations/Petitions

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

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

6: Public Question Time

The Committee will hear any questions from the general public.

7: Site Visit - Application No: Application 2016/94290

Outline application for residential development land at George Street/
William Street, Ravensthorpe, Dewsbury.

Estimated time of arrival at site: 10.00am

Contact Officer: Nia Thomas

Ward Affected: Dewsbury West

8: Site Visit - Application No: Application 2019/93284

Alterations to convert former church to 6 dwellings at Clayton West United Reformed Church, Church Lane, Clayton West, Huddersfield.

Estimated time of arrival at site: 10:50am

Contact Officer: Liz Chippendale

Ward Affected: Denby Dale

9: Local Planning Authority Appeals

9 - 30

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: Denby Dale; Liversedge and Gomersal

Planning Applications

31 - 32

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 10 February 2020.

To pre-register, please email governance.planning@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.

10: Planning Application - Application No: 2019/92515 33 - 44

Erection of first floor and two storey rear extensions Mohaddis E Azam Education Centre and Masjid E Madani at 225C, Ravenshouse Road, Dewsbury Moor, Dewsbury.

Contact: Sarah Longbottom, Planning Services

Ward Affected: Dewsbury West

11: Planning Application - Application No: 2016/94290 45 - 60

Outline application for residential development land at George Street/William Street, Ravensthorpe, Dewsbury.

Contact: Nia Thomas, Planning Services

Ward Affected: Dewsbury West

12: Planning Application - Application No: 2019/93284 61 - 78

Alterations to convert former church to 6 dwellings at Clayton West United Reformed Church, Church Lane, Clayton West, Huddersfield.

Contact: Liz Chippendale, Planning Services

Ward Affected: Denby Dale

13: Planning Application - Application No: 2019/93261 79 - 90

Variation of condition 7 (opening hours) on previous application 2002/90188 for change of use from workshops to combined workshop/office and showroom at Dual House, Wellington Street, Batley.

Contact: Liz Chippendale, Planning Services

Ward Affected: Batley East

14: Planning Application - Application No: 2019//93617 91 - 108

Erection of detached dwelling adjacent to The Hall, Liversedge Hall Lane, Liversedge.

Contact: Sarah Longbottom, Planning Services

Ward Affected: Heckmondwike

Planning Update

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

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 9th January 2020

Present: Councillor Steve Hall (Chair)
Councillor Mahmood Akhtar
Councillor Nosheen Dad
Councillor Charlotte Goodwin
Councillor Michelle Grainger-Mead
Councillor John Lawson
Councillor Fazila Loonat
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor Kath Taylor
Councillor Graham Turner
Councillor Will Simpson

1 Membership of the Sub-Committee

Councillor Simpson substituted for the Labour Group Vacancy.

2 Minutes of Previous Meeting

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

3 Interests and Lobbying

Councillor A Pinnock declared that he had been lobbied on Applications 2019/92378 and 2019/90155.

Councillor Lawson declared that he had been lobbied on Applications 2019/90183, 2019/91657 and 2019/92378.

Councillor K Taylor declared that she had been lobbied on Applications 2019/90155, 2019/90183, 2019/91657 and 2019/92378.

Councillor Grainger-Mead declared that she had been lobbied on Applications 2019/90155, 2019/90183, 2019/91657 and 2019/92378.

Councillor Dad declared that she had been lobbied on Applications 2019/92378, 2019/90155 and 2019/91657.

Councillor Loonat declared that she had been lobbied on Applications 2019/90155, 2019/90183 and 2019/91657.

Planning Sub-Committee (Heavy Woollen Area) - 9 January 2020

Councillor Simpson declared that he had been lobbied on Application 2019/92378 and would not participate in the consideration or determination of the application.

Councillor Turner declared that he had been lobbied on Applications 2019/91657, 2019/90183 and 2019/91657.

Councillor Pervaiz declared that she had been lobbied on Applications 2019/92378 and 2019/93660.

Councillor Scott declared that she had been lobbied on Applications 2019/90155, 2019/90183, 2019/91657, 2019/92378 and 2019/92515.

Councillor S Hall declared that he had been lobbied on Application 2019/92378.

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

The Sub-Committee received questions from Cheryl Tyler, Sarah Hirst and Stephen Ashen in relation to matters regarding the red line boundary of sites, the publication of reports prior to the end of a consultation period, the disposal and use of public assets and amended officer recommendations.

A response was provided by the Head of Planning and Development.

7 Site Visit - Application No: 2019/90183 (Position Statement)

Site visit undertaken.

8 Site Visit - Application No: 2019/91657

Site visit undertaken.

9 Site Visit - Application No: 2019/92378

Site visit undertaken.

10 Site Visit - Application No: 2019/93659

Site visit undertaken.

11 Site Visit - Application No: 2019/93660

Site visit undertaken.

12 Site Visit - Application No: 2019/93266

Site visit undertaken.

13 Site Visit - Application No: 2019/92515

Site visit undertaken.

Planning Sub-Committee (Heavy Woollen Area) - 9 January 2020

14 Local Planning Authority Appeals

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

RESOLVED - That the report be noted.

15 Planning Application - Application No: 2019/90155

The Sub-Committee noted that Application 2019/90155 (Change of use and alterations to convert trade counter to retail unit to function room at former Harrisons Electrical Warehouse, Huddersfield Road, Dewsbury) had been withdrawn prior to the meeting.

16 Planning Application - Application No: 2019/90183 (Position Statement)

The Sub-Committee received a position statement in relation to Application 2019/90183 - Erection of 14 dwellings and associated works at land off Station Road, Skelmanthorpe, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Susan Stanbridge and Fay Woodcock (local residents).

RESOLVED – That the Position Statement be noted.

17 Planning Application - Application No: 2019/91657

The Sub-Committee gave consideration to Application 2019/91657 – Erection of 30 dwellings at land at Station Road, Skelmanthorpe, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Susan Stanbridge and Fay Woodcock (local residents) and Stewart Brown (applicant's agent).

RESOLVED – That the application be deferred in order to enable concerns regarding access, drainage and parking provision to be addressed.

A Recorded Vote to Refuse the application was taken in accordance with Council Procedure Rule 42 (5) as follows; -

For: Councillors S Hall, Loonat, A Pinnock and Turner (4 votes)

Against: Councillors Akhtar, Dad, Grainger-Mead, Lawson, Pervaiz, Scott and K Taylor (7 votes)

Abstained: Councillor Goodwin

A Recorded Vote to Defer the application was taken in accordance with Council Procedure Rule 42 (5) as follows; -

For: Councillors Akhtar, Dad, Goodwin, Grainger-Mead, Lawson, Pervaiz, Scott and K Taylor (8 votes)

Against: Councillors S Hall, Loonat, Pervaiz and A Pinnock (4 votes)

Planning Sub-Committee (Heavy Woollen Area) - 9 January 2020

18 **Planning Application - Application No: 2019/92378**

The Sub-Committee gave consideration to Application 2019/92378 – Outline planning permission for erection of residential development at east of 28 Northorpe Lane, Mirfield.

RESOLVED – That the consideration of the application be deferred in order to allow public consultation to take place following the receipt of amended plans and updated certificates on the planning application form.

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

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

Against: (no votes)

19 **Planning Application - Application No: 2019/93659**

The Committee gave consideration to Application 2019/93659 – Erection of 6 bungalows and associated landscaping and parking at land off Kitson Hill Crescent, Mirfield.

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

RESOLVED – That authority be delegated to the Head of Planning and Development to receive the agreed highway details, to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- Development commencing within three years
- development in accordance with approved plans
- samples of materials
- boundary treatments
- drainage details to be implemented
- landscape scheme to be submitted
- electric charging vehicle points
- decontamination and remediation
- highways conditions regarding surface parking, maintaining visibility splay, construction management plan and bin store location/collection points
- removal of permitted development rights for any extensions
- improved bird and bat roost opportunities

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

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

Against: (no votes)

Planning Sub-Committee (Heavy Woollen Area) - 9 January 2020

20 Planning Application - Application No: 2019/93660

The Committee gave consideration to Application 2019/93660 – Erection of four bungalows at land off Fox Royd Drive, Mirfield.

RESOLVED –

- 1) That authority be delegated to the Head of Planning and Development to approve the application, issue the decision notice and complete the list of conditions including matters relating to;
 - Development commencing within three years
 - development in accordance with approved plans
 - samples of materials
 - boundary treatments
 - drainage details to be implemented
 - landscape scheme to be submitted
 - electric charging vehicle points
 - decontamination and remediation
 - highways conditions regarding surface parking, maintaining visibility splay, construction management plan and bin storage location/collection points
 - removal of permitted development rights for any extensions
 - improved bird and bat roost opportunities

- 2) That a further condition be included regarding the submission of a light scheme in the interests of crime prevention and improving safety and amenity.

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

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

Against: (no votes)

21 Planning Application - Application No: 2019/93266

The Committee gave consideration to Application 2019/93266 – Change of use from carpet showroom to nursery/out of school club at 21-23a Leeds Road, Liversedge.

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

RESOLVED – That the application be refused (Contrary to the Officer's recommendation the Sub Committee resolved to refuse the application due to concerns regarding the intensification of the site, impact upon amenity, air quality, proximity to industrial use, proposed hours of use and impact upon residential amenity, and safeguarding).

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

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

Against: (no votes)

Planning Sub-Committee (Heavy Woollen Area) - 9 January 2020

Abstained: Councillor Dad

22 **Planning Application - Application No: 2019/92515**

The Committee gave consideration to Application 2019/92515 – Erection of first floor and two storey rear extensions to Mohaddis E Azam Education Centre and Masjid E Madani, 225C Ravenshouse Road, Dewsbury Moor, Dewsbury.

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

RESOLVED – That the consideration of the application be deferred at the request of the applicant.

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

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

Against: (no votes)

KIRKLEES COUNCIL
DECLARATION OF INTERESTS AND LOBBYING
Planning Sub-Committee/Strategic Planning Committee

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

If you are approached by any Member of the public in respect of an application on the agenda you must 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: 13 FEBRUARY 2020

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: Denby Dale; Liversedge and Gomersal

Ward councillors consulted: No

Public or private: Public

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

1. Summary

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

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

- 2.1 2019/60/90380/E - Outline application for erection of residential development and associated access at Land at, Green Acres Close, Emley, Huddersfield, HD8 9RA. (Sub-Committee in accordance with Officer recommendation) (Dismissed)
- 2.2 2018/62/93471/E - Erection of detached dwelling at adj, 301a, Oxford Road, Gomersal, Cleckheaton, BD19 4LA. (Officer decision) (Dismissed)
- 2.3 2018/60/92169/E - Outline application for erection of dwelling (within a Conservation Area) adj, 6, Dean Fold, Highburton, Huddersfield, HD8 0QD. (Officer decision) (Dismissed)

3. Implications for the Council

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

- 3.1 Working with People
- 3.2 Working with Partners
- 3.3 Place Based Working

- 3.4 Climate Change and Air Quality
- 3.5 Improving outcomes for children
- 3.6 Other (eg Legal/Financial or Human Resources)
- 4. Consultees and their opinions**
Not applicable, the report is for information only.
- 5. Next steps**
Not applicable, the report is for information only.
- 6. Officer recommendations and reasons**
That the report be noted.
- 7. Cabinet portfolio holder recommendation**
Not applicable.
- 8. Contact officer**
Mathias Franklin – Head of Planning and Development (01484 221000)
mathias.franklin@kirklees.gov.uk
- 9. Background Papers and History of Decisions**
Not applicable.



Appeal Decision

Site visit made on 17 December 2019

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2019

Appeal Ref: APP/Z4718/W/19/3239659

Land west of Green Acres Close, Emley HD8 9RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr G Lloyd (Highstone Homes Ltd) against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/60/90380/E, dated 7 February 2019, was refused by notice dated 26 April 2019.
 - The development proposed is described as residential development with access into the site included.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is submitted in outline for residential development on the site and with all detailed matters reserved apart from access. It is proposed that the sole vehicular access into the site would be from Green Acres Close. An illustrative layout plan has been submitted showing 44 residential units on the site although reference is made by the appellant, including in the accompanying Transport Statement, to the erection of about 50 new dwellings. I have taken the illustrative layout into account in so far as considering only whether it would be acceptable in land use principle terms to erect dwellings on the site.
3. The Council adopted the Kirklees Highway Design Guide Supplementary Planning Document (SPD) in November 2019. This post-dates the Council's refusal of planning permission and I afford it significant weight as part of the determination of this appeal.

Main Issue

4. There is no contention between the main parties about the acceptability of the proposal in land use principle terms. Indeed, the principle of residential development has already been established in so far that the appeal site is allocated for such a purpose in the adopted Kirklees Local Plan 2019 (LP). In considering this allocation, it is of note that the Examining Inspector commented that *"the Council's highway evidence indicates that the main site access can be achieved from Wentworth Drive, and no other fundamental constraints to development have been identified"*.

5. In the context of the above, I am satisfied that residential development on the site would be acceptable in land use principle. Therefore, the main issue is the effect of the proposal on pedestrian and highway safety.

Reasons

6. It is proposed to access the site from Green Acres Close. Whilst Green Acres Close is wide enough to accommodate passing vehicles (about 5 metres in width), includes pavements on both sides and where there is on-street car parking for each of the dwellings, the same cannot be said for Warburton which currently serves about 80 dwellings. Any driver wishing to use Green Acres Close would have to use Warburton which is a road of about 280 metres long, is devoid of pavements for most of its length, includes on-street car parking (as witnessed on my site visit and in the appellant's/Council's surveys) and has varying widths.
7. I acknowledge the appellant's undisputed evidence that there have been no recorded accidents on Green Acres Close or Warburton in the last five years, although the evidence from Northern Transport Planning Limited (acting for local residents) does indicate that there were two accidents in the last five years on Upper Lane. I note that the appellant's highway consultant states that *"if the development and associated improvements didn't go ahead, then the highway concerns associated with the existing state of Warburton would remain"*. This does suggest to me, that the appellant is at least aware that there are some existing highway issues in respect of the use of Warburton.
8. Whilst there is some inconsistency in terms of the appellant's evidence, the Highway Authority do not dispute the fact that the proposal would lead to somewhere between 25 and 31 two-way trips during the morning and peak hours. I note the appellant's contrary opinion, but I consider that this range of trips would represent a significant increase in the number of vehicular movements in the context of the capacity and constraints of Warburton.
9. It is not proposed to provide highway design compliant footways along Warburton. Instead, it is proposed to provide 600mm wide 'hard margins' with 25 mm upstands as areas for pedestrians to step away from oncoming vehicles. However, that would not provide suitably safe areas for people with push chairs or wheel chairs. Furthermore, whilst the upstands would provide a useful physical feature for the blind/partially sighted when using a cane, the appellant indicates that owing to the height of the upstands it is intended that some drivers might use these areas particularly in places where carriageway widths are narrow. This would not be conducive to the safe use of the hard margins for any pedestrian taking into account the increased volume of traffic and average traffic speeds.
10. It is suggested that the hard margins might be of benefit in so far that drivers would then avoid walls and hedges, but I am not aware that this is an existing issue. Consequently, I do not afford this perceived benefit significant weight in the planning balance.
11. The provision of hard margins would likely have the effect of displacing some on-street car parking elsewhere in the local area. Whilst it could be said that at some times of the day there would be spare highway capacity to accommodate such displacement, I do note the significant number of representations made by other interested parties (including Northern Transport

Planning Ltd) about this matter, and the potential for any such displacement to cause some harm from a living conditions point of view. Furthermore, I have considered the photographs taken on 3 November 2019 by the occupier of 19b Rishworth Avenue which do show significant levels of on-street car parking on this day. Consequently, I do not agree with the appellant that "*very little on-street car parking occurs in this area*".

12. I do accept that the appellant has proposed to improve two existing footpaths (surfacing and lighting) which lead to Upper lane, one leading from Green Acres Close and the other from the appeal site. This would offer some of the occupiers of the proposed dwellings alternative and acceptable pedestrian routes to Upper Lane. However, for some, and notwithstanding the provision of proposed lighting, such routes would in relative terms be more vulnerable options particularly at night given the lack of surveillance from occupiers of dwellings and passing motorists. Therefore, I am not persuaded that all of the occupiers of the proposed dwellings would avoid using Warburton as a pedestrian route.
13. For those who currently live close to or on Warburton (particularly those on the more northerly stretch of this road), I do not envisage that very many of these residents would use the aforementioned public footpaths regularly when wishing to reach Upper Lane. It is reasonable to take the view that for these people they would take the most convenient/quickest route to Upper Lane which would be along Warburton. Indeed, the appellant's pedestrian counts suggest that some do already despite the existence of the alternative pedestrian routes. It is in this context, that I must consider the proposed significant increase in the volume of traffic on Warburton and its impact on all pedestrians that would use this route. The appellant takes the view that there are not a lot of people that walk down Warburton. However, the safety of pedestrians is an important consideration irrespective of the number of people that do/would use Warburton.
14. The appellant claims that due to average traffic speeds, it is acceptable for pedestrians and vehicles to co-exists as part of a shared surface. Whilst there may be some instances where a shared surface would be acceptable, I do not consider that this one of those cases. I reach this view taking into account that the appellant's 85th percentile wet weather speeds are respectively 18.4 mph southbound and 20.5 mph northbound which is higher than that advised in the SPD; that there is no existing or detailed proposed traffic calming in Warburton; that Warburton is a relatively long road; that a number of cars do/would regularly park on Warburton particular along its western side near to the recreation ground; that a number of residential driveways on Warburton do appear to have visibility splays that fall short of highway requirements, and as Warburton would be used by a significant amount of traffic at odds with guidance in paragraph 1.6 of the SPD. I also note the undisputed evidence provided by the Council that on 24 July 2018 twenty-six on-street parked vehicles were observed.
15. It is of note that the terraced houses opposite the recreation ground have no on-site car parking: it is therefore likely that some of the on-street car parking in this area is associated with the occupiers of these dwellings. I acknowledge the appellant's road safety audit which states that the existing parking of vehicles in this area runs the '*risk that pedestrians will exit between parked cars into the path of passing vehicles*'.

16. With a significant increase in vehicular movements on Warburton, I consider that there is an even greater risk of pedestrians being struck by passing vehicles when having to exit between or manoeuvre around parked cars on Warburton. I accept that H bar markings are proposed in this area, but I have not been provided with any evidence that these would be enforceable. Given the amount of on-street car parking that takes place already on this part of the road, I am not persuaded that the H bar markings would stop all people from parking in these areas.
17. I appreciate that the narrow grass verge adjacent to the recreation ground could be used as an area for pedestrians to keep away from passing vehicles. However, this area would not be wide enough to accommodate all individuals (e.g. those with push chairs / wheel chairs) and, in any event, any such individuals that might be able to use such an area would then be unacceptably forced into the road and into oncoming vehicles near to the existing pedestrian access to the recreation ground. This may happen now, but that is in the context of much fewer vehicular movements in Warburton.
18. As part of my site visit, I was able to consider the width of the carriageway in Warburton with the provision of the proposed hard margins (i.e. 600 mm) and car parking bays. In particular, I was able to consider the provision of a proposed extended footway at the junction of Green Acres Close with Warburton. It was agreed on site that with the provision of such a build out the width of the highway (i.e. from the build out to the proposed hard margin) would be about 4.4 metres and with a parked car in this location (as was the case on the site visit) it would be approximately 2.5 metres.
19. I recognise that some drivers may look to bump over the hard margin at this point in Warburton given that space would be very tight. Some may not opt to do that particularly when pedestrians were in situ and given the close proximity of residential properties. Either way, there is potential for unacceptable conflicts between oncoming vehicles and/or with pedestrians in this part of Warburton which is also close to the junction with Green Acres Close.
20. I accept that the proposed works to the Green Acres Close / Warburton junction would provide some minimal improvements to visibility from the junction. However, this would be at the expense of narrowing the carriageway where the evidence, as outlined above, indicates that vehicles park opposite.
21. With the implementation of the appellant's proposed highway works, parts of Warburton would be of insufficient width to allow some vehicles to pass including in particular an HGV /refuse vehicle and a car. In this regard, it cannot reasonably be said that the proposal would represent an improvement relative to the existing situation. In fact, and given the significant increase in traffic on Warburton, I consider that it is likely that traffic flow on this road would be severely interrupted and that overall there would be unacceptable conflict between oncoming vehicles and pedestrians.
22. In reaching the above view, I note that the SPD states that "*the typical width of adopted carriageways is generally 5.5m. This allows all vehicles to pass each other with ease given the infrequency of large vehicles on residential streets. This width is only sufficient to cope with typical residential traffic provided that sufficient off-street parking is available*". I note that the appellant suggests that with the provision of the H Bar markings it would allow some vehicles to

- pass. However, and for the reasons outlined above relating to enforceability, I consider that some motorists would likely park in these areas.
23. I do accept that the proposals include some improvements in Warburton (including at its junctions) such as the provision of dropped kerbs in some locations. This would make it easier for some to use Warburton (e.g. push chair and wheel chair users) without having to bump over kerbs.
24. I note that it is proposed to include new footways where the existing two public footpaths emerge at Upper Lane. It is also proposed to include a continuation of the footpath on Upper Lane to the junction with Warburton. I do acknowledge the Council's comment that these works would lead to a narrowing of Upper Lane and that there are no current on-street car parking restrictions along this highway.
25. Nonetheless, Upper Lane is not consistent in terms of its width and it is particularly wide in the vicinity of the junction of Warburton with Upper Lane (agreed on site at about 7.2 metres). Furthermore, the proposed footway at the entrance to the public footpath on Upper Lane (i.e. that close to Ellmont Avenue) would be approximately in line with the existing footway which runs from the junction of Warburton with Upper Lane. Furthermore, and subject to the consideration of a more detailed highway design, the proposed 'hard standing' opposite Church Street would take up only a small part of the width of the highway and would provide an improved link to the street lamp which I am informed is also used as a bus stop.
26. Overall, and notwithstanding the Council's concerns, I do not consider that the footway proposals on Upper Lane would lead to any significant conflicts between oncoming vehicles in the event of some on-street car parking. In fact, the proposals in Upper Lane would likely result in some relative improvements in pedestrian safety terms. Hence, these positive matters need to be weighed in the planning balance. In reaching the above view, and acknowledging that my site visit was only a snap shot in time, I also noticed that there were in fact very few vehicles parked in Upper Lane.
27. When the proposal is considered as a whole, I find that notwithstanding the proposed alterations to Warburton and its junctions, as well as improvements and extensions to existing public footpaths, for the reasons outlined above the proposal would have a significant and unacceptable impact on pedestrian and highway safety in Warburton. Whilst there may not have been any recorded accidents in Warburton in the past, this does not mean that accidents would not be likely if planning permission were to be approved. My concerns relating to highway and pedestrian safety in Warburton are matters of overriding concern and consequently I conclude that the development would not accord with the highway safety and traffic impact requirements of Policies LP5 and LP21 of the LP; the SPD and paragraph 109 of the National Planning Policy Framework.
28. In reaching the above conclusion, I am cognisant of the Council's preference to access the site from Wentworth Drive which in relative terms would be much better from a highway/pedestrian safety point of view. However, the appellant has pointed out that this option is not feasible/viable as it includes what has been described as four 'ransom strips' into the site with such land owned by numerous owners. There is in fact no policy requirement to access the site from Wentworth Drive: this is merely a Council preference. I have therefore

determined this appeal on its individual planning merits and based on accessing the site from Green Acres Close. Whilst the site is allocated for housing in the LP, this does not justify allowing the proposed development which would cause significant harm to highway and pedestrian safety in Warburton.

Other Matters

29. The proposal would seek to positively boost the supply of houses in the area (including the appellant's agreement to provide affordable housing) and this in turn would also have some positive economic benefits in terms of spending in the local area and construction employment. However, the contribution towards boosting the supply of houses in the area would to some degree be tempered by the undisputed claim made by the local planning authority that it can demonstrate a deliverable supply of more than five years of housing sites. The proposal would seek to make some improvements to existing footpaths in the area and this is also a positive matter to weigh in the overall planning balance.
30. At final comments stage, the appellant has stated that "*Planning Resource has published the predicted 2019 Housing Delivery Test results for each Local Planning Authority*". They claim that the Council has not met its Housing Delivery targets. I have not been provided with this 'predicted' information and the Council has not commented on it. Nevertheless, and even if this were the case, the identified adverse highway and pedestrian safety impacts of the proposed development would significantly and demonstrably outweigh the identified benefits of the proposal when considered against the policies in the Framework taken as a whole.
31. I note that the appellant is content to provide affordable housing (20%) on site; to make a financial contribution towards education provision in the area; to provide public open space on-site and to make a financial contribution towards mitigating against adverse highway safety impacts. Both the appellant and the Council have suggested that this is a matter could be addressed by means of the imposition of planning conditions, with specific and detailed requirements to be secured by a Section 106 agreement in conjunction with the submission of a detailed reserved matters application.
32. In this case, I am not persuaded that it is appropriate to deal with the above matters by way of the imposition of planning conditions. The Planning Practise Guidance (PPG) states that '*ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed*'. I cannot see why such certainty cannot be achieved, even at this outline planning application stage, by means of the completion of a planning obligation. Indeed, this could be framed in such a way that the specific requirements were based on the quantum of residential development to be approved as part of a reserved matters consent.
33. In addition to the above, and taking into account PPG, the exceptional circumstances for including the Council's suggested negatively worded conditions (i.e. conditions 13 to 16) do not exist in so far that (i) there is no evidence that the proposal is at risk and (ii) the proposal is not particularly complex. It has, however, not been necessary for me to pursue the completion of a Section 106 agreement with the main parties as none of the necessary obligations would overcome my conclusion on the main issue.

34. At planning application stage, Sport England issued a holding objection pending the submission of a ball strike risk assessment given the close proximity of the appeal site to the adjacent cricket pitch. A ball strike assessment was not submitted by the applicant and the Council did not pursue this matter any further commenting that an acceptable risk assessment would not have overcome their overriding concern relating to the effect of the development on highway and pedestrian safety. The holding objection from Sport England is still in place. However, it has not been necessary for me to pursue this matter any further given my conclusion on the main issue and as I am dismissing the appeal.

Conclusion

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

D Hartley

INSPECTOR



Appeal Decision

Site visit made on 3 December 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 2nd January 2020

Appeal Ref: APP/Z4718/W/19/3237041

Adj 301A Oxford Road, Gomersal, Cleckheaton BD19 4LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Smith against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/93471/E, dated 17 October 2018, was refused by notice dated 11 March 2019.
 - The development proposed is a detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The site visit procedure was altered from an access required site visit to an unaccompanied site visit as I was able to see all that I needed to from public land.

Main Issues

3. The main issues are:
 - i) The effects of the proposal on the character and appearance of the area; and
 - ii) The relationship with protected trees on the site.

Reasons

Character and appearance

4. The appeal site is an undeveloped area of garden land with mature trees in a prominent location at the junction of Pit Lane and Oxford Road. It is part of the former grounds of 301 Oxford Road, a substantial Victorian property that has been divided into several dwellings with associated private outdoor space. By virtue of its historic and architectural interest, the Victorian building is a non-designated heritage asset that, together with its grounds with mature planting and stone boundary wall, makes a positive contribution to the character and appearance of the area.
5. The site is adjacent to the Gomersal Conservation Area (the CA) which includes the properties on the opposite side of Oxford Road at this point and extends along the road as far as Pollard Hall and its grounds. The CA is notable for its

historic civic buildings and associated residential properties including substantial halls and their grounds, detached dwellings in generous plots and more modest semi-detached and terraced properties. In this context, 301 Oxford Road and its grounds which include the appeal site, its continuous stone boundary wall and mature trees makes a positive contribution to the setting of the CA.

6. The proposal is a detached dwelling with associated parking and garden areas. It would be finished in stone with a blue slate roof and uPVC windows and doors. Part of the boundary wall to Oxford Road would be removed to create a new vehicular access that would sweep round the side of the building beneath the canopy of the mature trees. The dwelling would be constructed partly below ground, and ground levels would be reduced around the building. By virtue of its prominent corner location, it would be visible in its entirety from the surrounding area.
7. The dwelling would be similar in style to dwellings elsewhere in the area. However, it would be markedly dissimilar to the neighbouring properties, most particularly the adjacent Victorian heritage asset with its long front elevation facing the appeal site, conspicuous arched and oculus windows, projecting cross gable features and decorative stonework. In contrast, the proposal would be a contemporary building that would not relate well to the prominent and distinctive historic building.
8. The proposal would be located within the setting of No 301 and sited closer to the road. It would therefore disrupt and obscure the views of the distinctive front elevation of the Victorian property. Consequently, by virtue of its design and close proximity, it would be a visually obtrusive and incongruous feature that would detract from the non-designated heritage asset. It would not make a positive contribution to the townscape and it would not maintain a strong sense of place.
9. Although not in the CA, by virtue of its close proximity and its relationship with the surrounding built environment, the proposal would not be sympathetic to the historic townscape setting of the CA. However, the Council considers that the harm to the CA would be less than substantial in the terms set out in the National Planning Policy Framework (the Framework), and I see no reason to disagree. In this case, the proposal would be a private dwelling and it has not been demonstrated that there would be public benefits that would outweigh the harm to the setting of the CA. Therefore, it would conflict with the Framework.
10. For the reasons set out above, the proposal would result in harm to the character and appearance of the area including the neighbouring non-designated heritage asset and the setting of the CA. It would conflict with the development plan, including Policies PLP24 and PLP35 of the Kirklees Local Plan Strategy and Policies Adopted February 2019 (the LP). These require, among other things, that development respects and enhances the character of the townscape and heritage assets. The proposal would also conflict with policies in the Framework that require development to be sympathetic to local character and the surrounding built environment and to conserve heritage assets.

Protected trees

11. Trees within the appeal site are protected by a Tree Preservation Order (TPO), including a mature beech part way along the boundary with Pit Lane and an

early mature beech near to the junction of Pit Lane and Oxford Road. By virtue of its height, form and location, the mature beech tree is a dominant and conspicuous feature. The Arboricultural report confirms that it is a prominent specimen in good condition and it is of significant amenity value. In this respect, it makes a positive contribution to the street scene and to the wider network of green infrastructure that punctuates and softens the hard built environment and that characterises the wider townscape. While the early mature beech tree is not so individually significant, it nevertheless also makes an important contribution to the verdant and leafy character and appearance of the area.

12. The proposal indicates that both the mature and early mature beech trees would be retained. However, there would be extensive works within their root protection areas (RPAs) including a significant change in ground levels and the construction of vehicular access and parking areas. Although the Arboricultural report includes a tree survey and general design advice, no Arboricultural Impact Assessment (AIA) or method statement has been provided. Therefore, there is no substantive evidence before me to demonstrate that the impacts of the proposal on the protected trees has been assessed or would be acceptable.
13. I appreciate that at least some of the material that would be excavated to facilitate the development is fill material. However, there is little before me in terms of the height of the fill material relative to the original ground levels or its relationship to the protected trees. Therefore, I cannot be certain that the reduction in levels could be achieved without significant disturbance and adverse effects to the root systems of the mature trees.
14. I accept that no-dig construction methods have been found appropriate to construct access roads in the RPAs of trees elsewhere. However, in the absence of an AIA, it has not been demonstrated that such construction methods, particularly in combination with the proposed reduction in ground levels, would be appropriate at this site.
15. The Arboricultural report also emphasizes the need for the shading effect of retained trees to be considered in relation to any proposed buildings. In this respect, the appellant has sought to increase the separation between the dwelling and the mature beech tree and to avoid the creation of habitable room windows in the facing side elevation. Nevertheless, the mature beech would be in close proximity to, and it would be significantly taller than, the dwelling. Consequently, the proposal would result in significant shading to the facing windows, including the rooflights that would serve the study.
16. Furthermore, although there would be a small area of garden between the dwelling and No 301, the majority of the land around the property including the driveway and parking area would be overhung and shaded by the large mature beech tree. As a result, future occupiers would be likely to seek to severely prune or remove the tree due to its potential effects and conflict with the property. Moreover, given the proximity of the early mature beech tree to the proposed access and its low spreading growth form, it seems likely that it would need to be significantly pruned or felled to create the access. Even if the protected trees could be retained within the scheme, the loss or significant pruning of the mature beech trees would result in significant harm to their visual amenity value and to the character and appearance of the area.

17. Therefore, it has not been demonstrated that the proposal would avoid significant harm to or the loss of the protected trees. The proposal would conflict with the development plan, including Policies PLP24 and PLP33 of the LP. These require, among other things, that development should retain valuable or important trees that contribute to public amenity or the distinctiveness of a specific location.

18. Other Matters

19. This is a revised proposal following an earlier refused planning application (ref 2917/92770) for a detached dwelling at this site. I appreciate that the scheme has been amended in an attempt to overcome the concerns of the Council. However, the proposal would nonetheless result in conflict with the development plan.

20. My attention has been drawn to schemes elsewhere in the area that have been granted planning approval. However, in the absence of any details I cannot be certain that any of them is directly comparable to the appeal scheme. Each scheme must in any case be considered on its individual merits.

21. The minimal contribution to the supply of housing from one new dwelling would not be a benefit that would outweigh the harm that I have identified.

Conclusion

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

Sarah Manchester

INSPECTOR



Appeal Decision

Hearing Held on 8 January 2020

Site visit made on 8 January 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Appeal Ref: APP/Z4718/W/19/3220024

Land adjacent to 6 Dean Fold, Highburton, Huddersfield HD8 0QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Matthew Quarmby against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/60/92169/E, dated 4 July 2018, was refused by notice dated 6 November 2018.
 - The development proposed is: Erection of one additional dwelling on disused railway line.
-

Decision

1. The appeal is dismissed

Procedural Matters

2. The application was for outline permission with all matters reserved except access. During the appeal the appellant submitted a revised arboricultural assessment¹ which showed the footprint of a notional house and which also suggested that fewer trees would be affected than originally thought. As this is an outline application I accepted the appellant's argument that the revision provided additional information and I have used the revised plan as the basis for my reasoning. I am satisfied that this approach would not prejudice the interests of any other parties.
3. There is a discrepancy between the extent of the Woodland Tree Preservation Order (TPO) shown on the arboricultural assessments and that provided by the Council at the hearing². Having compared the two with the original TPO plan I am satisfied that the Council's plan is correct, and I have based my reasoning on this document.
4. At the hearing it was noted that policies from the Kirklees Unitary Development Plan (KUDP), cited on the decision and referred to by both parties in appeal statements, have been superseded. As such, KUDP Policy NE9 and other KUDP policies weigh neither for nor against the appeal.
5. I have used the site address on the decision notice in the heading above as this seems to more accurately reflect the appeal site.

¹ JCA Arboricultural Impact Assessment October 2019

² Additional evidence

Main Issues

6. The main issues are:

- Whether the development would preserve or enhance the character or appearance of the Highburton Conservation Area (HCA), with particular regard to trees and the protected woodland;
- The effects of the development on the living conditions of future occupiers, with particular regard to light; and,
- The effects of the development on biodiversity.

Reasons

Character and appearance

7. The appeal site is part of a former railway line cut into the hillside to the south of Highburton. Dean Fold is a short ribbon development on the former line to the north of the site. The proposed dwelling would be accessed from the service road for Dean Fold.
8. There is a woodland Tree Protection Order (TPO)³ which covers part of the clearing where the dwelling would be located, as well as much of the access road. This TPO also takes in some of the eastern and western embankments. The entire site is within the HCA.
9. I have not been supplied with a conservation area appraisal. However, at the hearing the Council stated that the woodland associated with the railway line and its embankments provides a linear green buffer between Penistone Road with its sporadic ribbon development, and the settlement of Highburton which is on significantly higher ground. This linear buffer contains three separate woodland TPOs and a protected group. I see no reason to disagree with the Council in this regard.
10. I observed that the separation provided by this woodland in the building pattern is not particularly apparent from Penistone Road, immediately below the woodland, but it is apparent from Woodsome Lees Road and Storthes Hall Road. Viewpoints on these roads afford glimpsed views of the wider landscape from elevated positions on the other side of the valley.
11. Accordingly, the woodland associated with the former track and its embankments is a strong feature in the wider landscape and contributes to the separation of the elevated Highburton from the valley floor. The woodland appears to be largely unmanaged and the juxtaposition of natural woodland and the small-scale residential building pattern gives the locality a distinctive semi-rural character. I conclude that the woodland is a predominant feature within the HCA and its significance is derived from its association with the area's industrial and social history, as well as preventing coalescence between discrete development patterns.
12. The appeal site separates Dean Fold from another ribbon development to the immediate south. It also forms a significant portion of the woodland feature as seen from further afield. I conclude that the appeal site makes a positive and important contribution to the character and appearance of the HCA.

³ TPO No 3 1995

13. The Council was unable to clarify the reasoning behind the making of the TPO, and the appellant argued that when the HCA was designated the woodland TPO was not in place. Whilst I appreciate that this could indicate that the woodland was not seen as an integral part of the HCA at its designation, there was clearly some woodland in 1994 - 1995 otherwise the TPO could not have been made. In any case, the merits of the TPO are not before me as I have to proceed on the basis of the current situation.
14. It was argued by the appellant that it was always the intention to build on the appeal site. This may be the case but in the intervening years the planning context has changed. The site is not allocated as housing land under the recently adopted Local Plan even though the original application preceded that Plan's examination and adoption.
15. Although the two tree surveys are dated 2017 and October 2019 respectively, the survey information is identical. Sample measurements taken at the site visit for two trees on the edge of the clearing confirmed that the canopies of those trees are more extensive than shown on the survey plans. Consequently, although the appeal statement notes that the dwelling would be sited in the open space between the canopy spread, the open space available is less than that shown.
16. I also have concerns that even if I accept that the surveyed area is made up predominantly of young and early-mature pioneer species with a life expectancy of only 10 + or 20+ years, the assessment does not seem to have taken any account of the collective contribution the woodland⁴ makes within the wider landscape. This is of relevance given the site's location within the HCA and the guidance given in BS 5837:2012.
17. Furthermore, within the surveyed area I noticed two early mature oaks identified as sycamores, and what appeared to be a mature hawthorn also recorded as a sycamore. The ecology survey highlights the potential importance of the area for bat foraging and roosting. This is considered later in this decision.
18. As such, I conclude that the tree surveys understate species diversity as well as the woodland's conservation and landscape value. A further report was submitted⁵ but this is concerned with three groups of trees only and although it reiterates the conclusions of the JCA survey, it does not alter my reasoning.
19. The development would require the removal of two groups of early mature sycamores to accommodate a turning head, as well as pruning to trees enclosing the clearing where the dwelling would be sited. Pruning works would be required on two oaks and given that their canopies are some 3 metres above ground level, this would lead to the loss of a significant portion of their asymmetric canopies which lean towards the clearing. This could be detrimental to the trees' ability to recover from those pruning works. It also seems to me that pruning above and beyond that suggested would be needed to accommodate construction traffic and activities. Furthermore, excavation of the turning head into the very steep eastern embankment would result in the loss of some of the more mature trees within the TPO.

⁴ In this context I refer to the surveyed area rather than the TPO

⁵ Bagshaw Ecology June 2018

20. It is argued that pruning works or the loss of trees around the clearing would not have a noticeable effect on the wider appreciation of the woodland in the landscape. To some extent I agree that this could be the case if the works were limited to that indicated. However, I concur with the Council that the space available for the dwelling would be so limited that it is highly likely that applications would be made for further pruning works or tree removal either during the works or post-development. I conclude that it is likely that the identified and other works would result in a thinning out of the woodland and exposure of the remaining trees to wind loading and subsequent issues with stability. This would be detrimental to the future health and longevity of the woodland and would have an adverse effect on the character and appearance of the HCA.
21. Although the associated TPO application has been withdrawn, the appellant argues that the woodland requires management. However, to my mind woodland only requires management if it is to serve a particular purpose. Trees and woodland are able to develop into sustainable ecosystems without human interference.
22. It was argued that if left alone the woodland would develop into a dank and dark sycamore wood. However, I see no reason to dispute the Council's argument that sycamores are naturalised and may be useful as a replacement for local ash, which is now succumbing to ash die-back. Even if some of the existing trees fail, there are biodiversity benefits from decomposition. Moreover, I noticed a high percentage of oak saplings on slightly shallower slopes to the immediate south of Dean Fold, as well as within the survey area, which suggests that oak is colonising the embankments.
23. Furthermore, the woodland to the immediate east of the site has established on very steep slopes where safe access for management would be problematic. Even if the steeper sections of the embankment become wholly dominated by sycamores, it is unclear to me why this is considered inherently harmful to the HCA or to the ongoing health of the woodland. There is no regularised public access, and consequently I cannot see what purpose a formal management plan would serve. As such, I give limited weight to the benefits or practicalities of woodland management.
24. With regard to the access road and turning head, it seems to me that no-dig operations could limit root damage to established trees but pruning would be required either in the short or longer term to allow vehicles to pass. Given that most of the trees lining the access route and on the embankment have asymmetric canopies this would have a disproportionate effect on their ability to recover. As noted above, this could open up nearby trees to additional wind loading.
25. The appellant argues that a dwelling in this situation would be continuation of the existing building pattern. I appreciate that there are dwellings to the immediate south of the site, as well as those on Dean Fold but this in itself does not justify further development.
26. In the light of the above I disagree that the development would avoid any impact on the surrounding trees and find that it would neither preserve nor enhance the character or appearance of the HCA, with particular regard to trees and the protected woodland. This would be contrary to Policy LP33 which states that the Council will not grant planning permission for developments

which directly or indirectly threaten trees or woodlands of significant amenity. It would also be contrary to the provisions of the Act⁶ which require me to pay special attention to the desirability of preserving or enhancing the character or appearance of the HCA.

Living conditions

27. The clearing proposed as the site of the dwelling is less than 15 metres wide and has steep embankments on both sides. Trees located at the edge of the clearing overhang the clearing and it is also the Council's intention to locate a cycleway through the flat area of the site. This intention was not disputed by the appellant. Even without the proposed cycleway this is a very modest site and consequently options for locating a dwelling within the space are extremely limited.
28. The eastern embankment is of some considerable height and it would overshadow the site until mid-morning, whatever the time of year, as well as affecting light entry into the dwelling. For the rest of the day the dwelling would be in the shade path of trees to the immediate south and west. There are also mature trees to the south and west outside the appeal site which would cast shade across the likely location of the dwelling and associated amenity areas.
29. The appellant had prepared a shade path drawing but this was for one tree only. Occupiers of an adjacent dwelling to the immediate south noted that in the summer the site is wholly shaded. This reinforces my conclusions reached from an assessment of the site, topography and tree distribution. During the winter months the effects of tree shading will be lessened due to the lack of leaves but the angle of the sun will be lower and likely to meet other obstructions to the south, including nearby dwellings, in particular. The significant shade cast by the embankment would remain unchanged throughout the year.
30. I appreciate that there may be potential occupiers who wish to live in such shady conditions and my experience of people who are intolerant of the proximity of trees or shade may be unrepresentative. However, it remains that many people occupy dwellings in proximity to protected trees without being fully aware of the implications. The additional maintenance associated with leaf litter and debris and having inadequate light in the dwelling or amenity areas is not always welcomed or accepted, and those concerns can over time outweigh the perceived advantages. Moreover, family circumstances and the requirements of the dwelling may change. In this case, not only would the dwelling and its external areas be heavily shaded at times by nearby trees, but shading and light loss would be exacerbated by the eastern embankment.
31. As such, I conclude that there is no certainty that the Council would not come under pressure to allow works to nearby trees. In fact I consider that this outcome would be highly likely, especially as the trees grow or become unstable or fail, as the appellant argues. It is not necessarily the case that the Council would have ultimate control over any works as a refusal could lead to an appeal. In any case, given that the Council has expressed concern at this early stage, it seems likely that arguments advanced that the dwelling was in excessive shade could have a sympathetic hearing. Any pruning or removals to

⁶ Planning (Listed Buildings and Conservation Areas) Act 1990

nearby trees would increase visibility into the site from a distance and the screening effects of the tree cover would diminish. This reinforces my concerns in relation to the impact of the development on the character and appearance of the area.

32. I conclude therefore that the development would have an adverse effect on living conditions for future occupiers with particular regard to light. It would be likely to lead to the removal or pruning of trees in the vicinity, contrary to Policy LP33 which states that the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. In this case, notwithstanding that the appellant argues that the trees have little value, it remains that they have the protection of the TPO and the HCA.
33. The development would also fail to comply with the provisions of Paragraph 127 of the National Planning Policy Framework (the Framework) which requires development to provide a high standard of amenity for future occupiers.

Biodiversity

34. A preliminary ecology survey concluded that there was moderate to high potential for both bat roosting, as well as foraging and commuting bats within the survey area. Of those trees with roosting potential, only G6 would be directly affected and this has low potential. However, there are groups of trees lining the access route which have moderate roosting potential. It is not disputed that the linear edge habitats provided by the trees growing alongside the former track are likely to provide a food source, should bats be present.
35. The survey recommended that further work be undertaken to confirm whether bats are present, and their levels and patterns of activity. This could be used to inform details of appropriate mitigation or compensation. However, no such additional survey work has been undertaken.
36. An aerial inspection was undertaken of one group of trees to identify bat roosts⁷. However, as this group would not be removed, this weighs neither for nor against the appeal. Nor does it show that other non-surveyed trees lack actual roosts.
37. I am unable to conclude that the development would not have an adverse impact on a protected species. Circular 06/2005⁸ states that it is essential to establish the extent to which protected species may be affected by a proposed development before planning permission is granted.
38. I also note that it was suggested that there are bird and mammal species associated with the site, including other protected species. The increased noise and disturbance of movement along the access road and associated with the dwelling would be likely to be detrimental to at least some of those species, whether protected or not. This would be detrimental to local biodiversity. On the basis of the evidence before me I am not satisfied that any modifications or imposition of conditions could prevent increased noise and disturbance, and the fragmentation of an unmanaged habitat.

⁷ Bagshaw Ecology 30 May 2018

⁸ Biodiversity and Geological Conservation, Statutory Obligations and their impact within the planning system

39. Accordingly, I conclude that the development would have an adverse effect on biodiversity. There is nothing before me to suggest that this is something that could reasonably be addressed by condition. This would therefore be contrary to Policy LP30 which is concerned with the safeguarding of biodiversity. This policy is reinforced by Paragraph 175 of the Framework which states that if significant harm to biodiversity cannot be adequately mitigated or compensated for, permission should be refused. As noted above, it is unclear to me whether there would be harm and whether such harm would be significant, but as the decision maker I have to take a precautionary approach.

Other matters

40. The appeal statement highlights a lack of housing supply. However, the Local Plan was adopted in January 2019 and the Council stated that the current housing supply is currently just over 5 years. Although the appellant noted that the figure is close to the threshold and that not all the sites are deliverable, there was no evidence presented to identify the non-deliverable sites. As such, given that the plan was examined and found sound only a year ago I have concluded that the Council has sufficient housing supply and that the tilted balance set out in the Framework does not apply. In any case, even if the Council did not have sufficient housing supply land it remains that the development would fall within a woodland TPO and a conservation area. The limited benefits to local housing supply from one additional dwelling would be significantly and demonstrably outweighed by the adverse impacts outlined above, when assessed against the policies in the Framework taken as a whole.
41. The appellant argued that future occupiers could be required to undertake woodland management within the dwelling's curtilage and the landowner would be prepared to accept a Section 106 agreement to manage the remaining woodland within his ownership. Notwithstanding that this would place a rather onerous commitment on future occupiers, which could be time consuming for the Council to monitor and enforce, even a period of twenty years would fall short of the lifetime of the dwelling. In any case, it remains, particularly given the apparent oak colonisation, that I see no compelling reason for this woodland to be formally managed. Furthermore, I am not aware that there is or has been anything preventing the landowner from carrying out woodland management if indeed it is needed.
42. It also seems to me that if mitigation on such a scale is required to make one dwelling acceptable, it suggests that the development is in itself unacceptable.
43. The appellant argues that the dwelling would be innovative and that similar dwellings have been designed in similar situations. However, no examples were given. I appreciate that this is an outline application. Nonetheless, I have outlined above my concerns in relation to the size of the site and the immediate topography and vegetation. In these particular and highly constrained circumstances it seems to me that the Council is entitled to require reassurance that a successful dwelling could be built without affecting the surrounding protected woodland and other trees, or having an adverse effect on living conditions and biodiversity. It cannot be presumed that further consideration at reserved matters stage would be sufficient to address those issues.
44. With regard to Paragraph 131 of the Framework, great weight should be given to outstanding or innovative designs so long as they fit in with the overall form

and layout of their surroundings. Given the site constraints I am unclear how a dwelling would fit in with the underlying form and layout of the surroundings, particularly as the site provides separation between distinct areas of buildings. Moreover, whilst I do not disagree that the site is accessible and that small windfall sites can contribute to housing supply, the Framework also states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

45. The fact that the woodland is not part of any established woodland is not determinative. An interested party noted that the railway ceased to be operational in 1965 and by 1994 there was sufficient woodland on and around the former railway line to warrant TPOs. The appeal statement notes that the site was acquired about by the appellant's father 20 years ago. Consequently, it is not the case that the existing trees are there by default and at the discretion of the appellant. They have benefited from the protection of the woodland TPO or the conservation area status since before its acquisition by the current owner.
46. The appeal statement also states that the trees could not be realistically retained for longer than ten years. However, this is taken from the description of category U trees from BS 5837:2012. There are no category U trees identified in the survey.
47. I appreciate that the track construction may not support long lived or sizeable trees but it is noticeable that the trees are aligned in largely linear groups. This suggests that the track sub-base is breaking down along the edges and some self-seeded trees are finding adequate substrate or are able to break it up. In any case, pioneer species such as these are adapted to harsh conditions and the pattern of colonisation I observed is not atypical of the long-term establishment of climax woodland on post-industrial sites.

Conclusion

48. In the light of the above I conclude that the development would be contrary to the relevant policies of the Local Plan as well as the provisions of the Framework and other government guidance. The appeal is dismissed.

A Blicq

INSPECTOR

APPEARANCES

APPELLANT

Mr Jonathan Cocking	JCA Ltd
Mr Adrian Rose	Rose Consulting
Ms Emily Wilde	JCA Ltd

COUNCIL

Ms Rebecca Drake	Kirklees Metropolitan Council
Mr Nick Goddard	Kirklees Metropolitan Council
Mr Tom Stephenson	Kirklees Metropolitan Council

INTERESTED PARTIES

Mr Oliver Sutcliffe

ADDITIONAL EVIDENCE

1. Drawing showing extent of Woodland TPO and Conservation Area (submitted by Council)
2. Plan showing shade patterns around proposed site (submitted by Council)

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: 13-Feb-2020

Subject: Planning Application 2019/92515 Erection of first floor and two storey rear extensions Mohaddis E Azam Education Centre and Masjid E Madani, 225C, Ravenshouse Road, Dewsbury Moor, Dewsbury, WF13 3QU

APPLICANT

S Valli

DATE VALID

26-Jul-2019

TARGET DATE

20-Sep-2019

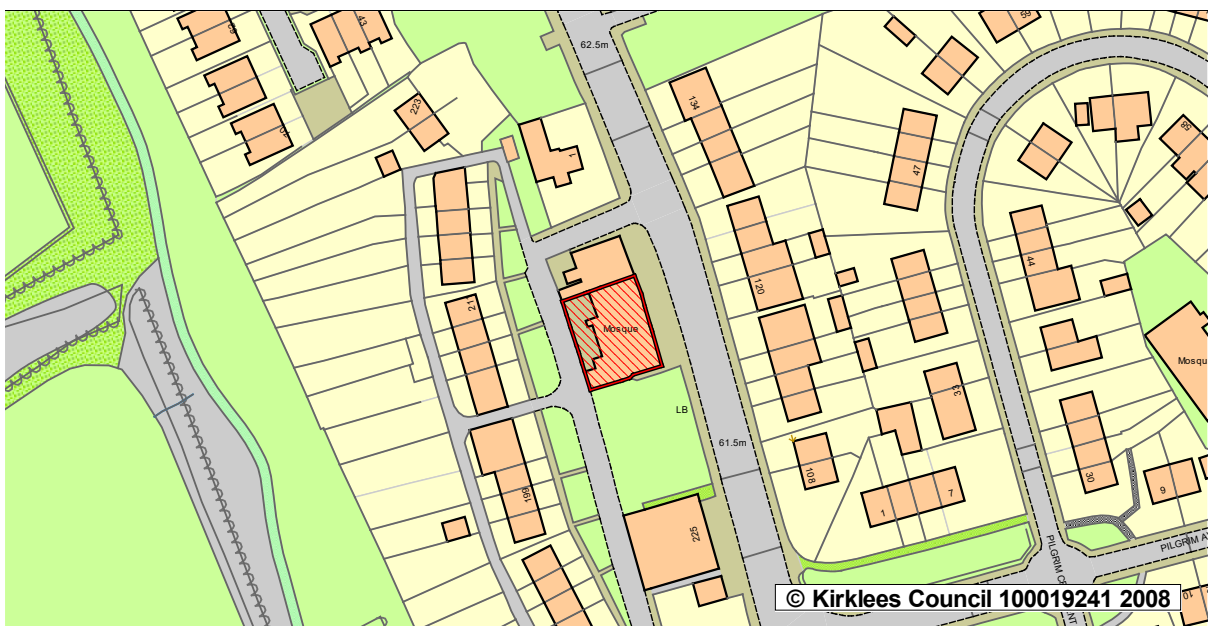
EXTENSION EXPIRY DATE

17-Feb-2020

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 West

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

REFUSE

1. The proposed extensions and alterations, by reason of their design, bulk and appearance, would not respect or enhance the character of the host building or wider area. To approve the application, which would not promote good design, would be contrary to Policy LP24 of the Kirklees Local Plan and government guidance contained within Chapter 12 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee due to the significant number of representations received. The application was deferred at the Planning Sub-Committee Meeting on 9 January 2020 at the request of the applicant who stated that they wished to address the issues raised by Officers in the original Committee report.
- 1.2 The Chair of the Sub-Committee has confirmed that the reason for referring the application to committee is valid having regard to the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises a Mosque and Education Centre on the western side of Ravenshouse Road, Dewsbury Moor, Dewsbury. The site is located within a predominantly residential area, with dwellings to the east and west, a retail unit to the north and the Spen Valley Country Park further to the west. The site is separated from another commercial unit to the south by a partly surfaced parking area.

3.0 PROPOSAL:

- 3.1 Permission is sought for the erection of first floor and two storey rear extensions which would result in the creation of a two storey building. This would provide additional accommodation for storage at the first floor level, in addition to office, computer room and conference room. The proposals would also involve external alterations to the fenestration (window openings) and the addition of a dome on the roof.

- 3.2 The proposed extensions would be faced in stone to all elevations.
- 3.3 The current proposal follows two previous approvals for extensions to the building, the most recent of which is still extant.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 18/92581 (land adjacent No.225c) – Change of use of land to car park – pending consideration

17/93161 – Erection of extensions and alterations – approved (not implemented)

15/92957 – Erection of extensions and alterations – approved (not implemented)

08/91573 – Erection of extensions and alterations to Muslim education centre - refused

06/91570 – Change of Use from Off Licence and General Store to Mosque/Madrassa with alterations to form 6 no. parking spaces - approved

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

- 5.1 Since the deferral of the application at the last Heavy Woollen Planning Sub Committee on 9 January 2020, amended and additional plans have been received from the applicant which relate to the existing and proposed basement. The proposed basement plan which was previously considered by members indicated an open hall, pre-funeral preparation room and meeting room in addition to kitchen, storage area and washing facilities. This accommodation was over and above that which was previously approved as part of application ref: 2017/93161 and Officers considered the inclusion of this within the current proposals to result in highway safety implications, contrary to Policy LP21 of the Kirklees Local Plan. An additional reason for refusal was therefore recommended.

- 5.2 The amended plan (received on 23 January 2020) now indicates that the basement is to be used for storage and access to the mechanical/electrical room with access for staff only. KC Highways DM have been re-consulted on the amended plan and their comments are set out below. No further amendments have been received to address Officers' concerns regarding the design, bulk and appearance of the extensions and therefore this reason for refusal still remains applicable and is as previously reported to members.

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 application site is unallocated on the Kirklees Local Plan.

6.2 Kirklees Local Plan (2019):

LP 1 – Achieving sustainable development

LP 21 – Highway Safety and Access

LP 22 - Parking

LP 24 – Design

LP 48 – Community Facilities and services

6.3 National Planning Policy Framework:

Chapter 8 – Promoting Healthy and Safe Communities

Chapter 12 – Achieving well designed places

Chapter 15 – Conserving and enhancing the natural environment

6.4 Supplementary Planning Guidance:

- Highways Design Guide Supplementary Planning Document
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance

6.5 On 12th November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 As a result of site publicity, five letters and a petition of 24 signatures have been received in support of the application and 45 representations have been received in objection to the original and first set of amended plans.

The comments received in support are summarised as follows:

- The organisation has created a positive and confident atmosphere within the Dewsbury Moor area
- The organisation has ensured positive education has reached local households
- Do not consider parking to be an issue
- The extension will help the mosque to put on better events for local people and other attendees
- Adjacent land was recently bought and is used for parking

The objections received are summarised as follows:

Residential Amenity

- The proposed extensions will result in a loss of sunlight in the mornings
- The privacy of residents on Ravenshouse Road will be reduced
- Extensions will restrict light and views
- Use of the mosque results in noise disturbance to neighbouring residents

Highway Safety

- The Mosque is causing severe disruption with vehicles blocking residents' driveways and residents being delayed on their own journeys.
- Highway safety officer has taken action against the mosque and the police have been seen moving cars
- Over the last 10 years, whilst the Mosque has been operating, the Committee has done nothing to solve problems such as traffic, and made no effort to do anything about the safety of children
- Even if the Mosque creates a car park, it will not be big enough. The land to the side was acquired for parking but instead they have erected building upon it
- Parking issues caused by the mosque are affecting adjacent local businesses
- The Mosque have indicated that there are less users than the actual figure

Other Matters

- This service is not required nor requested by the locality. There are at least 3 other Mosques within walking distance of this site
- There is no need for a two storey extension
- Residents are being pressurised into signing a petition in support of the proposal
- Concern over impact of the building process, with large vehicles blocking the road, the noise level it will create, impact on parking for residents, the general mess it will generate and the health and safety risks to residents
- The shop does not belong to the Mosque
- The Mosque will not be used for local people

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:

The Coal Authority: No objections subject to the imposition of conditions

8.2 Non-statutory:

KC Crime Prevention Officer: Made recommendations with respect to security measures to be incorporated within the design of the development

KC Environmental Services: Recommended conditions relating to unexpected contamination, provision of electric vehicle charging points and lighting, in addition to footnotes relating to hours of construction and Noise levels from the Azan (new consultation response to be reported in update).

KC Highways DM: Re-consultation undertaken following receipt of amended plan: - the revised changes are not expected to generate additional trips or create any additional demand for parking over and above that which was approved as part of the 2017 application, however in commenting on the previous application KC Highways DM raised concerns regarding the shortage in parking. Whilst there is a pending application ref: 2018/92581 to create a car park on land adjacent to the site, this is still to be determined and therefore KC Highways DM still consider that their concerns relating to parking in the surrounding streets and the resultant highway safety issues arising from this are still relevant.

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 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.
- 10.2 In terms of extending and making alterations to a building, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the principle of extending the building has been established previously by the granting of the earlier permissions (the most recent of which can still be implemented).
- 10.3 The application relates to the extension of a community facility (place of worship). Policy LP48 of the KLP states that “*Proposals will be supported for development that protects, retains or enhances provision, quality or accessibility of existing community, education, leisure and cultural facilities that meets the needs of all members of the community*”.
- 10.4 The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues, along with other policy considerations, will be addressed below.

Urban Design issues

- 10.5 Relevant design policies include Policies LP2 and LP24 of the KLP and Chapter 12 of the NPPF. These policies seek for development to harmonise and respect the surrounding environment, with Policy LP24 (a) stating; *'[Proposals should promote good design by ensuring]: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'*.
- 10.6 The existing building is of single storey scale with additions of varying design located to the rear, and is considered to have a neutral impact upon visual amenity and the character of the street scene. Surrounding the site the predominant character of existing development is that of two storey brick dwellings with hipped roofs, although immediately adjacent to the north is the attached retail unit. Further to the north lies a traditional two storey stone dwelling.
- 10.7 The proposals would result in a two storey building with parapet roof, and would include 4 minarets to each corner of the building, in addition to a green fibre glass dome which would be located centrally and to the front within the roof. The design of the proposals is, to a certain degree informed by the religious function of the building.
- 10.8 The building as extended would be externally faced in stone. The current proposal would result in a building which would have a height of approximately 9.5m, whilst the dome itself would measure 3.8m on top of this.
- 10.9 With respect to the scale of the development, section drawings submitted through the course of the application demonstrate that the building (not including the dome) would be no taller than the residential dwellings opposite (to the front). Notwithstanding this, the overall design of the development, taking into account the proposed materials of construction, vertical emphasis of the fenestration and height of the dome would result in a building which would appear out of proportion with surrounding development, and detract from the character of the area. As a result, Officers consider that the proposals would result in a strident feature within the street scene, and highly prominent when viewed from both the north and south along Ravenshouse Road.
- 10.10 Whilst it is noted that there is an extant permission in place for relatively substantial extensions to the building, that approval would retain reference to the existing building. The current proposal, due to its appearance, would effectively result in a new building with no reference to the context in which it sits.
- 10.11 In summary, for the reasons set out above, the proposed extensions are considered to have a detrimental impact upon visual amenity and would not promote good design, contrary to Policy LP24 of the KLP and guidance contained within Chapter 12 of the NPPF.

Residential Amenity

- 10.12 The application site is located on a predominantly residential street, and the existing building is located opposite residential properties both to the east and west. Furthermore, the topography of the site is such that the land falls away to the west.
- 10.13 Due to the circumstances set out above, the main consideration with respect to the impact of the development upon residential amenity would relate to the impact on the properties to the west of the application site (205-209 Ravenshouse Road). Through the course of the application, the applicant has submitted a section drawing which demonstrates the relationship between the proposed development and the adjacent residential properties. Due to topography, the properties to the rear are set down in relation to the application site. Taking this into account in relation to the distance of the application property from the dwellings to the rear (approximately 20m), it is considered, on balance, that the proposals would not have a significant detrimental overbearing impact upon the occupiers of these properties. Furthermore, as the application site is located to the east of these properties, it is not envisaged that the proposals would impact detrimentally by reason of overshadowing.
- 10.14 Several window openings are proposed to the rear elevation of the building as extended, and these would serve store rooms, and toilets at ground floor level, and conference room, storage and toilets/washroom at the first floor level. It is considered by officers that an adequate separation distance would be achieved between the proposed development and the dwellings to the rear, and no significant loss of privacy would result.
- 10.15 Turning to the properties to the east, these are located a further distance away from the site across Ravenshouse Road, and consist of fairly substantial two storey terraced properties with a relatively high eaves level. The impact of the development on the residential amenity of the occupiers of these properties is considered to be minimal.
- 10.16 KC Environmental Services have commented to advise that noise levels from the Azan (call to prayer) need to be controlled so that local residents are not disturbed by it. Recommendations are made with respect to the timing and frequency of the Azan
- 10.17 On the above basis, the proposals are considered to have no significant detrimental impact upon residential amenity and would accord with Policy LP24 of the KLP and the aims of the NPPF.

Highway issues

- 10.18 KC Highways DM have raised concerns in relation to previous applications due to the potential impact on parking and traffic generation through this residential area. They also raised concerns to the previous application which was approved in 2018, as they considered that the development had inadequate levels of off street parking provision.

- 10.19 The current application does not propose any improvement to the facility in terms of parking, although the floor space would be increased from 280 sq m to 632 sq m (a further increase from the 561 sq m proposed in 2015). The current layout could potentially accommodate 5 car parking spaces. It is likely therefore, that visitors to the site would have to park on the street which would interrupt the free movement of vehicles.
- 10.20 The area around the development is residential in nature and any increase in vehicle movements through the area must be carefully considered. The increase in the size of this facility would potentially increase the number of vehicle trips and people attending. However, it is noted that the current proposal involves the provision of a small conference room and ancillary accommodation such as storage, office and kitchen facilities. The existing prayer room is not to be materially enlarged. In addition, the amended proposed basement plan would now comprise staff access only to the electrical and mechanical room.
- 10.21 In addition to the above, the applicant states that the Mosque serves the immediate locality and the majority of worshippers visit the site on foot. The land to the side of the building has recently been purchased from the Council, and is now being made available for parking purposes for worshippers to the site (subject to a pending planning application). This will remove vehicles from the highway, however is not included within the red line boundary of the application site and therefore cannot be formally considered as part of the proposals.
- 10.22 KC Highways DM consider that the revised changes included within the current application are not expected to generate any additional trips or create any additional demand for parking over and above that which was originally anticipated as part of the previous approval. This is a material consideration in the assessment of the current application. However, KC Highways DM still consider that their previous concerns relating to parking in the surrounding streets and the resultant highway safety issues arising from this remain relevant. Notwithstanding this, Officers consider that based on the information provided by the applicant with respect to the local catchment of the Mosque, and the nature of the additional floorspace proposed (to show plant room and storage only), the circumstances relating to the current application are similar to that of the 2018 approval. As such, the current application is considered, on balance, to be acceptable from a Highways perspective, and in accordance with Policy LP21 of the KLP.

Representations

- 10.23 The comments raised in representations in support are addressed as follows:
- The organisation has created a positive and confident atmosphere within the Dewsbury Moor area
 - **Response:** This is noted
 - The organisation has ensured positive education has reached local households
 - **Response:** This is noted
 - Do not consider parking to be an issue
Response: The highway safety aspects of the proposals are addressed above

- The extension will help the mosque to put on better events for local people and other attendees
- **Response:** This is noted
- Adjacent land was recently bought and is used for parking
Response: This is noted. However, the land is not included within the red line boundary of the application site.

The comments raised by objectors are addressed as follows:

The proposed extensions will result in a loss of sunlight in the mornings

Response: The site is located to the east of Nos. 205-211 Ravenshouse Road. Whilst there may be some overshadowing in the early part of the day, this is not considered to be significantly detrimental to the residential amenity of the occupiers of those properties, due to the separation distance between them and the site. Furthermore, the extended part of the building closest to these properties would be single storey in scale.

The privacy of residents on Ravenshouse Road will be reduced

Response: The site is considered to be located an adequate distance from neighbouring residential properties, as set out above.

Extensions will restrict light and views

Response: The matter of overshadowing is addressed above. The loss of a view is not a material planning consideration.

Use of the mosque results in noise disturbance to neighbouring residents

Response: KC Environmental Services have assessed the principle of extensions to the Mosque and raised no objections subject to the imposition of conditions

Various concerns relating to highway safety

Response: The agent has provided the results of a survey of the modes of transport used by worshippers to the site which demonstrates that the majority arrive on foot. In addition, as stated above, the submitted plans show that the proposals would not result in additional worshipping space, but instead, ancillary space in the form of office/storage and conference space

This is not required nor requested by the locality. There are at least 3 other Mosques within walking distance of this site

Response: This is not a material planning consideration

There is no need for a two storey extension

Response: Noted

Residents are being pressurised into signing a petition in support of the proposal

Response: This is acknowledged.

Concern over impact of the building process, with large vehicles blocking the road, the noise level it will create, impact on parking for residents, the general mess it will generate and the health and safety risks to residents

Response: This is an inevitable aspect of the construction process and is usually short lived.

The shop does not belong to the Mosque

Response: The applicant's agent has confirmed that the Mosque does own the shop. No documentary evidence has been received to contradict this.

The Mosque will not be used for local people

Response: This is noted.

Other Matters

Coal Mining Legacy

- 10.24 The site is located within a High Risk Area as defined by the Coal Authority. A Coal Mining Risk Assessment was submitted with the previous application. The Coal Authority concurs with the recommendations set out within the submitted CMRA, and raises no objections to the proposed development, subject to the imposition of conditions requiring further intrusive site investigations to be undertaken before the commencement of development. This would ensure that the proposals accord with government guidance contained within Chapter 15 of the NPPF.

Air Quality

- 10.25 KC Environmental Services have requested that a condition was imposed, should permission be granted, requiring provision for electric vehicle charging. However, in this case the proposals relate to an existing place of worship and addition of ancillary facilities. As such, it is not considered reasonable in this instance to impose such a condition.

Climate Change

- 10.26 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. The provision of electric vehicle charging points, as referred to in paragraph 10.24 above, would help to contribute towards the climate change emergency.

Crime Prevention

- 10.27 The Council's Crime Prevention Officer has made recommendations regarding security measures which could be incorporated into the development, should permission be granted.

11.0 CONCLUSION

- 11.1 To conclude, whilst it is acknowledged that substantial extensions have previously been approved at the site (but not implemented), the design, bulk and appearance of the extensions now proposed would, in the opinion of officers, result in a form of development that would not respect or enhance the character of the host building or wider street scene.
- 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. The development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration. Recommendation is therefore to refuse the application.

Background Papers:

Web link to application details –

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92515>

Certificate of Ownership – Certificate A signed and dated 26/07/2019

Web link application 2017/93161 – Erection of extensions and alterations – approved

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93161+>

Web link to application 2015/92957 – Erection of extensions and alterations – approved

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f92957+>

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 13-Feb-2020

Subject: Planning Application 2016/94290 Outline application for residential development land at, George Street/William Street, Ravensthorpe, Dewsbury, WF13

APPLICANT

Kirklees Council Physical
Resources and
Procurement

DATE VALID

10-Feb-2017

TARGET DATE

07-Apr-2017

EXTENSION EXPIRY DATE

18-Feb-2020

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



Electoral Wards Affected: Dewsbury West

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 and issue the decision.

1.0 INTRODUCTION:

- 1.1 The application is for outline planning permission for residential development, with all matters reserved for a subsequent planning application.
- 1.2 The application is brought to the Heavy Woollen Sub-Committee due to the significant number of representations that have been received.
- 1.3 This is in accordance with the Council's Scheme of Delegation and has been agreed with the Chair of the Heavy Woollen Planning Sub Committee.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises of an area of land in between William Street and George Street in Ravensthorpe which is currently an area of hard standing with trees, play equipment and a garage on the land.
- 2.2 Surrounding the site is an area of mixed use, with residential and industrial uses in close proximity. To the southwest of the site, there is a row of terraced properties, to the south there is an area of industrial buildings and to the northeast there are a number of industrial buildings. Directly to the front (northeast) of the site, there is a block of back to back dwellings.
- 2.3 The site is unallocated on the Kirklees Local Plan. It is however identified as being within Flood Zone 2.

3.0 PROPOSAL:

- 3.1 Outline planning permission is sought for the erection of residential development at the site. All matters relating to 'layout', 'scale', 'landscaping', 'appearance' and 'access' are reserved for any subsequent reserved matters application.

3.2 The applicant has submitted a plan which shows an indicative layout of 5 dwellings on the site. This site layout is not being assessed as part of this outline planning application, only the principle of development is under consideration at this time.

3.3 No details of the appearance of the dwellings, or their scale have been submitted as they would form the reserved matters (scale and appearance).

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 None on the application site however, the following planning applications relate to land immediately to the north of the site:

4.2 2019/91068 – Demolition of existing storage unit and erection of replacement storage unit (Class B8) APPROVED

4.3 2018/93195 – Demolition of existing storage unit and erection of replacement storage unit (Class B8) REFUSED

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

5.1 The case officer has been in discussions with the agent with regard to the flood risk sequential test information that is required to address concerns relating to flood risk given that the development is in Flood Zone 2. Noise was also raised as a concern due to the nearby commercial/ industrial premises.

5.2 The agent has provided a flood risk sequential test and a noise report, both of which Officers are satisfied justify the location of this site in flood risk terms and addresses noise issues. A more detailed assessment of these issues is set out in the report below.

6.0 PLANNING POLICY:

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

The site is unallocated on the Kirklees Local Plan.

6.2 Kirklees Local Plan (KLP):

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP7 – Efficient and effective use of land and buildings

LP21 – Highway Safety

LP22 – Parking Provision

LP24 – Design

LP27 – Flood Risk

LP28 – Drainage

LP30 – Biodiversity and geodiversity

LP33 – Trees

- LP38** – Minerals safeguarding
- LP51** – Protection and improvement of air quality
- LP52** – Protection and improvement of environmental quality
- LP53** – Contaminated and unstable land

6.3 National Planning Policy Framework (NPPF):

- Chapter 5** – Delivering a sufficient supply of homes
- Chapter 9** – Promoting sustainable transport
- Chapter 11** – Making efficient use of land
- Chapter 12** – Achieving well designed places
- Chapter 14** – Meeting the need for climate change, coastal change and flooding
- Chapter 15** – Conserving and enhancing the natural environment

6.4 Supplementary Planning Guidance:

- Highways Design Guide Supplementary Planning Document
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Due to the time lapse between the original publicity period and the determination of the planning application, Officers considered that a further publicity period should be undertaken. This publicity period has expired, with the comments summarised below.

7.2 As a result of the original publicity period, 3 individual representations were received, with a petition of 35 signatures also being received.

7.3 As a result of the extended publicity period, 6 individual representations have been received with a petition of 32 signatures also received.

7.4 The comments received are summarised as follows:

- Parking issues – residents and customers of industrial units struggle to park outside
- Children used this land to play
- Lighting issues
- No indication of dropped kerb that is required – plans show removal of pavement
- Access to the nursery should not be prejudiced
- Require whole of George Street to be marked as double yellow lines
- Welcome provision of turning head but it is very close to the entrance to the entry to the nursery – safety concerns
- Access for emergency vehicles is required
- Eyesore
- Land is unclean, unkempt and rat infested
- Objection to building on Green Belt
- Trees will be cut down
- Nowhere to enjoy birds singing
- More waste
- More noise pollution

- Loss of privacy and fear of being overlooked
- Inconvenience of having a building site
- Commercial vehicles use the hard surface area for manoeuvring purposes. If this is removed, safety concerns for children.
- Loss of garage will mean nowhere to keep bike safe and secure
- Provision of children's play equipment and maintenance of the land – useful for the community
- Possibility that business would have to move out of Ravensthorpe because of insufficient parking and turning within the area
- Would result in an empty building and subsequent degeneration of the area

7.5 The following comments have also been made by Cllr O'Donovan:

- Highway concerns
- Has a site visit been arranged to discuss mitigation with residents?
- Request committee appearance is deferred

7.6 Officer comments in response to the above representations will be made in the report below.

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 subject to conditions.

Lead Local Flood Authority – No objection following receipt of additional information.

The Environment Agency – The applicant initially failed to submit any Sequential Test evidence with the application (the site lies within Flood Zone 2). Sufficient evidence needs to be provided by the applicant to allow the Sequential Test to be carried out; evidence to support the sequential test should be added to the planning file for public record. In regard to flood risk, confirmed no objection to the proposed development however, advised that the developer may wish to consider including measures to mitigate the impact of more extreme future flood events

8.2 Non-statutory:

K.C Environmental Health – Initial objection overcome following submission of noise report. Conditions recommended.

K.C Trees – No objection at this outline stage. Layout should be carefully considered, taking into account the trees/landscaping of the site.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.
- 10.2 Residential amenity (including noise), highway safety and flood risk will also be assessed in this report below.
- 10.3 Chapter 5 of the NPPF states that planning decisions should support the Government’s objective of significantly boosting the supply of homes. In this case, the proposed development seeks outline planning permission for residential development with an indicative layout of 5 dwellings, meaning that the Government’s objective as set out above is met through this proposal.
- 10.4 An assessment of the material planning considerations that are relevant to this planning application will be discussed below.

Urban Design issues

- 10.5 This outline planning permission seeks approval of the principle of development at the site; it does not include ‘layout’ and therefore the site layout plan reference ‘A01’ submitted with this application must be regarded as indicative and has not been assessed in detail at this stage. However, as this and other drawings accompany the application submission, it is appropriate to comment on them, to inform future design work, should outline permission be granted.
- 10.6 Relevant design policies include those set out in Chapter 12 of the NPPF and Policies LP2 and LP24 of the Kirklees Local Plan.
- 10.7 Chapter 12 of the NPPF states that “the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities” Policy LP24 of the Kirklees Local Plan reiterates this and sets out that all developments should be of good quality.

- 10.8 The applicant's indicative layout illustrates Plots 1-3 as a block of three dwellings, with plots 4-5 located further to the southwest of the site. The indicative block plan shows that the dwellings would have sufficient areas of amenity space with areas for parking also demonstrated within the site. It is noted that the dwellings are indicated to each have 2 bedrooms.
- 10.9 The applicant has not provided a justification for the proposed layout. Many planning matters should inform layout including topography, local character, highways considerations, flooding and residential amenity. In this case, the land is relatively flat, with the existing turning head and trees within the site also a constraint. Considering these constraints, it is noted that the proposed siting of the dwellings could be acceptable. Further justification of the layout and design would be required at reserved matters stage, should Members approve this outline planning permission.
- 10.10 On a site of approx. 0.13 hectares, 4.55 dwellings would be required to achieve the required density of 35 dwellings per hectare as set out in Policy LP7 of the Kirklees Local Plan. In this case, the proposed layout indicates 5 dwellings on the site and therefore the indicative site plan is of a satisfactory density to comply with LP7 of the Kirklees Local Plan and Chapter 11 of the National Planning Policy Framework. Paragraph 123c of Chapter 11 of the National Planning Policy Framework also states that Local Planning Authorities should refuse applications which they consider to fail to make efficient use of land. This matter will be considered in greater detail at reserved matters stage when numbers are finalised, should outline permission be granted.

Summary

- 10.11 The principle of development on this site which is unallocated in the Kirklees Local Plan is considered acceptable by officers, from a visual amenity perspective, in accordance with Policies LP11 and LP24 of the Kirklees Local Plan and Chapters 5, 11 and 12 of the National Planning Policy Framework. However, as set out above, the layout proposed is not under consideration at this stage and nor have any details been submitted for consideration regarding the scale or appearance of the proposed dwellings. Such matters would be considered at the subsequent reserved matters stage should outline planning permission be granted.

Residential Amenity

- 10.12 The principle of residential development at this site is considered acceptable in relation to the impact on the amenity of the occupants of neighbouring residential properties and the future occupiers of the proposed dwellings themselves. Chapter 12 of the National Planning Policy Framework states that planning decisions should create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime do not undermine the quality of life or community cohesion and resilience.
- 10.13 As noted above, the block plan has been submitted for indicative purposes only, however it is nonetheless appropriate to comment on it in relation to the amenity of the existing neighbouring residents to inform future design work.

- 10.14 Appropriate distances could be achieved between the proposed dwellings and the neighbouring properties on William Street and George Street both to the northwest, northeast and southeast. These properties are located a sufficient distance away from the application site so as not to be adversely affected by the proposed development in terms of natural light, privacy and outlook.
- 10.15 The quality and amenity of future occupiers of the proposed residential accommodation is also a material planning consideration, although it is again noted that details of the proposed development's appearance, landscaping, layout and scale, which will impact on residential amenity, are reserved at this stage.
- 10.16 The proposed houses could also be provided with adequate outdoor private amenity space and are capable of being provided with adequate outlook, privacy and natural light to ensure a reasonable level of amenity.
- 10.17 K.C Environmental Health have commented on the application and identified a potential noise generating source from the nearby commercial premises in very close proximity to the site. The case officer therefore requested the applicant provided a noise report which was subsequently submitted during the course of the application.
- 10.18 The report concludes that Plots 1-3 would be exposed to modest levels of industrial noise and road traffic noise, and therefore windows must be kept closed to prevent noise ingress. The remaining plots will achieve acceptable internal noise levels through standard thermal double glazing, and therefore alternative ventilation is required.
- 10.19 Officers are satisfied that the mitigation recommended within the noise report address the concerns of K.C Environmental Health. A condition has been recommended to ensure that the proposed development would be completed in accordance with the measures set out within the submitted report, with future reporting of sound levels to the Local Planning Authority to ensure that the required sound levels have been achieved. K.C Environmental Health have subsequently withdrawn their initial objection and Officers consider that the proposed development will provide a high standard of amenity for the future occupiers of the proposed dwellings.

Summary

- 10.20 To conclude, the impact on the residential amenity of future occupants of the development as well as surrounding occupiers can be sufficiently minimised via suggested conditions and as part of any subsequent reserved matters submission (should planning permission be granted), thus complying with Policies LP24 and LP52 of the Kirklees Local Plan and the aims of Chapters 12 and 15 of the National Planning Policy Framework.

Highway issues

- 10.21 The impact on highway safety is acceptable and has been considered by Highways Development Management. The proposed development consists of the erection of 5 two-bedroom dwellings which each have two associated parking spaces within the site.

- 10.22 Highways Development Management have no objection to the proposed development with adequate parking provision being indicated and sufficient space provided for safe turning manoeuvres. Notwithstanding this, the layout of the proposed development and the proposed access are not being assessed as part of this outline planning application, which solely seeks the principle of residential development on the site.
- 10.23 The proposal would not result in the displacement of additional vehicles onto the highway (which is currently heavily trafficked) and is considered, by officers, with the inclusion of appropriate conditions, to be acceptable.
- 10.24 Two conditions have been recommended. The conditions relate to the provision of bin storage within the application site and the provision of a turning head at the end of George Street which will ensure that manoeuvres to and from the site do not cause highway safety issues to existing occupiers of dwellings on William Street, as occupiers of the proposed new dwellings could turn within the site, meaning that there would be no conflict with parking vehicles. These matters would however be addressed as part of any subsequent reserved matters, under 'layout' and 'access', but for clarity, have been included as suggested conditions, should outline permission be granted by Members.

Summary

- 10.25 Taking the above into account, Officers consider that, with the inclusion of appropriate conditions, the proposal is acceptable from a highway safety and efficiency perspective, complying with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

Flood risk and drainage issues

- 10.26 The application site is within Flood Zone 2 and therefore the Lead Local Flood Authority (LLFA) and the Environment Agency have been consulted on the application and have reviewed the Flood Risk Assessment.
- 10.27 Chapter 14 (paragraph 155) of the National Planning Policy Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. A sequential test approach should be applied, in accordance with paragraph 158 of the NPPF which states that the aim of the sequential test is to steer new development to areas of the lowest risk of flooding.
- 10.28 As previously set out, the site is in Flood Zone 2 and therefore residential development should not be permitted if there are other reasonably available sites appropriate for the proposed development in areas at lower risk of flooding.
- 10.29 The case officer advised the applicant that a flood risk sequential test was required to assess whether there are other 'reasonably available' sites that could accommodate the development. Officers have reviewed the submitted information and consider that it has been demonstrated that there are currently no reasonably available sites within lower flood risk areas that could accommodate the proposed development. The flood risk sequential test has therefore been passed.

- 10.30 Taking account of the location of this site in flood zone 2 and the vulnerability classification of the use proposed, and in accordance with NPPF and National Planning Policy Guidance, a flood risk exception test is not required. A Flood Risk Assessment has been submitted and reviewed by the Environment Agency and the Lead Local Flood Authority.
- 10.31 The Environment Agency has commented on the application and raised no objections, with the Lead Local Flood Authority also being in support of the application. Officers have considered the sequential test information and the Flood Risk Assessment, and have recommended two pre-commencement conditions as set out below.
- 10.32 Officers from the Lead Local Flood Authority have recommended drainage details and a surface water discharge scheme to be submitted prior to the commencement of development. Officers recommend the imposition of these conditions to Members to ensure that the flood risk impact of the proposed residential development is satisfactory.
- 10.33 Officers are satisfied that the development is acceptable in terms of flood risk, with the inclusion of conditions to ensure that the recommended mitigation within the Flood Risk Assessment document is implemented.

Summary

- 10.34 Subject to the inclusion of the above suggested conditions, Officers consider that the proposal complies with Policies LP27 (flood risk) and LP28 (drainage) of the KLP and Chapter 14 of the NPPF.

Representations

- 10.35 As stated above, due to the time lapse between the original publicity period and the application being reported to Heavy Woollen Planning Sub Committee, Officers considered it appropriate to carry out a further publicity period. This additional publicity period has now expired, with the comments are summarised below.
- 10.36 As a result of the original publicity period, 3 individual representations were received, along with a petition of 35 signatures.
- 10.37 As a result of the additional publicity period, 6 individual representations were received, along with a petition of 32 signatures.
- 10.38 The comments received have raised the following concerns, which are addressed by officers:
- Parking issues – residents and customers of industrial units struggle to park outside

Officer response: see highway safety section of this report. It is noted that William Street and George Street are heavily trafficked. However, as can be seen from the indicative block plan, there would be adequate space within the application site for parking of vehicles for residents of the new units.

- Children used this land to play
Officer response: *this is noted however, the land is unallocated. It has not been identified as an area of Open Space.*

- Lighting issues
Officer comment: *this is noted. K.C Environmental Health have been consulted on the planning application and raised no concerns. If lighting is required within the development, this could be dealt with in any subsequent reserved matters application under 'appearance'. A suitable layout is considered to be achievable at reserved matters stage to ensure that there would be an acceptable relationship between existing and proposed dwellings.*

- No indication of dropped kerb that is required – plans show removal of pavement
Officer comment: *this detail would be secured at the reserved matters stage when 'layout' and 'access' is being assessed. Highways Development Management state that on any subsequent plans, the footway will need to be to ensure continuity for pedestrians linking the two roads together.*

- Access to the nursery should not be prejudiced
Officer comment: *this is a private matter. From the indicative block plan, the turning head is located away from the nursery site entrance and will not result in access issues.*

- Require whole of George Street to be marked as double yellow lines
Officer comment: *given the scale of the development and the space within the site, it is noted by Highways Development Management that there is sufficient space within the site to achieve the requirements for turning and parking; this would however be assessed at the reserved matters stage, as part of 'layout' and 'access'.*

- Welcome provision of turning head but it is very close to the entrance to the nursery – raise safety concerns
Officer comment: *this is noted. As part of the reserved matters, careful consideration will be given to the layout of the proposed development and the access to the site. This is not being assessed at this outline stage.*

- Access for emergency vehicles is required
Officer comment: *this is noted. As part of the reserved matters, careful consideration would be given to the layout of the proposed development and the access to the site. This is not being assessed at this outline stage; but consideration would be given in regard to the provision of adequate turning facilities to serve such vehicles.*

- Eyesore
Officer comment: *the layout, scale, appearance and landscaping of the proposed development is not being assessed in this application. It is solely the principle of development on the land.*

- Land is unclean, unkempt and rat infested
Officer comment: *this is noted.*

- Objection to building on Green Belt
Officer comment: the site is not allocated as Green Belt on the Kirklees Local Plan, but could be classed as Greenfield as the land has never been built on previously. The site is unallocated and therefore the principle of residential development on this site is acceptable.
- Trees will be cut down
Officer comment: see 'other matters' section of this report. The layout of the proposed development will take into consideration the positioning of the trees on the site.
- Nowhere to enjoy birds singing
Officer comment: this is noted. This is not a material planning consideration.
- More waste
Officer comment: this is noted. A condition has been recommended to ensure that a scheme detailing storage and access for the collection of waste from the properties has been submitted.
- More noise pollution
Officer comment: it is not considered that residential use is a significant noise generator and will not harmfully impact on the occupiers of surrounding residential properties. In terms of the future occupiers of the proposed dwellings, a noise report has been submitted and mitigation measures proposed to ensure that the noise from commercial premises will not result in a harmful impact on residential amenity if the application is to be approved.
- Loss of privacy and fear of being overlooked
Officer comment: the layout, scale and appearance of the proposed dwellings is not being considered at this outline application stage. Officers consider that a satisfactory layout can be achieved to ensure an acceptable standard of amenity for existing and future occupiers. Suitable distances between existing and proposed dwellings can be achieved.
- Inconvenience of having a building site
Officer comment: issues arising from the construction period is not a material planning consideration. A footnote can be attached to the decision notice advising of suitable construction hours
- Commercial vehicles use the hard surface area for manoeuvring purposes. If this is removed, safety concerns for children.
Officer comment: this is noted. A condition has been recommended to request details of a turning head at the end of George Street to allow vehicles to turn at the end of the street to be incorporated as part of layout and access to be considered at the reserved matters stage. This is due to the heavy parking on either side of both George Street and William Street.
- Loss of garage will mean nowhere to keep bike safe and secure
Officer comment: this is noted. This is not a material planning consideration.
- Provision of children's play equipment and maintenance of the land – useful for the community
Officer comment: this is noted. However, the site is unallocated on the Kirklees Local Plan and has not been identified as Open Space.

- Possibility that business would have to move out of Ravensthorpe because of insufficient parking and turning within the area

Officer comment: this is noted. However, following consultation with the Council's Highways Development Management, it has not been suggested that there would be a conflict between the proposed and existing uses given the parking and turning that would be provided within the red line boundary.

- Would result in an empty building and subsequent degeneration of the area
- Officer comment: this is noted. At this stage, the appearance, layout and scale of the residential development is not being assessed and therefore it is at reserved matters stage that detailed design will be considered.*

10.39 Officers' response to Councillor O'Donovan is as follows:

- Highways concerns

Officer comments: Cllr O'Donovan's concerns relating to highway safety have been noted. Highways Development Management have been consulted on the application, and following their review, no objection to the proposed development was raised. As can be seen from the highway safety section of the report, parking provision can be provided within the site and a condition relating to the provision of an additional turning head has been recommended. 'Access' will be considered at any subsequent reserved matters stage.

- Has a site visit been arranged to discuss mitigation with residents?

Officer comment: a site visit has not been arranged with residents. K.C Environmental Health have responded to the application and considered that appropriate mitigation can be provided. Again, it is only the principle of development that is being assessed.

- Request committee appearance is deferred

Officer comment: the application was submitted in 2016, with recent publicity also undertaken given the time lapse between the original submission and the proposed decision making. Councillor O'Donovan has been made aware that the application is being reported to the Heavy Woollen Planning Committee on 13 February 2020.

Other Matters

10.40 *Trees* - There are several mature trees within the application site and therefore the K.C Trees Officer has been consulted on the application. Whilst it is noted that the trees are not protected by Tree Preservation Order and are not located in a conservation area, the two mature Sycamore trees are significant and prominent within the local area and therefore it would be preferable for the trees to be incorporated into any future reserved matters planning application when 'layout' is being considered.

10.41 Officers consider that the imposition of a condition requiring a Tree Survey and Methods Statement (BS5837 standard) is necessary and important in order to aid the design layout of the proposed development. Notwithstanding this, Officers are satisfied that the principle of residential development can be achieved and therefore there is no objection to this outline planning application. The proposed development complies with Policy LP33 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

- 10.42 *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.
- 10.43 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 electric vehicle charging point(s) to serve the development, which is recommended to be secured via condition, would contribute positively to the aims of climate change in accordance with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.
- 10.44 *Electric Charging Points* - For air quality reasons and to encourage the use of low-emission modes of transport, electric/hybrid vehicle charging points would need to be provided in accordance with relevant guidance on air quality mitigation, Local Plan Policies LP21, LP24 and LP51, the West Yorkshire Low Emissions Strategy (and its technical planning guidance), the NPPF, and Planning Practice Guidance. Charging points for every dwelling, and one for every 10 visitor parking spaces, would be required, and Officers recommend that a condition can satisfactorily address this.
- 10.45 *Coal Mining* – The site is in an area of low coal mining risk and therefore there is no requirement for a Coal Mining Risk Assessment or consultation with The Coal Authority. Instead, Officers recommend a footnote to be added to the decision notice to provide advice to the applicant should coal mining workings be found during construction. The proposed development complies with policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.
- 10.46 *Contaminated Land* – The site is not identified as potentially contaminated on the Council’s mapping system. However, given the proposed use of the site for residential purposes, K.C Environmental Health have recommended a condition. The condition states that any unexpected contamination should be reported to the Local Planning Authority. Officers consider that this condition is reasonable and necessary to safeguard against any contamination that may be found during construction. The proposed development is acceptable in principle in this regard and there is no objection from K.C Environmental Health. The proposed development complies with policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.
- 10.47 *Minerals Safeguarding* – The site is over 1000sq m and is within a wider mineral safeguarding area and therefore Policy LP38 of the Kirklees Local Plan applies. This policy is important to ensure that known mineral reserves are protected from permanent development which may sterilise such resources through encouraging the extraction of mineral, if feasible, prior to non-mineral extraction taking place.

10.48 This policy states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c) of Policy LP38 of the KLP is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.

10.49 *Pre-Commencement conditions* – There are several pre-commencement conditions recommended with regards to drainage and highways as referred to in the report above. Officers have ensured that the agent has provided their written agreement to these conditions as required by the Town and Country Planning (Pre Commencement Conditions) Regulations 2018.

10.50 *Contributions* – Given the small scale of the proposed development, no educational, highways, public open space and affordable housing contributions are required to make the development acceptable.

11.0 CONCLUSION

11.1 To conclude, the concerns summarised above have been carefully considered however, when assessing this planning application in relation to national and local planning policy, along with all other material planning considerations, officers are of the opinion that the principle of residential development on this site, which unallocated on the adopted Kirklees Local Plan, is acceptable.

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. 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. Approval of Reserved Matters details of Appearance, Landscaping, Layout, Scale and Access to be sought before development commences.
2. Plans and particulars relating to Reserved Matters details of Appearance, Landscaping, Layout, Scale and Access to be submitted and approved in writing.
3. Application for Reserved Matters to be submitted within 3 years.
4. Time limit for commencing development following approval of final reserved matter.
5. Development to be carried out in accordance with approved plans and specifications.
6. Samples of facing and roofing materials.
7. Vehicle parking areas to be of permeable surfacing.
8. Provision of Electric Vehicle Charging points.
9. Reporting of unexpected land contamination.
10. Development to be carried out in accordance with the Flood Risk Assessment.

11. Submission of drainage strategy.
12. Submission of surface water drainage strategy.
13. Development to be carried out in accordance with noise report.
14. Submission of tree survey and method statement with any subsequent Reserved Matters application relating to 'layout'.
15. Details of storage and access for the collection of waste with any subsequent Reserved Matters application relating to 'layout'.
16. Scheme detailing provision of a turning head at George Street with any subsequent Reserved Matters application relating to 'layout' and 'access'.

Background Papers:

Application documents can be viewed using the link below:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f94290>

Certificate of ownership – Certificate A signed and dated: 07/12/2016

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 13-Feb-2020

Subject: Planning Application 2019/93284 Alterations to convert former church to 6 dwellings Clayton West United Reformed Church, Church Lane, Clayton West, Huddersfield, HD8 9LY

APPLICANT

Chris Phillips, Clayton
Court Apartments Ltd

DATE VALID

07-Oct-2019

TARGET DATE

02-Dec-2019

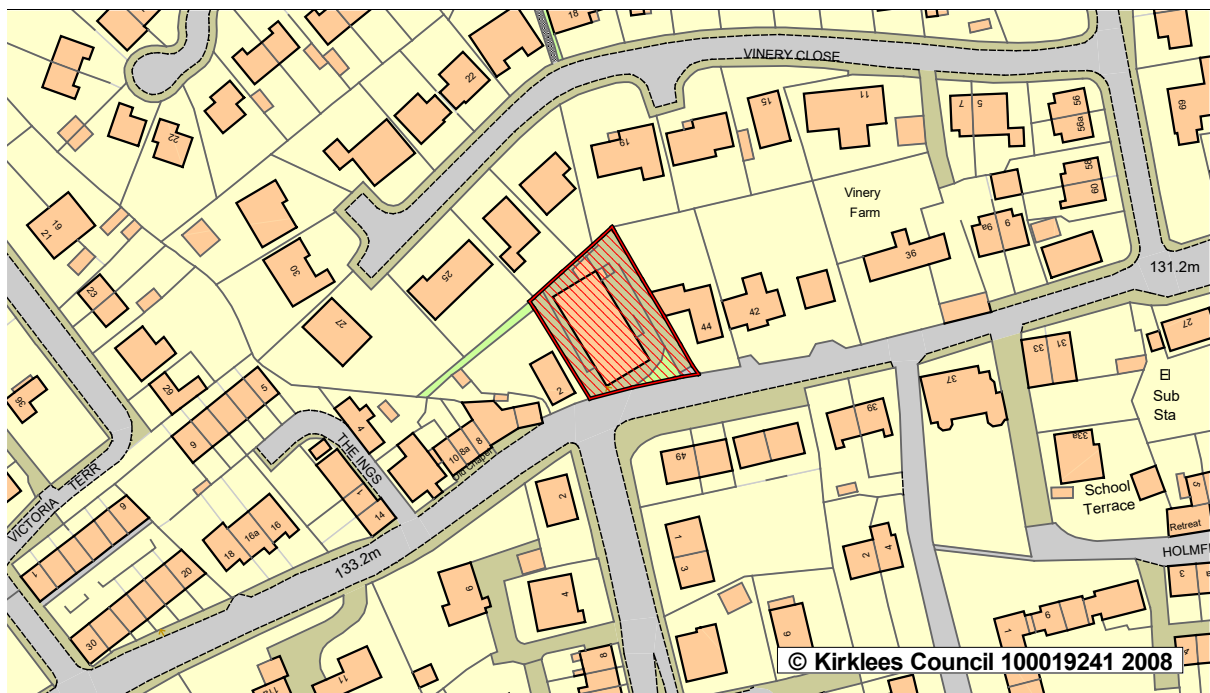
EXTENSION EXPIRY DATE

17-Feb-2020

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: Denby Dale

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 reported to the Heavy Woollen Planning Sub-Committee as the application has received 23 representations following the period of public consultation, which is considered to constitute significant representation. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is an unlisted former chapel located on Church Lane within the village of Clayton West. Historic maps show that the hammer dressed stone building with slate roof dates back to the mid-19th Century. The façade of the building holds a pair of slender pinnacles at eaves level and symmetrical gothic arched windows, a pair of arched head doors and a circular window at high level. All openings have ashlar stone surrounds with hood moulds and carved corbels.

2.2 The site decreases in gradient from South to North. There is a sloped vehicle access to the East of the chapel which leads to the rear. The access is enclosed by a low stone boundary wall which extends along the frontage of the site.

2.3 The site is bounded by Church Lane/Chapel Hill to the South and residential dwellings on Vinery Close to the North. The site is set within a predominantly residential area with detached and semi-detached two storey dwellings and semi-detached bungalows, comprising of a mix of materials and built form.

2.4 The site is Unallocated within the Kirklees Local Plan. The Chapel is considered to be a non-designated heritage asset.

3.0 PROPOSAL:

- 3.1 The application is for the conversion of a vacant former chapel to 6 dwellings with off-street parking for 9 no. vehicles to the East of the site. The dwellings would comprise of 4 no. two bedroom dwellings and 2 no. 3 bedroom dwellings.
- 3.2 *Units 1 and 2*
Units 1 and 2 are located on the lower ground floor and accessed via private entrance doors within the East and West elevations. The dwellings would accommodate living/dining area with separate kitchen; 2 no. bedrooms and study.
- 3.3 *Units 3 and 4*
Units 3 and 4 are located on the ground floor and accessed via internal doors from the communal entrance hall accessed via the main doors within the South elevation. The dwellings would accommodate living/dining area with separate kitchen; 2 no. bedrooms and study.
- 3.4 *Units 5 and 6*
Units 5 and 6 are located on the first floor and accessed via internal doors and staircase from the communal entrance hall accessed via the main doors within the South elevation. The dwellings would accommodate living/dining area with separate kitchen; 3 no. bedrooms and study. The living space is located to the frontage of the building.
- 3.5 The existing windows would be retained throughout the building. The lower glazed panel on each different floor level will be obscurely glazed.
- 3.6 The existing stone boundary wall to the frontage of the site and to the West of the existing access would be removed. The existing access to the East of the building from Church Lane would be widened to accommodate 9 no. off-street parking spaces within the site.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2001/91446 Erection of toilet extension and ramped area
 CONDITIONAL FULL PERMISSION

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The officer provided feedback to the agent on the submitted proposal when all consultation responses were received. Following this feedback, amended plans were submitted showing a revised site plan which increased the level of off-street parking spaces from six to nine and the location of the bin collection point.
- 5.2 Amended floor plans and elevational drawings were also submitted; and included the removal of proposed windows within the North elevation, the addition of obscure glazing to windows within the East and West elevations and alterations to the floor plans.
- 5.3 The amended plans were advertised via neighbour letter for a further consultation period of 10 days.

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 within the Kirklees Local Plan.

6.2 Kirklees Local Plan (LP)

LP 1 – Sustainable Development

LP 11 – Housing mix and affordable housing

LP 21 – Highway Safety and Access

LP 22 – Parking

LP 24 – Design

LP 35 – Historic Environment

LP 51 - Protection and improvement of local air quality

6.3 National Planning Policy Framework (NPPF):

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 16 – Conserving and enhancing the historic environment

6.4 Supplementary Planning Guidance/documents

Highways Design Guide Supplementary Planning Document

West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance

7.0 PUBLIC/LOCAL RESPONSE:

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

- 7.2 23 Representations were received following the period of public consultation. A summary of the comments received is set out below:

Objections (14)

Highway Safety

- 6 dwelling is too many for the location as most people of 2 cars and there is already a parking issue around the building which is most evident after 5pm.
- The development will lead to further parking on the highway
- The road is a main bus route on a narrow road at a blind hill
- On-street parking is used already for the bungalows opposite
- There is no provision for visitor parking
- Increasing on road parking would have significantly increase the risk of there being a serious traffic accident or potentially fatal accident
- The parking spaces would be difficult to manoeuvre in and out of
- The access will cause a significant risk to traffic

Residential amenity

- Parking of residents or visitors to the site would have a serious impact on the health and well-being of residents
- Impact of overlooking
- The potential 6 families living in the dwellings would cause noise and disturbance for potentially up to 18 hours per day/7 days per week.
- The new windows within the rear elevation would result in significant overlooking
- Increased light disturbance from cars
- Location of the wheelie bins would cause noise disturbance and vermin
- Main bus route through the village
- Impact of children walking to school
- Impact on access for emergency vehicles
- Increase in dangerous exhaust fumes

Ecology

- The application does not mention the bats that reside in the roof of the Chapel

Other Matters

- There has been no planning notice erected at the site
- Discrepancy between the public consultation end date on the website and letter sent
- Not an appropriate use of the building
- Significant depreciation of the value of house

7.3 Representations submitted following advertisement of amended plans (23rd December 2019 to 10th January 2020)

Objections (7)

Highway Safety

- Insufficient parking spaces within the site which will lead to increased parking on Church Lane
- The amendments to the plans do not reflect the reality of the space available on the land.
- The road outside the chapel is already an issue due to overcrowded parking on what is a main bus route, on a narrow road at a blind hill.
- Main route for pedestrians walking to and from school.
- Main route for horse riders from one bridle path to another.
- The footpath opposite the site is already used for parking for residents of the bungalows.
- Parking of residents or visitors will have a serious impact on health and well-being of residents
- There is still not enough parking spaces proposed.
- The road infrastructure surrounding the chapel does not have the correct layout to facilitate on further on street parking

- Complexity of parallel parking arrangements on a steep slope will deter people from using the parking provided
- On street parking will impact traffic exiting the junction from Cliffe Street and safe access onto Church Lane/Chapel Hill.
- Highway concerns are further exacerbated during icy or wet conditions.

Visual Amenity

- The amended plans show full removal of the front wall which will negatively impact the appearance of the prominent building

Residential amenity

- Impact of noise from cars and bins will be in issue and would like to a solid fence proposed to minimise the impact
- The East elevations have no or limited obscured windows which would impact privacy
- Impact from cars has been exacerbated by the increased parking and location of turning area
- The layout of the dwellings looks unappealing with living space to the front and bedrooms to the rear
- Changing the windows from the North to the East does not eradicate the privacy problems
- Householders opposite will now be affected as will those on Vinery Close
- Safe access in and out of neighbouring driveways will be impacted

Drainage

- The drains are insufficient to deal with the proposal

Other Matters

- Impact of the conversion of bats
- No planning notice has been displayed outside of the site
- Concern as to the level of work already undertaken which suggests that the developers have been advised that the plans will be passed.
- There is an error on the boundary plans

Support (2)

- The proposal for 11 parking spaces is an improvement
- Implementation of a new traffic speed limit along Church Lane/Chapel Hill
- Happy that the Chapel is not going to ruin and the developers do seem to care.
- To provide 9 off-street parking spaces would be an improvement
- The use of the building as a Church often led to disruptions on the highway as vehicles could not enter the site. The proposal has addressed this.
- To see apartments in the area will meet a need for a certain type of residence which will give older generations the options to downsize but remain in the same area.

- The amendments have addressed the concerns of the impact on privacy, drains and the boundary.
- The re-siting of the lamp post adjacent to the site and removal of the boundary wall will be an improvement
- Remain convinced that parking will increase but the proposal to reduce the speed limit to 20mph would improve safety

7.4 Denby Dale Parish Council:

Object on the grounds of overlooking into properties to the rear (Vine Close) and on the proposed limited parking provision which would lead to increased road parking which could prove hazardous due to the proposal being on the brow of a blind summit and due to the narrowness of the road. It was considered that a bat survey should also be undertaken on the existing property'

8.0 CONSULTATION RESPONSES:

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

8.2 Statutory Consultees:

K.C Environmental Health – No objection to the proposal subject to the addition of a condition to secure electric charging points in accordance with the National Planning Policy Framework and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group.

K.C Highways Development Management – No objection subject to the addition of conditions which will restrict development or planting within a strip of land 2.4m deep from the carriageway which exceeds 1m; restriction of the gradient of the access to not exceed 1 in 10 and for all areas for parking to surfaced and drained appropriately.

8.3 Non-statutory Consultees:

K.C Conservation and Design – No objection as the development will bring the vacant building, which is considered to be an undesignated heritage asset, into a sustainable and viable use with the external appearance and character substantially retained.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 Policy LP1 of the Kirklees Local Plan states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 10.2 The application has no specific allocation within the Kirklees Local Plan. As such, Policy LP24 of the KLP is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.
- 10.3 The vacant Chapel is considered to constitute a non-designated heritage asset, as such Policy LP35 of the Kirklees Local Plan applies which outlines that 'proposals which would remove, harm or undermine the significance of a non-designated heritage asset, or its contribution to the character of a place will be permitted only where benefits of the development outweigh the harm'. This guidance is also reflected within paragraph 197 of the NPPF.
- 10.4 The building became vacant and was marketed by the Church in 2019, demonstrating that its use as a Chapel was no longer viable.
- 10.5 The proposal would convert the Chapel into six dwellings which would require the subdivision of the internal spaces. Although this would result in the loss of the significant spaces within the Chapel, the internal context has already been lost with the removal of the fixtures and fittings.
- 10.6 The external fabric of the building will remain predominantly as existing with just the addition of obscurely glazed panels within existing window openings in the East and West windows. The window frames will be altered to anthracite grey uPVC which could be acceptable subject to the use of slim line frames.
- 10.7 It is considered that the proposal for conversion of the Chapel and alterations to the existing window frames, subject to an acceptable design of windows, the harm to the exterior of the building and its contribution to the character of the area will be minimal and the benefits of bringing the building into a sustainable and viable use will outweigh any harm. The building will remain visible on the skyline and will be clearly understood as a former Chapel from its external appearance.
- 10.8 It is considered by Officer's that in light of the above, the proposed development would not cause significant harm to the non-designated heritage asset which is considered to be outweighed by the public benefit of bringing the vacant building back into a sustainable use. The principal of the proposal is therefore considered to comply with Policies LP35 and LP24 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework

Impact on visual amenity

- 10.9 Policy LP24 of the KLP states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by the National Planning Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local character ...while not preventing or discouraging appropriate innovation or change (para.127 of the NPPF).
- 10.10 The application site is considered to be a non-designated heritage asset as such Policy LP35 of the KLP applies which outlines that 'proposals which would remove, harm or undermine the significance of a non-designated heritage asset, or its contribution to the character of a place will be permitted only where benefits of the development outweigh the harm'.
- 10.11 The proposal will retain all existing features within the fabric of the Chapel building with no additions. The existing window frames will be replaced with anthracite grey uPVC window frames and grey composite doors to the side and rear elevations. Although the replacement of windows may cause slight harm to the non-designated heritage asset, it is considered by Officer's that the use of a slim line frame could be acceptable and retain the character of the building. A condition is recommended which would secure the submission of full details prior to the commencement of the development.
- 10.12 The low stone boundary wall to the frontage of the site would be removed. The wall is not considered to be a feature which contributes to the significance of the non-designated heritage asset however, it does contribute to the overall character of the street scene and would also provide an element of defensible space for future occupiers of the development. It is therefore considered appropriate to impose a condition, should planning permission be approved, requiring full details of all boundary treatments which, officers would expect to include the provision of a solid boundary treatment e.g. stone wall, along part of the frontage of the site.
- 10.13 As a point of clarification, because the proposal is for dwellings which are in a flat format they would not benefit from permitted development rights. As such a condition would not be required to remove permitted development rights for the extension or alteration of the converted building.
- 10.14 In summary, Officer's would not consider there to be undue harm to the visual amenity enjoyed by neighbouring occupiers or the setting and character of the non-designated heritage asset. As such, the application is considered to comply with policies LP1, LP24 and LP35 of the Kirklees Local Plan and guidance contained within chapters 12 and 16 of the NPPF.

Impact on residential amenity

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

- 10.16 The closest neighbouring dwellings which could be impacted by the development are 2 Chapel Hill; 44 Church Lane; 49 Church Lane and 23 Vinery Close.
- 10.17 2 Chapel Hill is a detached stone built dwelling located to the West of the application site. There is a separation distance of 1.73m from the existing Chapel building to the boundary wall/fence which is separated from 2 Chapel Hill by their private driveway and parking area which leads to a lawned area. The site follows the same gradient at the application site which decreases in gradient to from North to South.
- 10.18 The existing windows within the West elevation would serve habitable rooms. The proposal includes the installation of obscurely glazed panel into the first panel opening of each floor which will each be at a height of 1.9m above floor level. The use of the obscure panels within the existing windows will restrict overlooking to and from the windows which would minimise the impact on residential amenity. As the Chapel building would not be increased in scale, there would be no considered impact from overbearing.
- 10.19 44 Church Lane is a detached dwelling set to the East of the application site and is built on level with the highest point of the application site. The sites are separated by the existing access for the Chapel at a distance of 8.1m. There are no habitable room windows within the West elevation of the neighbouring dwelling but there are habitable room windows within the roof form of the attached garage which face North. The proposal would include habitable room windows within the East elevation. As the windows will overlook the side elevation of the neighbouring dwelling and driveway there would be considered to be no detrimental impact on residential amenity.
- 10.20 49 Church Lane is a semi-detached dwelling set to the North of the application site and separated by Church Lane at a distance of 20m. Although the conversion of the Chapel will introduce habitable room windows into the front elevation of the former Chapel, as this relationship between residential dwellings is existing within the street scene there is considered to be minimal impact on residential amenity.
- 10.21 23 Vinery Close is a detached dormer bungalow set to the North of the application site at a much lower level. The bungalow is separated by an established hedge and proposed parking/turning area for the former Chapel. The existing windows at lower ground floor and ground floor within the North elevation of the Chapel will be retained. There are no windows existing or proposed at first floor level. The retained windows will serve habitable rooms (kitchen and bathroom). The windows are lower ground floor level will be screened by the established boundary hedge and the existing windows at ground floor are very small in scale and located within the corner of the room therefore any level of overlooking would be significantly reduced.
- 10.22 It is acknowledged that the proposal does not include amenity space for the residents apart from a small area to the North West to the rear of the building. It is considered, however, that as the development is for the change of use to dwellings which are in a flat format and the site is in close proximity to an area of green space (approx. 170m) to the South East on Holmfield Road, the proposal would offer the future occupants options for outdoor space within close vicinity to the site.

10.23 In summary, Officers consider that the scheme has now been amended to minimise any impact on the residential amenity enjoyed by occupiers of neighbouring properties and future occupiers of the site. As such, the application is considered to comply with Policies LP1 and LP24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the NPPF.

Highway Safety

10.24 The application seeks approval for alterations to convert a former Chapel to 6 no. dwellings located at Church Lane, Clayton West. The proposal would include the creation of four 2 no. bedroom dwellings and two 3 no. bedroom dwellings.

10.25 The proposed dwellings would be served by nine off-street parking spaces which are located to the East of the site. The proposal would include the removal of the existing stone boundary wall which would allow for an increased width of the existing access. *(on further consideration, officers suggest that the retention of part of the wall along the frontage would be more appropriate – this can be secured via condition)*

10.26 Following receipt of amended plans, the proposed off-street parking provision and layout is considered by Officers to be sufficient to serve the development.

10.27 The allocated bin store and collection points are considered to be acceptable.

10.28 Due to the restrictive site and proximity to neighbouring residential dwellings, it would be considered appropriate to add a condition requiring a construction management plan to be submitted and approved by the Local Planning Authority prior to the commencement of development.

10.29 It has been brought to the attention of Officers that the applicant has suggested that an application would be made to alter the speed limit on Church Lane to 20mph and also to relocate the lamppost to the West of the frontage. These alterations cannot be considered as part of the planning application and would require consent from other areas of the Council and relevant bodies. As such, they are not material to the consideration of this application.

10.30 For the reasons outlined above, the proposed development is considered acceptable subject to the addition of conditions to secure the adequate surface and drainage of the access and parking areas; the restriction of development over 1m in height within 2m of the site frontage and the gradient to not exceed 1 in 10. Subject to these suggested conditions, the proposal is acceptable from a highway safety and efficiency perspective, in accordance with Policies LP21 and LP22 of the KLP.

Other Matters

Climate Change

- 10.31 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.32 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 a condition relating to the provision of electric vehicle charging point(s) would contribute positively to the aims of climate change.

Representations

- 10.33 23 representations were received following the period of public consultation for the application. In so far as the points have not been addressed above, officers respond as follows:

Highway Safety

- 6 dwellings is too many for the location as most people have 2 cars and there is already a parking issue around the building which is most evident after 5pm.
Response: Further parking spaces were added to provide 9 spaces which is considered acceptable by KC Highways DM.
- The development will lead to further parking on the highway
Response: A full assessment of the impact on highway safety is contained within the report above; the parking provision proposed, following receipt of amended plans, is considered acceptable to serve the development.
- The road is a main bus route on a narrow road at a blind hill
Response: A full assessment of the impact on highway safety is contained within the report above; sufficient parking provision has been demonstrated following receipt of the amended site plan.
- On-street parking is used already for the bungalows opposite
Response: A full assessment of the impact on highway safety is contained within the report above; following receipt of amended plans, the proposal is considered to provide adequate parking provision within the site to serve the development without the need for on-street parking.
- There is no provision for visitor parking
Response: A full assessment of the impact on highway safety is contained within the report above; following receipt of amended plans there is one visitor space proposed within the application site.

- Increasing on road parking would significantly increase the risk of there being a serious traffic accident or potentially fatal accident
 Response: A full assessment of the impact on highway safety is contained within the report above; following receipt of amended plans, adequate parking provision to serve the development has been demonstrated on the submitted site plan.
- The parking spaces would be difficult to manoeuvre in and out of
 Response: A full assessment of the impact on highway safety is contained within the report above; following receipt of amended plan, the parking layout is considered acceptable following consultation with Highways Development Management.
- The access will cause a significant risk to traffic
 Response: A full assessment of the impact on highway safety is contained within the report above; following receipt of amended plans, the parking provision is considered acceptable, as is the access into the site.
- Main bus route through the village
 Response: A full assessment of the impact on highway safety is contained within the report above; parking would be provided within the application site and the access is considered acceptable.
- Impact of children walking to school
 Response: A full assessment of the impact on highway safety is contained within the report above; the proposal is not considered to result in any pedestrian safety implications.
- Impact on access for emergency vehicles
 Response: A full assessment of the impact on highway safety is contained within the report above; the proposal includes sufficient parking provision within the site.

Residential amenity

- Parking of residents or visitors to the site would have a serious impact on the health and well-being of residents
 Response: A full assessment of the impact on residential amenity is contained within the report above; the position of the parking within the site, in addition to the number of vehicular movements that would be generated from the proposed development is not considered to result in serious impacts to health and well-being of surrounding residents.
- Impact of overlooking
 Response: A full assessment of the impact on residential amenity is contained within the report above; amendments have been received during the course of the application to minimise any overlooking.
- The potential 6 families living in the dwellings would cause noise and disturbance for potentially up to 18 hours per day/7 days per week.
 Response: A full assessment of the impact on residential amenity is contained within the report above; the building is to be converted into residential use which is considered compatible with the surrounding residential uses that surround the site.
- The new windows within the rear elevation would result in significant overlooking
 Response: A full assessment of the impact on residential amenity is contained within the report above; amended plans are, in the opinion of officers, considered to have addressed this impact.

- Increased light disturbance from cars
Response: A full assessment of the impact on residential amenity is contained within the report above; with the inclusion of appropriate boundary treatment, any impact from the parking area would be minimised.
- Location of the wheelie bins would cause noise disturbance and vermin
Response: noise disturbance and reports of vermin should be reported to Environmental Health.
- Increase in dangerous exhaust fumes
Response: persistent impact of fumes should be reported to Environmental Health.

Ecology

- The application does not mention the bats that reside in the roof of the Chapel
Response: The application site is not within a bat alert area on the Kirklees mapping system. The roof and structure of the building is not being altered.

Other Matters

- There has been no planning notice erected at the site
Response: A site notice was erected on 14.11.2019 at the frontage of the site.
- Discrepancy between the public consultation end date on the website and letter sent
Response: The consultation end date will change depending on the date that the site notice is erected.
- Not an appropriate use of the building
Response: The principle of the use of the Chapel for residential use is assessed fully in the above report.
- Significant depreciation of the value of house
Response: This is not a material planning consideration.

Representations submitted following advertisement of amended plans (23rd December 2019 to 10th January 2020) are considered to raise similar issues to those already addressed above.

Objections (7)

Highway Safety

- Insufficient parking spaces within the site which will lead to increased parking on Church Lane
Response: A full assessment of the impact on highway safety is contained within the report above
- The amendments to the plans do not reflect the reality of the space available on the land.
Response: A full assessment of the impact on highway safety is contained within the report above

- The road outside the chapel is already an issue due to overcrowded parking on what is a main bus route, on a narrow road at a blind hill.
Response: A full assessment of the impact on highway safety is contained within the report above
- Main route for pedestrians walking to and from school.
Response: A full assessment of the impact on highway safety is contained within the report above
- Main route for horse riders from one bridle path to another.
Response: A full assessment of the impact on highway safety is contained within the report above
- The footpath opposite the site is already used for parking for residents of the bungalows.
Response: A full assessment of the impact on highway safety is contained within the report above
- Parking of residents or visitors will have a serious impact on health and well-being of residents
Response: A full assessment of the impact on highway safety is contained within the report above
- There is still not enough parking spaces proposed.
Response: A full assessment of the impact on highway safety is contained within the report above
- The road infrastructure surrounding the chapel does not have the correct layout to facilitate on further on street parking
Response: A full assessment of the impact on highway safety is contained within the report above
- Complexity of parallel parking arrangements on a steep slope will deter people from using the parking provided
Response: A full assessment of the impact on highway safety is contained within the report above
- On street parking will impact traffic exiting the junction from Cliffe Street and safe access onto Church Lane/Chapel Hill
Response: A full assessment of the impact on highway safety is contained within the report above
- Highway concerns are further exacerbated during icy or wet conditions.
Response: A full assessment of the impact on highway safety is contained within the report above

Visual Amenity

- The amended plans show full removal of the front wall which will negatively impact the appearance of the prominent building
Response: a condition will be added to secure the retention of part of the wall along the frontage

Residential amenity

- Impact of noise from cars and bins will be in issue and would like to a solid fence proposed to minimise the impact
Response: A full assessment of the impact on residential amenity is contained within the report above
- The East elevations have no or limited obscured windows which would impact privacy
Response: A full assessment of the impact on residential amenity is contained within the report above

- Impact from cars has been exacerbated by the increased parking and location of turning area
Response: A full assessment of the impact on residential amenity is contained within the report above
- The layout of the dwellings looks unappealing with living space to the front and bedrooms to the rear
Response: A full assessment of the impact on residential amenity is contained within the report above
- Changing the windows from the North to the East does not eradicate the privacy problems
Response: A full assessment of the impact on residential amenity is contained within the report above
- Householders opposite will now be affected as will those on Vinery Close
Response: A full assessment of the impact on residential amenity is contained within the report above
- Safe access in and out of neighbouring driveways will be impacted
Response: A full assessment of the impact on residential amenity is contained within the report above

Drainage

- The drains are insufficient to deal with the proposal
Response: The drainage would be used as existing.

Other Matters

- Impact of the conversion on bats
Response: The application site is not within a bat alert area on the Kirklees mapping system. The roof and structure of the building is not being altered.
- No planning notice has been displayed outside of the site
Response: A site notice was erected on 14.11.2019
- Concern as to the level of work already undertaken which suggests that the developers have been advised that the plans will be passed.
Response: Any work already completed is to the inside of the Chapel only which would be permitted without permission.
- There is an error on the boundary plans
Response: This would be considered to be a private matter and one in which planning would have no powers of control.

Support (2)

- The proposal for 11 parking spaces is an improvement
- Implementation of a new traffic speed limit along Church Lane/Chapel Hill
- Happy that the Chapel is not going to ruin and the developers do seem to care.
- To provide 9 off-street parking spaces would be an improvement
- The use of the building as a Church often led to disruptions on the highway as vehicles could not enter the site. The proposal has addressed this.

- To see apartments in the area will meet a need for a certain type of residence which will give older generations the options to downsize but remain in the same area.
- The amendments have addressed the concerns of the impact on privacy, drains and the boundary.
- The re-siting of the lamp post adjacent to the site and removal of the boundary wall will be an improvement
- Remain convinced that parking will increase but the proposal to reduce the speed limit to 20mph would improve safety

10.34 The representations received during the course of the application have been carefully considered however, when assessed in relation to relevant local and national planning policy, the proposals are, in the opinion of officers, considered acceptable with the inclusion of the suggested conditions.

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

11.0 CONCLUSION

11.1 Taking all material considerations into account, for the reasons outlined above, the principle of the conversion of the former Chapel to create 6 no. dwellings would be considered to be acceptable so as to not cause significant harm to the non-designated heritage asset and amount to a level of public benefit though the reinstatement of use of a previously vacant building in line with Policies LP35 and LP24 of the KLP. Furthermore, following the receipt of amended plans and with the inclusion of appropriate conditions, the proposal is also considered acceptable from a residential amenity and highway safety perspective.

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. 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 specifications
3. Nothing to be planted or erected within a strip of land measuring 2.4m deep from the carriageway edge of Church Lane along the full frontage of the site
4. Areas to be used by vehicles / parking to be surfaced and drained
5. Maximum gradient of private drive(s) shall not exceed 1 in 10
6. Full details of the replacement window frames
7. Provision of Electrical Vehicle Charging Points
8. Notwithstanding the submitted plans, full details of all boundary treatments

Link to the application details:-

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93284>

Certificate A signed and dated 04.10.2019

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 13-Feb-2020

Subject: Planning Application 2019/93261 Variation of condition 7 (opening hours) on previous application 2002/90188 for change of use from workshops to combined workshop/office and showroom Dual House, Wellington Street, Batley, WF17 5TH

APPLICANT

Mr Ali

DATE VALID

09-Oct-2019

TARGET DATE

04-Dec-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

YES

Ward Members consulted
(referred to in report)

RECOMMENDATION: REFUSE

1. **The extension of the hours of operation of the premises from 07:00 to 19:00 from Monday to Sunday would exacerbate the existing ongoing parking issues, particularly on a weekend and evening, further restricting on street parking and access for residents. To permit the extension to the hours of operation, would result in the intensification and demand for parking within the vicinity of the site would not be in the interest of highway safety and efficiency, contrary to the guidance within Policies LP21 and LP24 of the Kirklees Local Plan.**
2. **The extension of the hours of operation of the premises to between 7:00 to 19:00 for 7 days a week would result in a reduction in the quality of life and well-being of neighbouring residential occupants due to noise and activities that would be generated from the premises over significant periods of time. The harmful impact on the residential amenity of neighbouring occupiers would be contrary to the aims of Policies LP24 and LP53 of the Kirklees Local Plan as well as Chapter 12 and 15 of the National Planning Policy Framework.**

1.0 INTRODUCTION:

- 1.1 This application is reported to the Heavy Woollen Planning Sub-Committee at the request of Ward Councillor Habiban Zaman. The reasons for the request by Councillor Zaman are as follows:

"I would like to request the above application to go to planning committee.

Already there are tensions regarding parking, noise and hours of operation which residents are constantly complaining about to the council and councillors. I would like the planning committee to make the decision on this.

I would also request a site visit to determine the effect on surrounding properties, particularly the impact on local residents".

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

1.3 In addition, the application also received 7 representations following the period of public consultation and a signed petition containing 25 signatures, which is considered to constitute significant representation.

2.0 SITE AND SURROUNDINGS:

2.1 The site consists of a two storey detached building faced in natural stone with tiled mono pitched roof. The principal elevation has three entrances directly from the parking area to the front with shutter box and perforated roller shutter over. To the West of the principal elevation is a delivery hatch at first floor level. The building has a floor area of 180 square metres over two floors with a total of 360 square metres.

2.2 To the East, attached perpendicularly, is a two storey building which is currently vacant. The users of this building do not have a right of access to the building from, or use of, the car park.

2.3 Directly to the front of the building is a tarmac parking area with access and exit points directly from Wellington Street with five off-street parking spaces. The site is enclosed by a stone wall with iron railing detail.

2.4 Directly to the South and West of the site are residential properties. To the North is a sheltered housing scheme and two retail units.

2.5 The site has an existing permission for use of the site for a mixed use as a combined workshop/office and showroom.

2.6 Wellington Street is a category 'C' adopted highway which is subdivided by a grass verge giving access to the application site and nos.113- 121 Wellington Street via Purlwell Lane.

3.0 PROPOSAL:

3.1 The application is sought for the variation of condition 7 (opening hours) on previous application 2002/90188 for the change of use from workshop to combined workshop/office and showroom.

3.2 Condition 7 of permission 2002/90188 states the following:

'Notwithstanding the submitted details the premises shall not be open outside the hours of 9.30 to 17.30, Monday to Fridays; 9:30 to 14:00 on Saturdays or at any time Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority'

3.3 The application is sought to amend the condition to state the following:

'Notwithstanding the submitted details the premises shall not be open outside the hours of 7:00 to 19.00, Monday to Sunday unless otherwise agreed in writing by the Local Planning Authority'

4.0 RELEVANT PLANNING HISTORY (including Enforcement action):

4.1 The application site has been subject to the following applications on the site:

2002/90188	Change of use from workshops to combined workshop/office and showroom CONDITIONAL FULL PERMISSION
2003/94602	Change of use of workshop to retail outlet to supply central heating REFUSED
2004/90700	Change of use of workshop to retail/trade to supply central heating and bathroom REFUSED
2016/93910	Change of use of shop to snooker and games room REFUSED
2017/93124	Change of use of shop to snooker and games room REFUSED

Enforcement Action

Breach of Condition Notice served 12.09.2019 with effective date of 09.10.2019 for the Breach of condition 7 of permission 2002/90188.
Appeal not submitted.

5.0 HISTORY OF NEGOTIATIONS:

5.1 The officer contacted the applicant to advice of the consultation response received from KC Highways DM who raised concerns due to the impact of the development on highway safety. The applicant was advised to consider reducing the hours of operation which may be considered acceptable. However, the applicant advised that the business required the proposed hours of use to operate fully and therefore would not wish to make a reduction. Further clarification was sought from the applicant that the proposed 0700 until 1900 was proposed 7 days a week; this was confirmed to be the case via telephone conversation on 28/01/2020.

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).

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target,

however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

The site is Unallocated within the Kirklees Local Plan.

6.2 Kirklees Local Plan (LP)

LP 1 – Sustainable Development

LP 2 – Place Shaping

LP 21 – Highway Safety and Access

LP 22 – Parking

LP 24 – Design

LP52 – Protection and improvement of environmental quality

6.3 National Planning Policy Framework (NPPF):

Chapter 1 – Building a strong, competitive economy

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/documents

Highways Design Guide Supplementary Planning Document

7.0 **PUBLIC/LOCAL RESPONSE:**

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

7.2 7 Representations and petition containing 25 signatures were received following the period of public consultation. A summary of the comments received is set out below:

- The applicant has already commenced work in the premises and is carrying out building work without permission being granted.
- Disruption from noise throughout the day and night
- Staff from the workshop use parking spaces for residents meaning residents must park further away.
- There is already a lot of traffic on the street and at times it is difficult to exit or enter the street.
- Cars and vans are blocking driveways and at times park in the middle of the road.
- Children are unable to play outside due to the number of cars.
- Disabled residents living in the area require an ambulance on occasion which is delayed due to inconsiderate parking.
- There is not enough parking at Dual House.
- There is noise at all hours such as hammering, bangle and staple guns and further disturbance when wood is cut in the yard.
- The smell or solvents and chemicals
- The dust from wood work.

- Noise from loading vehicles until late at night.
- The company employs 30 staff
- The use often blocks the road with artic trucks
- Rubbish left outside the yard is attracting vermin.
- There is a compressor in the building for which there are restrictions in a residential area.

8.0 CONSULTATION RESPONSES:

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

8.2 Statutory Consultees:

K.C Environmental Health – Concerns raised in relation to the amenity of neighbouring residential properties from the effects of noise. To alleviate concerns, two conditions are suggested to restrict the hours of activities as well as deliveries and dispatches from the premises. (NOTE: The suggested hours do not correspond with those being requested by the applicant)

K.C Highways Development Management – Extending the opening hours of the premises into the early evening, as well as weekend, would exacerbate the issues that are currently occurring on and around the site. As such, KC Highways DM do not consider the proposal acceptable.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 Policy LP1 of the Kirklees Local Plan states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.

10.2 The application has no specific allocation within the Kirklees Local Plan. As such, Policy LP24 of the KLP is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.

Impact on visual amenity

- 10.3 Policy LP24 of the KLP states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by the National Planning Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local character ...while not preventing or discouraging appropriate innovation or change (para.127 of the NPPF).
- 10.4 In this instance, no external alterations are proposed as part of this application therefore there is considered to be no impact on visual amenity, in accordance with Policy LP24 of the KLP and chapter 12 of the NPPF.

Impact on residential amenity

- 10.5 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the KLP states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings. Policy LP53 of the KLP sets out that it should be ensured that the impact of developments should not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment; this is consistent with chapter 15 of the NPPF too.
- 10.6 The closest neighbouring dwellings which could be impacted by the development are nos.15, 17 and 19 Hamza Street and no.113 Purlwell Lane.
- 10.7 The listed residential dwellings each share a boundary with the application site with a short separation distance. Although the dwellings are in close proximity to the existing business use, the Council's Environmental Health Officers consider that any impact on the residential amenity of the occupiers could be adequately controlled and minimised by the use of conditions to control the hours of operation and the time for delivery / dispatches as follows:

"No activities shall be carried out on the premises outside the hours of 7:00 and 19:00 Monday to Friday and 9:30 to 14:00 Saturdays. No activities shall take place on Sundays or Bank Holidays".

And

"There shall be no deliveries to or dispatches from the premises outside the hours of 8:00 and 18:00 Monday to Friday and 9:30 and 14:00 Saturdays. No deliveries or dispatches shall take place on Sundays or Bank Holidays".

- 10.8 The suggested conditions would restrict the hours of operation at the site in order to minimise the impact on the amenity of occupants of neighbouring residential units. The recommended hours would be significantly less than those proposed by the applicant, who does not agree to the suggested hours recommended by Environmental Services, particularly on Saturdays and Sundays. Therefore, to extend the hours of operation to between 7:00 to 19:00 for 7 days a week would, in the opinion of officers, result in a reduction in the

quality of life and well-being of neighbouring residential occupants due to noise and activities being generated from the premises over significant periods of time, contrary to the aims of Policies LP24 and LP53 of the KLP as well as chapters 12 and 15 of the NPPF.

- 10.9 For the reason outline above, Officer's consider that the extension of the hours of operation from 07:00 to 19:00 from Monday to Sunday would cause undue impact to the residential amenity of neighbouring occupiers which could not be adequately controlled by condition. The proposal would therefore be considered to be contrary to aims of Policies LP24 and LP53 of the KLP as well as chapters 12 and 15 of the NPPF.

Highway Safety

- 10.10 The application seeks approval for the variation of condition 7 (opening hours) for the previous permission 2002/90188. The current permission restricts operations at the site outside the hours of 9:30 to 17:00 Monday to Friday and 9:30 to 14:00 on Saturdays or at any time on Sundays or Bank Holidays.
- 10.11 As previously reported, the application seeks to vary the hours of operation to 07:00 to 19:00 Monday to Sunday.
- 10.12 The section of Purlwell Lane adjacent to the application site has been subject to petitions for both residents and Local Ward Councillors to the Kirklees Highway Safety team with regards to the ongoing issues of parking on the street which is associated with surrounding businesses which restricts on-street parking and access to residential dwellings.
- 10.13 The applicant has suggested that the vehicles parked along Wellington Street in the vicinity of the businesses are in no way connected to their operations. The Council have suggested that an independent parking survey should be carried out to demonstrate this. However, no evidence to this effect has been submitted to the Local Planning Authority to support the application.
- 10.14 In light of the ongoing concerns by local residents and Ward Councillors of issues caused by unrestricted parking, Highways DM consider that extending the hours of operation of the premises into the early evening and weekends would exacerbate the issues that are currently occurring, particularly on a weekend when residents tend not to be at work. As such, the intensification of parking, as a result of extending the hours of operation, would not be in the interest of highway safety and efficiency, contrary to the guidance within Policies LP21 and LP24 of the Kirklees Local Plan.

Enforcement

- 10.15 The Planning compliance team received a public complaint alleging operations outside of the permitted hours of operation at the application site. Through investigations, the site owner confirmed to working outside of the restricted hours to the Planning Compliance Team.
- 10.16 Following the confirmation of the breach of condition 7 of permission 2002/90188, the Planning Compliance Team served a Breach of Condition Notice (BCN) on 12.09.2019 which took effect on 09.10.2019.

- 10.17 If further evidence is found to show that the site continues to operate outside of the permitted hours of operation, the site owner would be invited for an interview under caution. It is noted that there has been limited evidence submitted following the service of the BCN showing that the site continues to operate outside of the permitted hours of operation.
- 10.18 A decision would then be required to be made as to the public benefit of taking formal action in line with the Development Management Compliance Strategy. Further action would be taken if it was considered that the breach of condition caused an environmental harm (for example, noise disturbance). If there is found to be no environmental harm (for example, cleaning or office work which causes no harm with regards to noise and disturbance) then a decision would be made as to the public benefit of taking formal action.

Other matters

Climate change and Air quality

- 10.19 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.20 The proposal is for the extension of hours of operation to an existing business use therefore it would be unreasonable for the Local Planning Authority to add further conditions requiring improvements to the environmental quality of the site.

Representations

- 10.21 Representations and petition containing 25 signatures were received following the period of public consultation. In so far as the point have not been addressed above, officers respond as follows:
- The applicant has already commenced work in the premises and is carrying out building work without permission being granted.
Response: The building has a permitted use for general industry and therefore work is permitted inside the specified hours of operation.
 - Disruption from noise throughout the day and night
Response: This is noted. An active enforcement case is open to monitor disturbance from the site.
 - Staff from the workshop use parking spaces for residents meaning residents must park further away.
Response: A full assessment of the impact on highway safety is contained within the above report.

- There is already a lot of traffic on the street and at times it is difficult to exit or enter the street.
Response: A full assessment of the impact on highway safety is contained within the above report.
- Cars and vans are blocking driveways and at times park in the middle of the road.
Response: A full assessment of the impact on highway safety is contained within the above report.
- Children are unable to play outside due to the number of cars.
Response: A full assessment of the impact on highway safety is contained within the above report.
- Disabled residents living in the area require an ambulance on occasion which is delayed due to inconsiderate parking.
Response: A full assessment of the impact on highway safety is contained within the above report.
- There is not enough parking at Dual House.
Response: A full assessment of the impact on highway safety is contained within the above report.
- There is noise at all hours such as hammering, bangle and staple guns and further disturbance when wood is cut in the yard.
Response: The building has a permitted use for general industry and therefore work is permitted inside the specified hours of operation. If outside the hours then residents should contact planning enforcement.
- The smell or solvents and chemicals
Response: The building has a permitted use for general industry and therefore work is permitted inside the specified hours of operation. If the smell is a concern it would be advised to contact Environmental Health.
- The dust from wood work.
Response: The building has a permitted use for general industry and therefore work is permitted inside the specified hours of operation. If the dust is a concern it would be advised to contact Environmental Health.
- Noise from loading vehicles until late at night.
Response: A full assessment of the impact on highway safety is contained within the above report.
- The company employs 30 staff
Response: There are no details attached to the application to specify the level of staff at the site.
- The use often blocks the road with artic trucks
Response: A full assessment of the impact on highway safety is contained within the above report.
- Rubbish left outside the yard is attracting vermin.
Response: It would be advised to contact Environmental Health if this is a continuing issue.
- There is a compressor in the building for which there are restrictions in a residential area.
Response: It would be advised to contact Environmental Health if this is a continuing issue.

11.0 CONCLUSION

- 11.1 Taking all material considerations into account, for the reasons outlined above, the variation of condition 7 of permission 2002/90188 to extend the hours of operation from 07:00 to 19:00 Monday to Sunday would be considered to exacerbate the existing concerns for highway safety on this section of Purlwell Lane which would be detrimental to highway safety and contrary to Policies LP21 and LP24 of the Kirklees Local Plan. In addition, due to the long hours of operation proposed, there are also significant concerns raised regarding the impact on the residential amenity of surrounding residential occupants, contrary to Policies LP24 and LP53 of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.
- 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.
- 11.4 It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. The application is therefore recommended for refusal.

Link to the application details:-

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93261>

Certificate A signed and dated 30.09.2019

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 13-Feb-2020

Subject: Planning Application 2019/93617 Erection of detached dwelling adj,
The Hall, Liversedge Hall Lane, Liversedge, WF15 7DP

APPLICANT

Mrs Franklyn

DATE VALID

05-Nov-2019

TARGET DATE

31-Dec-2019

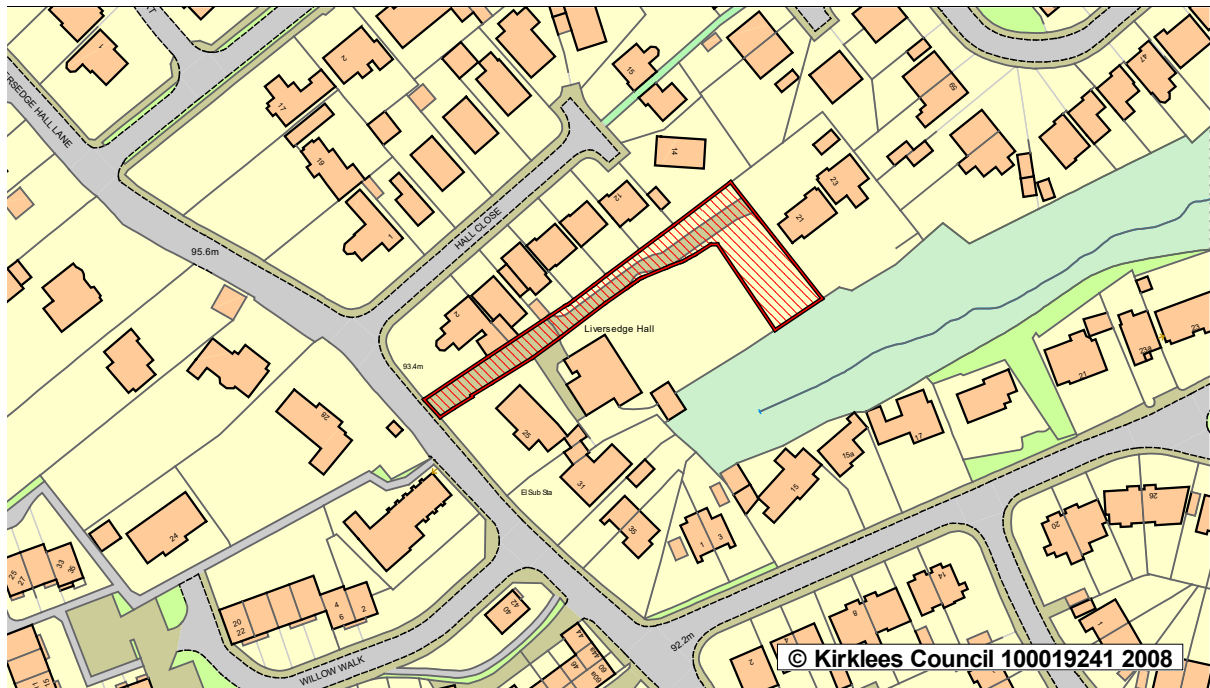
EXTENSION EXPIRY DATE

20-Feb-2020

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: Heckmondwike

YES

Ward Members consulted
(referred to in report)

RECOMMENDATION:

REFUSE

1. The proposed dwelling within the garden of Liversedge Hall would cause a high level of harm to the significance of the Grade II Listed Building. It would also impact upon the aesthetic and historical value of the Hall by reason of its visibility from the Hall, result 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'

1.0 INTRODUCTION:

- 1.1 On the 17th October 2019 Heavy Woollen Planning Committee refused planning application 2019/91346 for erection of detached dwelling with integral garage on the same plot of land as the current application.
- 1.2 The current proposal is very similar to that previously refused. In relation to the previously refused application 2019/91346, the integral garage has been omitted and as such, the overall width of the dwelling reduced by approximately 4.8 metres (which increases the separation distance to the listed building by the same amount), there have been very limited alterations to the external design, scale, massing, height and position of the main dwelling proposed. In officers' opinion, these are not sufficient to overcome the reasons for refusal of the previous application.

- 1.3 Due to the previous involvement of Committee Members the current proposal is brought forward, by officers, to the Heavy Woollen planning sub-committee for determination. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is identified as land adjacent to The Hall, Liversedge Hall Lane, Liversedge. The site is roughly rectangular, approximately 18.0m wide x 37m deep, and is currently a relatively level garden lawn associated with Liversedge Hall. It is accessed via a tarmacked driveway serving the Hall and two detached houses at 21 and 23, Liversedge Hall Lane.
- 2.2 To the north is a small residential cul-de-sac of detached dwellings and to the south is a strip of woodland. To the east are detached dwellings at 21 and 23, Liversedge Hall Lane with more housing beyond, and to the west is Liversedge Hall, and further housing.
- 2.3 The site is unallocated on the Kirklees Local Plan, although to the south is woodland protected by a Tree Preservation Order and allocated Urban Greenspace on the Kirklees Local Plan.
- 2.4 The site is within the setting of a listed Building (Liversedge Hall).

3.0 PROPOSAL:

- 3.1 The application is for the erection of one detached dwelling.
- 3.2 It is a one and a half storey, 2 bedroom house, with the bedrooms in the roof space. The eaves would be around 2.8m high and the ridge height would be approximately 6.6m. There would be dormer windows to habitable rooms in the north western and south eastern elevations, whilst the gable ends to the north eastern and south western elevations would be blank except for a side door in each. There is a projecting element from the south eastern elevation providing additional space for living-room 2, and a small porch over the front doorway to the opposite elevation.
- 3.3 The external walls would be coursed natural stonework and the roof would be surfaced in artificial stone slates. The windows would be aluminium framed glazing (coloured dark grey) and the dormers would be of timber. The projecting element at the back would have a dwarf wall with timber framework above, dark grey aluminium window frames and artificial stone slate roof.
- 3.4 There would be two parking spaces on driveway to the front of the dwelling together with rectangular area of garden. To the rear would be a patio and larger garden space.
- 3.5 To the north is a residential cul-de-sac, to the south is woodland, to the east are associated houses and to the west is Liversedge Hall and its garden.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 **2019/91346** – Erection of detached dwelling with integral garage. Refused.
<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2F91346>

2018/92724 – erection of detached dwelling with integral garage. Withdrawn.
<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F92724>

1994/91360 – Outline application for erection of 2no dwellings. Conditional outline permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=94/91360>

1995/91780 – Reserved matters application for erection of 2 no detached, 2-storey houses with garages. Granted approval of reserved matters.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=95/91780>

1995/90226 – relocation of garage. Conditional full permission.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=95/90226>

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

5.1 No negotiations have taken place during the course of this application.

6.0 PLANNING POLICY:

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

The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan (2019):

6.2 **LP 1** – Presumption in favour of sustainable development
LP 2 – Place shaping
LP 11 – Housing mix and affordable housing
LP 21 – Highway safety and access
LP 22 – Parking
LP 24 – Design
LP 30 – Biodiversity and geodiversity
LP 33 – Trees
LP 35 – Historic Environment
LP 38 – Minerals and safeguarding
LP 51 – Protection and improvement of local air quality
LP 52 – Protection and improvement of environmental quality
LP 53 – Contaminated and unstable land
LP 61 – Urban Greenspace

National Planning Guidance:

- 6.3 **Chapter 5** - Delivering a sufficient supply of homes
Chapter 11 - Making effective use of land
Chapter 12 - Achieving well-designed places
Chapter 15 - Conserving and enhancing the natural environment
Chapter 16 - Conserving and enhancing the historic environment

Supplementary Planning Guidance:

- 6.4 Highways Design Guide Supplementary Planning Document

West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised by neighbour notification letter, press notice and site notice.
- 7.2 Eight representations were received following a period of public consultation. A summary of the comments received is set out below.

Objections (1)

- The proposal would have an adverse impact upon residential amenities of occupiers of adjacent properties.
- Considering two similar applications have already been rejected on historical ground, what has altered from a historical point of view?
- It appears that the new application soon after the last one was rejected suggests some agreement may have been made.

Support (7)

- It will not have a negative impact upon the current residential situation and will enhance the area.
- It is far enough away from the Hall to ensure that it does not spoil the heritage features and its setting.
- The proposed blue plaque will increase local awareness and put it on the heritage trail of Kirklees.
- The proposal is very similar to another planning application nearby (Duxbury Hall, Roberttown).
- The development will allow family to remain close for essential support

Ward Member response

Cllr Kendick has commented that *'I understand that this application is scheduled to be heard at the Planning Sub-Committee on 13th February and I would like to attend to speak in support of this application'*.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K C Highways Development Management – No objection subject to a condition relating to areas to be surfaced and drained.

K C Environmental Health – No objections subject to a conditions relating to submission of phase 1, phase 2, contaminated land reports and assessments, and an electric vehicle charge point

The Coal Authority – No objection to current planning application, however direct to comments and recommendations contained with consultation response letter of 24th September 2018 in respect to 2018/92724 which remain valid and acceptable for the current proposal

8.2 Non-statutory:

K C Conservation and Design – Object. It would cause a high level of harm to the significance of the listed building. It would also impact upon the historical value of the Hall by further reducing the land associated with it. Any harm to, or loss of, the significance of a designated heritage asset, should require clear and convincing justification. There would be a high level of harm, but the harm would be less than substantial harm.

The proposal should be refused unless a special case is made with regards to the applicant's personal circumstances that are considered to be exceptional, justified and outweigh the harm of the proposed development to the significance of the listed building.

K C Ecology – comments given in response to planning refusal 2019/91346 - No objections subject to removal of PD rights and / or amending the red line boundary to exclude the TPO'd area.

K C Arboricultural officer – No objections subject to condition relating to protective fencing around protected trees.

West Yorkshire Archaeology Advisory Service – advice the same as previously refused application 2019/91346. No objection subject to an appropriate level of archaeological observation and recording to be carried out during development (an archaeological watching brief), secured by either of two suggested conditions.

They strongly advise that the developer be advised that a reasonable period of time for the execution of the necessary archaeological work must be allowed for within the overall site timetable

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 Policy LP1 of the Kirklees local Plan states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan (KLP) will be approved without delay, unless material considerations indicate otherwise.
- 10.2 The footprint of the proposed dwellinghouse and associated garden are on land that is unallocated on the KLP but within the setting of Liversedge Hall, a Grade II Listed Building, a heritage asset of national importance. These are material considerations.
- 10.3 It is noted that this application, currently under consideration, follows planning refusal 2019/91346 for erection of detached dwelling with integral garage, approximately 4 months ago.
- 10.4 Planning refusal 2019/91346 was for a 4 bedroomed detached house in the same location on slightly wider plot and the reason for refusal was as follows:

'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. It would impact upon the aesthetic and historical value of the Hall by reason of its visibility from the Hall, result 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'.

- 10.5 The current proposal is a 2 bedroom detached dwelling of similar design (without integral garage) and proportions as previously refused, around 4.8m further from the facing elevation of Liversedge Hall now that the proposed integral garage has been removed.

- 10.6 In more detail, the integral garage has been removed allowing the width of the plot to be reduced by approximately 4.8m. Around 1.0m has also been removed off the width of the proposed dwelling but there are no appreciable differences in the eaves or ridge height, nor the depth of the footprint and it would remain a one and a half storey building with two dormer windows in the front and rear roof slopes.
- 10.7 The projection of one of the living rooms projecting at the back has been increased approximately 1.0m and re-positioned centrally on the rear elevation.
- 10.8 Internally, at ground floor level, the previously proposed bedrooms have been removed and the bathroom enlarged to provide wheelchair accessibility. The stairs have been re-positioned and indicate a stair lift. At first floor level, there would be two bedrooms with en-suite toilets baths.
- 10.9 Externally, the current proposal would retain two car parking spaces and a smaller area of garden to the front, at the back would be a similar sized patio and slightly less garden / lawn area. There would now be one new doorway in either side elevation. In the front and rear elevations, the windows and doors would be the same (albeit repositioned in the rear elevation) and there would be three further velux roof light, two to the front and one at the back. The facing materials would be the same as previously proposed, predominantly coursed natural stone walls and the proposed roofing materials would be artificial stone slates as opposed to stone slates (which were previously proposed). The proposed western boundary wall would be as previously proposed, 1.2m high and built of stone.
- 10.10 No additional public heritage benefits have been proposed.
- 10.11 In summary, the main difference is the omission of integral garage allowing the width of the plot to be reduced by approximately one third which increases the separation distance between the front of Liversedge Hall and the nearest boundary of the proposed plot by around 4.8m. However, in officers' opinion there have been very limited alterations to the external design, scale, massing, height and position of the remaining part of the proposed dwelling (with proportionate external private amenity space). It is roughly the same as previously refused.
- 10.12 As such, forming a slightly narrower plot would not, in the opinion of officers, overcome the harm the proposed dwelling would have upon the setting of Liversedge Hall Listed building. The proposed public benefits remain the same as previously refused and these relatively limited benefits do not outweigh the harm of the proposed dwelling on the setting of the Listed building. In officers' opinion the current proposal would not overcome the reason for refusal of the previous application.

Impact upon setting of heritage asset:

Policy context:

- 10.13 In terms of assessing the impact upon the setting of this grade II listed building heritage asset, the Council have a statutory duty under s.66 of the Planning (Listed Buildings and Conservation Area) Act 1990 to have special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest which it possesses.

- 10.14 Chapter 16 of the NPPF, reflects and expands upon this. In paragraph 193 it requires that *'when considering the potential impact of a proposed development on the significance of a designated heritage asset, great weight should be given the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance'*.
- 10.15 In paragraphs 194 and 196 of the NPPF, it goes on to say that *'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.'*
'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.
- 10.16 Policies LP24 (design) and LP35 (historic environment) of the KLP are also relevant. Policy LP24 of the KLP states that proposals should promote good design by ensuring (amongst other things) that the form, scale, layout and details of all development respects and enhances the character of heritage assets. Policy LP35 of the KLP requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development.
- 10.17 In this instance the application has been accompanied by a heritage statement prepared by a special heritage consultant. It has been slightly updated to reflect the current proposal and circumstances of the applicant, however the historical background information and assessment is the same as considered as part of the previously refused application. It is however noted that it infers that the newly revised development proposals would be at a much lower level than the Hall and with a lower profile in relation to the nearest existing house. However, having assessed the submitted plans, officers can confirm that these are the same as the refused application.
- 10.18 The Council's Conservation and Design experts have also assessed the proposal. Both are referred to below

History and development of Liversedge Hall:

- 10.19 Historical records indicate that there has been a dwelling on the site of Liversedge Hall since at least the 13th Century. Most notable associations have been with the de Liversege family (from which the Hall and township takes its name), and the Neville family which were one of the most powerful in late medieval England.
- 10.20 In the late 15th Century the building was a hall house facing in a southerly direction comprising a central hall and two cross wings to the east and west.

- 10.21 The 1854 OS map shows that Liversedge Hall was the centre of an agricultural estate surrounded by associated yards, agricultural buildings, orchard, woodlands and gardens. Beyond were associated fields.
- 10.22 By the late 19th Century the west wing of the Hall had been demolished and the building remodelled to face north east. But despite these extensive changes, works respected the historical development of the building. What survives to the present day is the east wing, staircase tower and part of the hall range.
- 10.23 Also by this time, the landscaping around the Hall was altering. New buildings were being constructed to the south east and south west, and an area of farmland and orchard was enclosed to form a garden to the north east of the Hall and this is the site of the proposed development.
- 10.24 By the early 20th Century the garden appears to have been extended to the north east, to take in a small field and this was developed with two houses in the late 20th Century. In between time, residential piecemeal development began to surround the Hall, and in 1967, Liversedge Hall was listed.

Significance of heritage assets affected

- 10.25 There is some difference of opinion on this between the author of the heritage impact assessment submitted with the application and that of the Council's Conservation and Design team. The former makes the point that historically the main façade of the building faced south and therefore formal gardens relating to it would have been on that side of the building, not the eastern side where it is currently. They continue that what is now the principal frontage, together with the garden which provides its setting, is probably less than 150 years old, articulating a Victorian residence, not the 17th Century and earlier gentry house that is cited in the List entry. They go on to say that to build a detached house in the garden to the east of the Hall is unlikely to uncover significant archaeological remains for the reasons above, and would in any case presumably be covered by a condition requiring an appropriate level of investigation.
- 10.26 West Yorkshire Archaeology and Advisory Service confirm that an archaeological watching brief is recommended and suggest two alternative conditions. This is on the basis that little is currently known of the Hall's context prior to the mid 19th Century and it is possible that the application site may contain evidence of both the medieval Neville manor and features associated with the gardens of the 16th century and later Liversedge Hall.
- 10.27 In the Council's Conservation and Design officer's opinion, Liversedge Hall has archaeological value for its potential to yield information about the form and layout of the late 15th Century Hall and earlier structures at the site. It also has high historical value for its association with the de Liversedge and Neville families, and as a good example of a high-status gentleman's residence of the 17th Century. It has some historical value as an example of a re-modelled Hall perhaps reflecting concerns in the late 19th Century about the loss of ancient buildings. It has high aesthetic value as a good example of a 17th Century gentleman's residence, which has been re-modelled in the late 19th Century, in keeping with the earlier design of the Hall.

Setting of the heritage assets affected

- 10.28 Here again there is a difference of opinion between the author of the heritage impact assessment and the Council's Conservation and Design team. The former's stance is that the setting of Liversedge Hall is now uncompromisingly suburban as a result of residential developments during the second half of the 20th century. It assesses views to and from the heritage asset and in summary concludes that distant views are to a great extent obscured by surrounding development.
- 10.29 The Conservation and Design team take the view that every Listed building is unique in its setting and that the remaining gardens to the east and woodland to the south east of Liversedge Hall are key components of its setting and make an important contribution to its significance. They point out that the Hall once had an extensive landscape setting as the centre of a working farm and that this has diminished to a critical degree in the 20th Century by piecemeal development, so all that remains is the present garden and woodland, which makes an important contribution to understanding its historical value.
- 10.30 They acknowledge that the current gardens were laid out as part of remodelling the Hall in the late 19th Century, however the Hall was redesigned to overlook the gardens and the gardens provide a space in which to appreciate the Hall.
- 10.31 They go on to say that little is currently known of the Halls context prior to the mid 19th century and it is possible that the application may contain evidence of both the medieval Neville manor and features associated with the gardens of the 16th Century Liversedge Hall. The gardens are therefore important for their evidential value.

Impact of the proposal on significance:

- 10.32 The Heritage Impact Assessment asserts that the proposed dwelling would essentially reduce the viewing distance between the Hall and the nearest house on the eastern side by approximately 10.0m, but this would not prevent viewers looking in a western direction to the Hall, appreciating the full extent and character of its east façade. In addition the impact of the proposed dwelling on the view from the Hall in an eastern direction would be reduced by the revised new dwelling being at a much lower level than the Hall, and its lower profile in relation to the nearer existing house. In officers' opinion the currently proposed new dwelling is at the same level and has virtually the same profile as previously refused under planning refusal 2019/91346.
- 10.33 The West Yorkshire Archaeological Advisory Service also comment that the proposed development may disturb and destroy important archaeological evidence of the medieval and later activity adjacent to the listed hall and a pre 16th century manor house.
- 10.34 In the opinion of officers, the proposed 2 bedroom detached house of one and a half storeys within the garden of Liversedge Hall would cause a high level of harm to the significance of the Listed Building. It would also impact upon the historical value of the Hall by further reducing land associated with it. 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. This impact could not be mitigated, except by the construction of a temporary building and this would not be a reasonable proposition.

- 10.35 The erection of the proposed dwelling would impact upon its aesthetic value by reason of its visibility from the Hall, the loss of soft landscaping and reducing the space in which to appreciate the Hall from the gardens.
- 10.36 The proposal may also disturb and destroy important archaeological evidence of the medieval and later activity adjacent to the Listed Building and a pre 16th Century manor house. This impact could however be mitigated by an appropriate level of archaeological observation and recording.
- 10.37 As stated in paragraph 194 of the NPPF, any harm to, or loss of, the significance of a designated heritage asset (including from development within its setting), should require clear and convincing justification. In this instance the stated reason for the development is to provide a new home for the Hall's elderly owner, to allow the family to provide care for this family member in close proximity. Whilst this is the case it is the principle of a house at the application site which is unacceptable due to its harm upon the setting of Liversedge Hall, and as such very limited weight is given to this reason for the development
- 10.38 It is also noted that the Heritage Impact Assessment states that the proposal includes enhancement in the form of interpretation of the heritage asset for the benefit of the public. This is welcomed and would be of some limited public benefit to the historic environment, but would not outweigh the high level of harm to the setting of Liversedge Hall as a result of the proposed dwellings.

Summary:

- 10.39 To conclude, the proposed 2 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. It would impact upon the aesthetic and historical value of the Hall by reason of its visibility from the Hall, result 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 NPPF.
- 10.40 In relation to the previously refused application 2019/91346, whilst the integral garage has been omitted and the width of the plot reduced around 4.8m, (which increases the separation distance to the listed building the same amount), there have been very limited alterations to the external design, scale, massing, height and position of the remaining part of the proposed dwelling. The proposal does therefore not overcome the reasons for refusal of the previous application.

Visual amenity / local character issues

- 10.41 Policy LP24 of the KLP states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. This is supported by the National Planning Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local characterwhile not preventing or discouraging appropriate innovation or change (para.127 of the NPPF).
- 10.42 In this instance it is considered that the design and appearance of the proposed house would be in keeping with the architectural style and materials of the existing houses on adjacent land to the east. However, due to its position, which remains in close proximity to the listed Liversedge Hall, and that it would still reduce the land associated with the setting of Liversedge Hall, it is considered that the principle of the proposed development fails to respect and enhance the character of the heritage asset. As such, the proposal would fail to promote good design, contrary to policy LP24 (a) of the KLP and the aims of chapter 12 of the NPPF.

Residential Amenity

- 10.43 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 (b) of the KLP states that proposals should promote good design by ensuring that they provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.
- 10.44 The closest neighbouring dwelling which could be impacted by the proposed development is 21, Liversedge Hall Road, which is a 2-storey detached house to the east of the application site. Although it is on adjacent land also in the ownership of the applicant consideration should be given to any future occupants of the building should it be sold.
- 10.45 In terms of an overbearing or overshadowing impact, given that the ridge and eaves heights of the proposed house are significantly below that of this neighbouring property and there would be a separation distance of at least around 3.8m between closest facing elevations, it is considered that there would be relatively limited impact of this nature.
- 10.46 In terms of overlooking, both the facing gable elevations would be blank apart from a new door way in the side elevation of the proposed dwelling, and whilst an element of the proposed building which projects to the rear would be to a living room and have windows in the side elevation, there would be a distance of around 4.0m to the mutual boundary with tall shrubs on the boundary.
- 10.47 In this context, it is considered that there would be limited adverse impact upon the residential amenities of the occupiers of this neighbouring property.

- 10.48 The next nearest neighbouring property is at 14, Hall Close. It is a detached bungalow located to the north of the proposed house on slightly raised ground. The separation distance between the closest parts of each is approximately 22.5m, with access driveway (to 21 & 23, Liversedge Hall Lane) and border planting in between, together with what appears to be a dry stone wall on the mutual boundary. Given this separation distance, together with an indirect relationship between windows on each property, and that the application site is on lower ground, it is considered that there would be no material overshadowing effect and any overlooking impact would be at a significant distance and at an oblique angle.
- 10.49 In these circumstances it is also considered that there would be very limited adverse impact upon the residential amenities of the occupiers of this neighbouring property.
- 10.50 No. 12, Hall Close is a detached 2-storey house located to the north west of the application site. It is further away from the proposed building than the bungalow at no. 14, Hall Close, and again there would be no direct relationship between windows, with similar features and boundary treatment in between. As such, there would be no significant impact upon the residential amenities of the occupants of this neighbouring property.
- 10.51 No other neighbouring properties would be affected by the proposal.
- 10.52 Overall, it is considered that the proposal would provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings, and is compliant with Policy LP24 of the KLP in regard to the amenity of future and neighbouring occupiers.

Highway issues

- 10.53 The proposed dwelling would be accessed from Liversedge Hall Road via a private driveway shared with three other houses. The proposed development consists of a two bedroom dwelling with 2 off access road parking likely to accommodate two vehicles.
- 10.54 These proposals are considered acceptable from a highways perspective, provided there is a condition attached relating to areas to be surfaced and drained, prior to the development being brought into use. As such, with the inclusion of such a condition should planning permission be granted, the proposal is compliant with policies LP21 and LP22 of the KLP.

Coal Mining legacy:

- 10.55 The application site falls within the defined high risk development area, therefore, within the application site and surrounding area there are coal mining features and hazards which would need to be considered. As required for planning refusal 2019/93617, the applicant has re-submitted the Coal Mining Risk Assessment (dated August 2018) by JNP Group consulting engineers. The report concludes that recorded coal workings were at sufficient depths to pose no risk of mining subsidence at the ground surface, and given that Liversedge Hall was built circa 1600, it is considered unlikely that coal has been mined at shallow depth beneath the site since that date, however the potential for near surface coal extraction prior to construction of the Hall cannot be

discounted. Therefore they advise further site specific investigations to mitigate, or at least enable better estimation of the risks. Accordingly, appropriate recommendations are made that intrusive ground investigation works are considered necessary.

- 10.56 Following consultation with the Coal Authority, they confirm that they have no objection and refer back to a response to previously withdrawn application 2018/92724 which remain valid and applicable to the current proposal. In the previous response they recommended a condition for the results of the site investigations to be submitted to the Local Planning Authority to evidence that the site can be made safe and stable for the proposed development. This is acceptable and in accordance with Chapter 15 of the NPPF and Policy LP 53 of the KLP.

Contaminated Land:

- 10.57 Chapter 15 of the NPPF and Policy LP53 of the KLP require that proposals be assessed in light of available information relating to contamination of unstable land.
- 10.58 In this instance, the Council's Environmental Health officers have been consulted and commented that they have concerns that the garden levels may have been made up with ash and clinker. They also note the findings of the coal mining risk assessment that identified the potential for historic shallow mining at the site. They therefore recommend pre-commencement condition relating to submission of phase 1 and phase 2 site investigation reports should planning permission be granted.

Air quality:

- 10.59 Chapter 15 of the NPPF and Policy LP 51 of the KLP require local planning authorities to promote low carbon forms of transport. As such, the Council's Environmental Health officers require that an electric vehicle charging point is installed at the proposed dwelling. Provided that this is applied, should planning permission be granted, the proposal would comply with Policies LP21 and LP 51 of the KLP and the aims of chapter 15 of the NPPF.

Climate Change:

- 10.60 Chapter 12 of the Local Plan relates to climate change and states that: "Effective spatial planning is an important part of a successful response to climate changes 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 the economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and if planning permission were to be granted, the inclusion of electric vehicle charging point(s) would contribute positively to the aims of climate change.

Impact upon protected species (trees):

- 10.61 Chapter 15 of the NPPF and Policies LP24 and LP33 of the KLP require the retention of valuable or important trees to maximise visual amenity and environmental benefits.
- 10.62 In this instance, the red line boundary does not encompass part of a strip of woodland to the south which is subject to Tree Preservation Order 51/93. The Council's Arboricultural officers have been consulted and raised no objections subject to condition relating to protective fencing around protected trees on or adjacent the boundary of the site. Subject to this the proposal would not threaten woodland and is compliant with policies LP24 and LP33 of the Kirklees Local Plan.

Impacts upon ecology:

- 10.63 Habitats within the woodland are identified as priority habitats on Natural England's deciduous woodland inventory. As such policy LP30 of the KLP is relevant. It states that proposals will be required to protect Habitats and Species of Principal Importance unless the benefits of the development clearly outweigh the importance of the biodiversity interest, in which case long term compensatory measures will need to be secured.
- 10.64 The Council's Ecologist was consulted regarding the previously refused application 2019/91346 and stated that the existing woodland TPO provides some protection to the priority habitat. However, to ensure protection, they also suggest removing permitted development rights and/or amending the red line boundary to exclude the TPO'd area. Subject to this, there are no objections.
- 10.65 The current plans show the red line site boundary omitting the TPO'ed area. This overcomes concerns relating to preventing harm to woodland that provides protection for priority habitat, and so complies with policy LP30 of the Kirklees Local Plan.

Minerals and safeguarding:

- 10.66 Policy LP38 (minerals and safeguarding) of the Kirklees Local Plan applies because the site area is over 1000 square metres.
- 10.67 In this instance, the site is surrounded by residential development and a TPO'd woodland and therefore would have limited value as a minerals resource. However, should Members be minded to approve the application it is recommended that the application is delegated back to officers to seek an impact report from the agent.

Representations

- 10.68 8 representations were received following the period of public consultation. In so much as the points have not been addressed above, officers respond as follows:

Objections (1)

The proposal would have an adverse impact upon residential amenities of occupiers of adjacent properties.

Response: The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report and considered to be acceptable from officers.

Considering two similar applications have already been rejected on historical ground, what has altered from a historical point of view?

Response: The impact of the proposal upon the setting of a listed building has been fully addressed in the above report and found by officers to be unacceptable.

It appears that the new application soon after the last one was rejected suggests some agreement may have been made.

Response: No agreement has been made prior to submission of the current planning application.

Support (7)

It will not have a negative impact upon the current residential situation and will enhance the area.

Response: The comment in support is noted and has been considered in the above report.

It is far enough away from the Hall to ensure that it does not spoil the heritage features and its setting.

Response: The comment in support is noted and has been considered in the above report.

The proposed blue plaque will increase local awareness and put it on the heritage trail of Kirklees.

Response: This is acknowledged but in officers opinion is limited in nature when weighed against the high level of harm of the proposed house on the setting of the listed building

The proposal is very similar to another planning application nearby (Duxbury Hall, Roberttown).

Response: Each application is assessed on its individual merits and have been fully assessed above

The development will allow family to remain close for essential support.

Response: Noted however, the special circumstances put forward by the applicant are not considered to outweigh the harm to the setting of the designated heritage asset.

Other matters:

- 10.69 There are no further material planning matters considered relevant to the determination of this application.

11.0 CONCLUSION

- 11.1 Taking all material considerations into account, for the reasons outlined above, the proposed detached house within the garden of Liversedge Hall would cause a high level of harm to the significance of the Grade II Listed Building. It would impact upon the aesthetic and historical value of the Hall by reason of its visibility from the Hall, result 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.
- 11.2 In relation to the previously refused application 2019/91346, whilst the integral garage has been omitted and the width of the plot reduced around 4.8m, (which increases the separation distance to the listed building the same amount), there have been very limited alterations to the external design, scale, massing, height and position of the remaining part of the proposed dwelling. The proposal does therefore not overcome the reasons for refusal of the previous application
- 11.3 The NPPF has introduced the 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 practise.
- 11.4 It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. The application is therefore recommended for refusal.

Background Papers:

Application and history files.

2019/93617:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93617>

Certificate A signed and dated 31.10.2019

Previously refused planning application 2019/91346:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91346>