

Public Document Pack



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

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Tuesday 29 September 2020

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet remotely at **1.00 pm on Wednesday 7 October 2020.**

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 (Huddersfield Area) members are:-

Member

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

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

Substitutes Panel

Conservative

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

Green

K Allison
S Lee-Richards

Independent

C Greaves

Labour

M Akhtar
S Hall
M Kaushik
W Simpson

Liberal Democrat

J Lawson
A Munro
A Pinnock

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of previous meeting

1 - 10

To approve the Minutes of the meeting of the Committee held on 19 March 2020.

3: Interests and Lobbying

11 - 12

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

Due to the current covid-19 restrictions, Members of the Public may submit written questions to the Committee.

Questions should be emailed to; governance.planning@kirklees.gov.uk no later than 10.00 am on 6 October 2020. In accordance with Council Procedure Rule 51(10) any person may submit a maximum of 4 written questions.

In accordance with Council Procedure Rule 11(5), the period allowed for the asking and answering of public questions will not exceed 15 minutes.

Planning Applications

13 - 14

The Planning Committee will consider the attached schedule of Planning Applications.

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Monday 5 October 2020.

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

As this is a virtual meeting please include in your email the telephone number that you intend to use when addressing the Committee. You will receive details on how to speak at the meeting in your acknowledgement email.

Please note that in accordance with the council's public speaking protocols at planning committee meetings verbal representations will be limited to three minutes.

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.

7: Planning Application - Application No: 2019/92810

15 - 26

Change of use from A1 (retail) to mixed use A1 (retail) and A4 (drinking establishment). Hip Hops Beer Shop, 77, Lidget Street, Lindley, Huddersfield.

Contact: William Simcock, Planning Services

Ward affected: Lindley

8: Planning Application - Application No: 2019/93950

27 - 38

Erection of 21 dwellings and associated access works land at, former St Luke's Hospital, Blackmoorfoot Road, Crosland Moor, Huddersfield.

Contact Officer: Nick Hirst, Planning Services

Ward affected: Crosland Moor and Netherton

9: Planning Application - Application No: 2020/90691

39 - 48

Erection of chicken shed (Listed Building within a Conservation Area) 75, Wooldale Road, Wooldale, Holmfirth.

Contact Officer: Katie Chew

Ward affected: Holme Valley South

Planning Update

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

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Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Thursday 19th March 2020

Present:

Councillor Donna Bellamy
Councillor James Homewood
Councillor Andrew Marchington
Councillor Bernard McGuin
Councillor Mohammad Sarwar
Councillor Anthony Smith
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Mahmood Akhtar

Apologies:

Councillor Terry Lyons
Councillor Paul Davies
Councillor Donald Firth

1 **Membership of the Committee**

Apologies were received from Councillors Lyons, Davies and D Firth.

Resolved –

In the absence of Councillor Terry Lyons that Councillor Sheikh Ullah be elected as Chair for the meeting.

2 **Minutes of previous meeting**

The minutes of the meeting held on 30 January 2020 were approved as a correct record.

3 **Interests and Lobbying**

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

Councillor Sarwar declared that he had been lobbied on application 2019/93069.

Councillor Sokhal declared an 'other interest' in application 2019/93045 on the grounds that the applicant was a close family member.

Councillor Bellamy declared that she had been lobbied on applications 2019/93579 and 2018/90208.

Councillor Bellamy declared an 'other interest' in application 2019/94149 on the grounds that the applicant was a close friend.

Planning Sub-Committee (Huddersfield Area) - 19 March 2020

4 Admission of the Public

It was noted that exempt information had been submitted in respect of agenda item 19.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Site Visit - Application No: 2019/93045

Due to the coronavirus outbreak no site visit took place.

8 Site Visit - Application No: 2019/93579

Due to the coronavirus outbreak no site visit took place.

9 Site Visit - Application No: 2019/90925

Due to the coronavirus outbreak no site visit took place.

10 Site visit - Application No: 2019/94149

Due to the coronavirus outbreak no site visit took place.

11 Site Visit - Application No: 2019/93069

Due to the coronavirus outbreak no site visit took place.

12 Local Planning Authority Appeals

The report was noted.

13 Planning Application - Application No: 2019/91083

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

Under the provisions of Council Procedure rule 37, the Committee received representations from Shakeel Yousaf (applicant) and Malcolm Sizer (in support).

RESOLVED –

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 the considered report Including:

1. Development to commence within 3 year.
2. Development to be undertaken in accordance with the approved plans and specifications.
3. Details of screen fencing to side boundaries to be submitted for approval.
4. Windows in the side elevations of the dwelling to be obscurely glazed.
5. Removal of permitted development rights for extensions, including within the roof, and outbuildings.

Planning Sub-Committee (Huddersfield Area) - 19 March 2020

6. Biodiversity enhancement during construction phase: bird nesting opportunities.
7. Provision of electric vehicle charging point within the site.
8. Details of walling and roofing materials to be submitted for approval.
9. Removal of permitted development rights for additional windows and or openings in the side elevations of the dwelling.

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

For: Councillors Akhtar, Bellamy, Homewood, Marchington, McGuin, Sarwar, A Smith, Sokhal, Ullah and Uppal (10 votes)

Against: (0 votes).

14 **Planning Application - Application No: 2019/93045**

The Committee gave consideration to Planning Application 2019/93045 Erection of two storey front extension, rear dormer and exterior alterations 84A, Crosland Road, Oakes, Huddersfield.

RESOLVED –

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

1. The proposed extensions, by reason of their siting, scale and design would fail to respect the character and appearance of the host building or the surrounding area. The combined extensions would result in a disproportionate and overly prominent addition to the original dwelling. The front extension would form an incongruous feature in the wider street scene. To approve the development would be contrary to Policy LP24 (a and c) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
2. The proposed extensions, by reason of their siting and scale, would result in an unacceptable overbearing and overshadowing impact to a habitable room window within the gable of no. 84 Crosland Road. This would not retain a good standard of amenity for the occupiers of this property contrary to Policy LP24(b) of the Kirklees Local Plan and advice within the National Planning Policy Framework.

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

For: Councillors: Homewood, Marchington, McGuin, Sarwar, A Smith and Uppal (6 votes)

Against: (0 votes)

Abstained: Councillors Akhtar, Bellamy and Ullah

15 Planning Application - Application No: 2019/93579

The Committee gave consideration to Planning Application 2019/93579 Outline application for erection of detached dwelling with integral garage adj, 7, Drummer Lane, Bolster Moor, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Dave Hepworth (applicant) and Andrew Keeling (Agent).

RESOLVED –

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

The Committee considered that the application site was located within a village due to the size of the settlement and taking account of the facilities that existed. In addition the Committee considered that the application site did represent infill development as it was largely surrounded by development and would only be capable of small scale development.

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

For: Councillors Akhtar, Bellamy, Homewood, Marchington, Sarwar, A Smith, and Sokhal (7 votes)

Against: Councillor McGuin, (1 vote).

Abstained: Councillors Ullah and Uppal

16 Planning Application - Application No: 2019/90925

The Committee gave consideration to Planning Application 2019/90925 Erection of 13 dwellings land south of, 5-25, Clay Well, Golcar, Huddersfield.

RESOLVED -

1. 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 the considered report Including:

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and documents.
3. Submission of a Construction Management Plan (including temporary surface water drainage arrangements).
4. Drainage and surfacing of parking spaces.
5. Submission of details relating to internal adoptable roads.
6. Cycle parking provision prior to occupation.
7. Provision of electric vehicle charging points (one charging point per dwelling with dedicated parking).
8. Provision of waste storage and collection.

Planning Sub-Committee (Huddersfield Area) - 19 March 2020

9. Submission of an Arboricultural Method Statement.
 10. Submission of a Tree Protection Plan.
 11. No piped discharge of surface water from the development prior to the completion of surface water drainage works.
 12. Submission of a preliminary risk assessment (phase I report).
 13. Submission of an intrusive site investigation report (phase II report).
 14. Submission of a remediation strategy.
 15. Implementation of remediation strategy.
 16. Submission of a validation report.
 17. Crime prevention measures.
 18. External materials (details and samples to be submitted).
 19. Boundary treatments.
 20. External lighting.
 21. Full landscaping scheme, to include replacement trees.
 22. Biodiversity assessment, enhancement and net gain (pre-commencement)
 23. Removal of permitted development rights for extensions and outbuildings.
2. Secure a Section 106 Agreement to cover the following matters:
- 1) Affordable housing – Three affordable housing units (two affordable/social rent, one intermediate) to be provided in perpetuity.
 - 2) Open space – £78,486 off-site contribution, and an additional contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation.
 - 3) Education – Contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153), the education contribution threshold (by both developments considered together) is met, and the cumulative impacts of both developments require mitigation.
 - 4) Sustainable transport – Measures to encourage the use of sustainable modes of transport.
 - 5) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
 - 6) Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent site (site allocation ref: HS153) without unreasonable hindrance.
3. That, pursuant to (2) above, in the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

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

For: Councillors: Akhtar, Homewood, McGuin, Sarwar, Sokhal and Ullah (6 votes)

Planning Sub-Committee (Huddersfield Area) - 19 March 2020

Against: Councillors Marchington and A Smith (2 votes)

Abstained: Councillors Bellamy and Uppal

17 **Planning Application - Application No: 2019/94149**

The Committee gave consideration to Planning Application 2019/94149 Reinstating of garden wall and erection of mesh fencing to form cat cage (within a Conservation Area) 22, Ottiwells Terrace, Marsden, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Donna Bellamy (in support) and a submission from Richard and Susan Haworth (applicants) read out by Donna Bellamy.

RESOLVED -

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

The proposed enclosure by reason of its scale, form, siting and materials would fail to preserve the character and appearance of the host building, the terraced row of dwellings of which it forms part and the wider Marsden Conservation Area causing harm to its significance and to the visual amenity of the area in general. The harm is considered to be less than substantial harm, however, as required by paragraph 193 of the National Planning Policy Framework, great weight has been given to that harm in assessing the impact of the proposed development. Public benefits have not been demonstrated to outweigh the harm caused in this case. The development would therefore be contrary to the Council's duties under the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies LP24 (a and c) and LP35 of the Kirklees Local Plan and paragraphs 127, 130, 190, 193 and 196 of the National Planning Policy Framework.

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

For: Councillors Homewood, Ullah and Uppal (3 votes)

Against: Councillors McGuin and A Smith (2 votes)

Abstained: Councillors Akhtar, Marchington, Sarwar and Sokhal.

18 **Planning Application - Application No: 2019/93069**

The Committee gave consideration to planning application Planning Application 2019/93069 Change of use of land and buildings from A1 Garden Centre to hand car wash, partial re-surfacing of hardstanding areas, formation of parking bays and erection of 1.8m acoustic fence Former Beaumont Park Garden Centre, 84A, Meltham Road, Lockwood, Huddersfield.

Planning Sub-Committee (Huddersfield Area) - 19 March 2020

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

RESOLVED –

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

1. The proposed use of the site as a hand car wash would cause harm to the openness and character of the Green Belt as a result of the erection of a 1.8 high close boarded acoustic screen, in addition to the regular presence of vehicles passing through the site and other paraphernalia associated with the site operations. It would result in the introduction of incongruous urban characteristics where the land is currently open. As such the proposal would constitute inappropriate development in the Green Belt and there are no very special circumstances which clearly outweigh the harm caused by reason of inappropriateness and other harm. As such the development is contrary to Paragraph 146 e) of the National Planning Policy Framework and Policy LP60 b) and c) of the Kirklees Local Plan.
2. The erection of a solid acoustic screen along the site frontage would result in an obtrusive feature that is considered harmful to the character and appearance of the area and contrary to Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
3. The proposed use, including the queuing of vehicles through the site and the operation of powered machinery, would result in harm to the visual and aural experience of users of the public right of way that runs to the north west of the site. In making this pedestrian route less attractive to users, the development would be contrary to the general ethos of Policy LP24 d) ii) of the Kirklees Local Plan.

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

For: Councillors Akhtar, Bellamy, Homewood, Marchington, McGuin, Sarwar, A Smith, Sokhal, Ullah and Uppal (10 votes)

Against: (0 votes).

19 Planning Application - Application No: 2018/90208

The sub committee gave consideration to Planning Application 2018/90208 Erection of 18 dwellings (within a Conservation Area). Land at 172 Gillroyd Lane, Linthwaite, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Stephen Byram (applicant), Martin Huddleston and Dave Storrie (in support).

RESOLVED –

1. 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 the considered report including:
 1. Three years to commence development.
 2. Development to be carried out in accordance with the approved plans and documents.
 3. Submission of a Construction Management Plan (including temporary surface water drainage arrangements).
 4. Provision of visibility splays.
 5. Submission of details relating to internal adoptable roads.
 6. Submission of details of surfacing and drainage of parking spaces.
 7. Cycle parking provision prior to occupation.
 8. Provision of electric vehicle charging points (one charging point per dwelling with dedicated parking).
 9. Provision of waste storage and collection.
 10. Provision of details of retaining walls.
 11. Submission of an Arboricultural Method Statement and Tree Protection Plan.
 12. Culverted watercourse watching brief.
 13. Submission of flood risk and drainage details, including details of flow routing.
 14. No piped discharge of surface water from the development prior to the completion of surface water drainage works.
 15. Submission of an intrusive site investigation report (phase II report).
 16. Submission of a remediation strategy.
 17. Submission of a validation report.
 18. Crime prevention measures.
 19. External materials (details and samples to be submitted).
 20. Boundary treatments.
 21. External lighting.
 22. Full landscaping scheme.
 23. Biodiversity enhancement and net gain.
 24. Removal of permitted development rights for extensions and outbuildings
2. Secure a Section 106 agreement to cover the following matters:
 1. Affordable housing – Four affordable housing units (Discount Market Sale) to be provided in perpetuity.
 2. Sustainable transport – Measures to encourage the use of sustainable modes of transport.
 3. Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
 4. Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent allocated land to the south without unreasonable hindrance.

Planning Sub-Committee (Huddersfield Area) - 19 March 2020

3. That, pursuant to (2) above in the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

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

For: Councillors Bellamy, Homewood, McGuin, A Smith, Sokhal and Ullah (6 votes)

Against: (0 votes).

Abstained: Councillors Marchington and Uppal

20 Exclusion of the Public
Determined.

21 Planning Application - Application No: 2018/9028
The Committee received exempt information in respect of Application 2018/9028

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KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

LOBBYING

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

Signed:

Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

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

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

Lobbying

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

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

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 07-Oct-2020

Subject: Planning Application 2019/92810 Change of use from A1 (retail) to mixed use A1 (retail) and A4 (drinking establishment). Hip Hops Beer Shop, 77, Lidget Street, Lindley, Huddersfield, HD3 3JP

APPLICANT

Hip Hops Beer Shop

DATE VALID

23-Aug-2019

TARGET DATE

18-Oct-2019

EXTENSION EXPIRY DATE

28-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: Lindley

Ward Councillors consulted: No

Public or private: PUBLIC

RECOMMENDATION: CONDITIONAL FULL PERMISSION

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

1.0 INTRODUCTION:

1.1 This application is brought before the Huddersfield Sub-Planning Committee for determination in accordance with the Council's Scheme of Delegation on account of there having been significant local objection to the proposal and officers being minded to approve.

2.0 SITE AND SURROUNDINGS:

2.1 77 Lidget Street, occupied as Hip Hops Beer Shop, is a two-storey mid-terrace property on the western side of the highway. It is built in traditional materials (stone and stone slate). It is in retail use. There is an enclosed courtyard and outbuildings at the rear which do not form part of the application site.

2.2 Retail activities take place on the ground floor. The upper floor is used mainly for storage, with a staff washroom near the front of the building.

2.3 It is sited within a commercial frontage, the immediate adjoining uses being a restaurant to the left, no. 75 (as viewed from the front) and another A1 retail unit to the right, no. 79. Behind the Lidget Street frontage, to the west of the site, residential uses are predominate. There is a residential flat above no. 79.

3.0 PROPOSAL:

3.1 The proposal is for the change of use of the unit from retail to a mixed use which is to be part retail, part sale of alcoholic drinks for consumption on the premises. The present use is for the sale of mainly rare or speciality beers; it is intended that the change of use would allow customers to be able to sit and sample beers at the premises.

3.2 The proposed floorplan shows customer seating installed within the ground floor of the premises – 6 stools and a bench with up to 7 seats. The application form estimates that the A4 use would comprise 12sqm out of a total of 27sqm ground floor space.

- 3.3 The first floor would continue to be used for storage and as a WC / washroom, which would be partitioned off from the storage space, and available for use by customers.
- 3.4 Hours of use would be from 10am to 11pm Monday to Sunday. No external physical alterations are proposed.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2011/91827 – Change of use of shop to create reception area for restaurant. Approved, not implemented.

2018/92843 – Change of use from retail to extend adjacent restaurant. Withdrawn. Noise transmission to the adjoining residential property was identified by officers as a concern. A noise report was requested, but instead the applicant chose to withdraw the application.

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

- 5.1 23-Oct-2019 – A meeting took place at the application site involving the applicant, agent, Planning case officer and Environmental Health Officer to discuss the issues involved.

19-Dec-2019 – Acoustic report submitted. This was subject to new publicity by neighbour notification letter only.

07-Apr-2020 – Further supporting information submitted giving additional recommendations on noise attenuation. This was not re-publicised since it was aimed at addressing shortcomings in the earlier report and was not therefore considered to raise substantial new planning issues.

24-Sep-2020 – Agent asked to comment on proposed pre-commencement condition.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2 The site is within Lindley District Centre on the Kirklees Local Plan.

- LP13 – Town Centre Uses
- LP14 – Shopping frontages
- LP16 – Food and drink uses and the evening economy
- LP21 – Highway safety and access
- LP22 – Parking
- LP52 – Protection and improvement of environmental quality.

6.3 Supplementary Planning Guidance / Documents:

6.4 National Planning Guidance:

Chapter 7 – Ensuring the vitality of town centres

Chapter 8 – Promoting healthy and safe communities

Chapter 12 – Achieving well-designed places

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

Chapter 15 – Conserving and enhancing the natural environment.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Final publicity date expires: 12-May-2020. Original publicity was by site notice and neighbour notification letter, in accordance with standard Kirklees practice at that time. Further publicity (in connection with acoustic report) was by neighbour letter only.

Petition of 40 signatures, and one individual letter, objecting to the proposal.

A summary of the comments received is set out below:

- Noise issues including impact on adjacent flat;
- It is undesirable to have another drinking establishment at the expense of shops as it would be bad for the commercial viability of Lindley. Declining foot traffic during the daytime;
- Existing eating and drinking establishments already give rise to an unacceptable level of congestion and parking problems, as well as noise and antisocial behaviour;
- Acoustic report is inadequate.

Ward Councillor Cahal Burke has made the following comments in support, and Cllr Eastwood has also made comments indirectly in support of one of Cllr Burke's emails – Supportive of the application and the positive benefits will provide for Lindley. Cllr Burke also requested a Sub-Committee decision in the event of officers being minded to refuse, but as conditional approval is now being recommended this factor does not apply.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

KC Environmental Health – Acceptable in principle subject to further details, and conditions.

KC Highways Development Management – No objections.

8.2 **Non-statutory:**

KC Licensing – No observations.

KC Planning Policy – No objections.

KC Police Architectural Liaison Officer – No objections.

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 Policy LP1 of the Local Plan 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. LP1 goes on further to stating that:

“The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

- 10.2 The proposal will be assessed having regard to the following Local Plan policies.

- LP1 – Presumption in favour of sustainable development: Take into account whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
- LP13 – Centres to provide a mix of uses whilst retaining a strong retail core
- LP14 – Uses within Primary Shopping Areas will be expected to maintain or provide active ground floor frontages.
- LP16 – Concentration of food and drink uses should not lead to harm to character function, vitality or viability of centre and will be assessed according to several criteria.
- LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
- LP22 – appropriate parking to be provided given the type of development and the accessibility of the site.
- LP24 – Proposals should provide a high standard of amenity for future and neighbouring occupiers.
- LP52 – Development that has the potential to cause pollution from noise, dust, odour, etc, should not be allowed unless the effects can be mitigated and reduced to an acceptable level.

- 10.3 The assessment will furthermore have regard to the aims of the NPPF Policies set out above.

Retail and town centre issues:

- 10.4 Main town centre uses shall be located within defined centres as shown on the Policies and Town Centre Maps. Centres shall provide a mix of uses to serve the local community, businesses and visitors to the district. The uses shall complement each another whilst retaining a strong retail core. Centres in Kirklees shall aim to provide a range of uses to support the daytime and evening economy. The scale and types of services expected within each centre are set out in the Delivery of Services Table. For District Centres, such as Lindley, the area will provide a range of shopping for everyday needs and serving specialist markets. They will also be the local focus for basic financial services, food and drink entertainment, leisure and tourist facilities and health services.
- 10.5 The proposed change of use would ensure that an active frontage is maintained in accordance with Policy LP14 of the KLP. Based on both the case officer's observations while walking around Lindley, and those of the Planning Policy team, Lindley District Centre currently has a strong and varied retail sector. There are a number of A3, A4 and A5 uses operational. It is considered that the concentration of such uses does not, either in the centre as a whole or in any part of the centre, reach a level that threatens to undermine the retail function of the centre or its attractiveness as a destination for day-time visitors.
- 10.6 It is considered that the change of use of this unit to a mixed A1-A4 use would complement the retail function of the centre rather than undermine it. It would therefore, in principle, accord with the aims of LP13 and LP16 of the KLP, and would support the aims of NPPF Chapter 7 in taking a positive approach to the management and adaptation of the centre.
- 10.7 Environmental, transport and other criteria listed in Policy LP16(b-f) will be examined later in this report.

Urban Design issues

- 10.8 The proposal involves no physical alterations to the exterior of the building and is therefore considered to have no implications for urban design.

Residential Amenity

- 10.9 The proposed use has an increased potential to generate noise when considered against the existing use. Sources of noise arising from an A4 use may include, but are not restricted to, amplified music, customers talking and using the washrooms, footfall on stairs, and refrigerators and plant being operated.
- 10.10 No.79 Lidget Street, adjoining the application site, contains a residential flat at first floor, known as 79a. It is imperative that the amenities of this property are safeguarded and are not jeopardised by noise transmission through the party wall. The applicant was asked to provide a full acoustic report, which was duly submitted.

- 10.11 Noise levels from an artificial sound source were measured in three separate locations in the neighbouring flat. The report concluded that the party wall provided a good level of sound insulation, but that the rear door to the shop (situated close to the flat's front door) offered poor sound insulation, and that this might need to be upgraded. The report recommends also that the speaker used to play music could be moved to a different location and isolated by being placed on a cork or rubber mat, and that the specific concern of noise from the toilet flushing could be resolved by re-routing of pipework or sealing of holes in the separating wall. It made the further observation that the shop owner has recently installed carpeting on the stairs which, it was expected, would attenuate noise arising from footfall.
- 10.12 Having had time to study the acoustic report, the Environmental Health Officer on 28th February 2020 made the following observations:
1. The report does not specify the desired noise level to be achieved in the dwelling, including those areas along the whole length of the party wall.
 2. Noise from footfall on the staircase has not been properly considered, and in particular, it has not been demonstrated that the use of carpeting and underlay would be sufficient to address the likely intensification of the use of the stairs.
- 10.13 The applicant has since submitted further supporting information (8th April). This was a report of a meeting that took place on site involving the applicants, the acoustic consultant and an Environmental Health Officer, at which further acoustic tests were undertaken and possible mitigation measures discussed. The speaker had already been moved to its new location on the southern wall, away from the northern wall which adjoins the noise-sensitive property 79a. This found that music played over the speaker at 45% of maximum volume was not audible in the stairwell, bathroom, or living room of 79a. The tests also found that footfall noise, conversations taking place on the upper floor, and the flushing of the toilet, were only just audible.
- 10.14 The applicant has also agreed to voluntarily limit the volume of the speaker to 40% volume and improve the isolation of the mounting of the speaker so as to limit noise transmission further. The report also recommends further works to the staircase, comprising the replacement of the foam carpet underlay with a high-performing alternative (two possible products were specified).
- 10.15 The applicants have also indicated that they are willing to consider a condition making the permission personal to themselves as the operating tenant, the use reverting back to A1 if they leave the premises.
- 10.16 The latest comments from Environmental Health are, in brief:
- The measures recommended in the latest report, including repair of the toilet flush mechanism, stair strengthening and carpet insulation must be undertaken in accordance with an agreed timescale.
- Details of further sound insulation to the walls proposed by the applicant should also be submitted.
- Recommend the installation of a noise limiter within the audio equipment so that it is not played at a volume liable to cause nuisance.
- If possible, the change of use should be limited to the applicant only.

- 10.17 Taking into account the additional information submitted and comments from the Environmental Health Officer, it is considered that the application can be supported subject to certain outstanding matters being conditioned. It is recommended that conditions are imposed specifying the installation of speaker isolation. The agent informs the case officer that the settings on the audio device have been changed so as not to go above 45% volume and it is considered that further technological means of limiting volume are unnecessary.
- 10.18 The applicant has provided details of possible products to use as carpet underlay, but unless one has been specified and approved with the agreement of Environmental Health it cannot be imposed as a prescriptive condition. A condition will need to be imposed instead requiring further details of this, as well as any structural works to the stairs to prevent creaking, and any additional sound insulation to the walls (although this was not explicitly referred to as a necessary remedial measures) as well as a timetable for implementation.
- 10.19 The suggestion that the permission be limited to the applicant only might be difficult to enforce, since the applicant specified on the application form is “Hip Hops Beer Shop”, not a named individual. Provided the condition on additional soundproofing and remedial works is imposed, it will be enforceable, and it is considered that a personal permission would not serve a legitimate planning purpose in terms of limiting noise transmission.
- 10.20 A further condition can be imposed to ensure that the A4 element does not intensify materially, so as to prevent the possibility of additional sources of noise arising. It is recommended that this should specify that there be no customer service or seating areas on the upper floor, and that no counters or benches for the use of customers, other than shown on the proposed ground floor layout, be placed or installed within the ground floor area.
- 10.21 Subject to these measures it is considered that the use will not give rise to a material increase in noise disturbance to residential properties and would thereby accord with the aims of Policies LP24(b) and LP52 of the Local Plan and Chapter 16 of the NPPF.

Highway issues

- 10.22 Policy LP21 of the KLP states that proposals must avoid a detrimental impact on highway safety and ensure the safe and efficient flow of traffic within the development and the surrounding highway network. Policy LP22 of the KLP states that plans should demonstrate how the design and amount of parking proposed (if any) is the most efficient use of land as part of encouraging sustainable travel.
- 10.23 The introduction of an element of A4 use is likely to result in customers remaining on the premises longer than if it were purely A1. People visiting a drinking establishment will, on the whole, not choose to drive there if other practical options are available. Alternatively, two or more people may car-share with a single “designated driver”. Lindley District Centre is highly accessible by public transport, with a frequent service from Huddersfield Town Centre. There is also a public car park within the District Centre and there are various places along Lidget Street where it is possible to park safely and legally.

10.24 Taking into account the location in Lindley district centre, it is considered unlikely that the change of use would lead to unsafe parking or any other adverse impact on the safe and free use of the highway. It is therefore considered to accord with the aims of LP21-22.

Representations

10.25 Concerns and comments raised by third parties, including Ward Councillors, are summarised below with officer responses.

Noise issues including impact on adjacent flat;

Response: As stated earlier in the report, the original acoustic report did not demonstrate that noise disturbance concerns could be overcome. The Environmental Health Officer's final comments are that the problems of noise transmission can be overcome.

Acoustic report is inadequate.

Response: This particular comment relates to the original acoustic report submitted 13th January. Limited additional publicity was undertaken regarding the amended acoustic report (expires 12th May 2020) but no further comments were made as a result.

It is undesirable to have another drinking establishment at the expense of shops as it would be bad for the commercial viability of Lindley. Declining foot traffic during the daytime;

Response: If the application were to be approved, retail would remain a significant part of the use. For the reasons set out in paragraphs 10.4 to 10.5 of the report, the proposed mixed use is considered to complement the existing businesses in the Local Centre and would not undermine its function or attractiveness.

Existing eating and drinking establishments already give rise to an unacceptable level of congestion and parking problems, as well as noise and antisocial behaviour;

Response: Traffic and parking issues have been assessed in depth in paragraphs 10.20-10.22 of this report and the potential for anti-social behaviour in paragraph 10.25 below. It is considered that in this instance these concerns would not amount to a reason to refuse the application.

10.26 *Ward Councillor comments:*

- Ward Councillor Cahal Burke – Supportive of the application and the positive benefits will provide for Lindley.

Response: The development may indeed have the potential to bring economic benefits to Lindley, but as it would only represent the partial change of use of a small unit that already has an A1 occupier, these would be modest. The development as conditioned would however be compatible with the aims of supporting the vitality and viability of the District Centre, and other planning objectives.

Other Matters

Crime and disorder:

- 10.27 Taking into account the scale of the proposed A4 use and the overall concentration of evening economy uses in Lindley, it is considered unlikely that the proposed change of use has a significant potential to give rise to increased crime and disorder in the local area. It would therefore be in accordance with the aims of policy LP16(c) of the KLP and NPPF Chapter 8.

Waste disposal:

- 10.28 The consumption of beers on the premises would give rise to wastes in the form of empty bottles and cans which would not occur under the existing use. Given the scale of the unit and that the existing retail use would appear to remain the predominant element, it is unlikely that the quantities of waste generated would be such as could not be handled by the existing arrangements. The agent has been asked to provide further information on this for the sake of clarity, but it is not considered to be a serious concern.

Climate Change:

- 10.29 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 predates 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.
- 10.30 In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects. Given that no new build or physical alterations are proposed, and that the site is in an accessible location, it is considered that any implications for climate change, and achieving the target on carbon emissions, would be negligible.

Access issues:

- 10.31 77 Lidget Street is already a premise to which the public have access. Given the constraints of the existing layout it is likely to be extremely difficult to make the upper floor of the premises fully accessible. It is therefore considered that the proposal does not conflict with the Equality Act.

Future changes of use:

- 10.32 Under the new Use Classes Order which came into effect on 1st September this year, establishments for the sale and consumption of alcohol on the premises are a sui generis use, which means that no further changes of use can be implemented unless planning permission is sought and obtained.

11.0 CONCLUSION

- 11.1 It is considered that the change of use of this unit to a mixed A1-A4 use would complement the retail function of the centre rather than undermine it. It would therefore, in principle, accord with the aims of policies LP13 and LP16 of the KLP, and would support the aims of NPPF Chapter 7 in taking a positive approach to the management and adaptation of the centre.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development (with reference to paragraph 14 of the NPPF) and is therefore recommended for approval.

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

1. Standard three year timeframe for implementation.
2. Development to be completed in accordance with approved plans and specifications.
3. The following works specified on page 4 of the MZA Acoustics report dated March 2020 be implemented before the use commences and thereafter be retained: installation of a speaker isolator, and replacement of toilet flush mechanism.
4. Submission of details before development commences of any further sound insulation and strengthening works to be carried out on the stairs, and of any additional soundproofing to be installed on the northern wall of the premises, and a timetable for its implementation.
5. No customer service or seating areas on the upper floor of the premises, and no counters or tables for the use of customers, other than those shown on the proposed ground floor layout.
6. The A4 (drinking establishment) element of the use shall not operate outside the hours of 1000 to 2300 on any day, and the last customer shall leave no later than 2300 hours on any day.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92810>

Certificate of Ownership – Notice served on 23 August 2019, Certificate B completed.

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 07-Oct-2020

Subject: Planning Application 2019/93950 Erection of 21 dwellings and associated access works land at, former St Luke's Hospital, Blackmoorfoot Road, Crosland Moor, Huddersfield, HD4 5RQ

APPLICANT

Richard Beavers, Avant
Homes (Yorkshire)

DATE VALID

12-Dec-2019

TARGET DATE

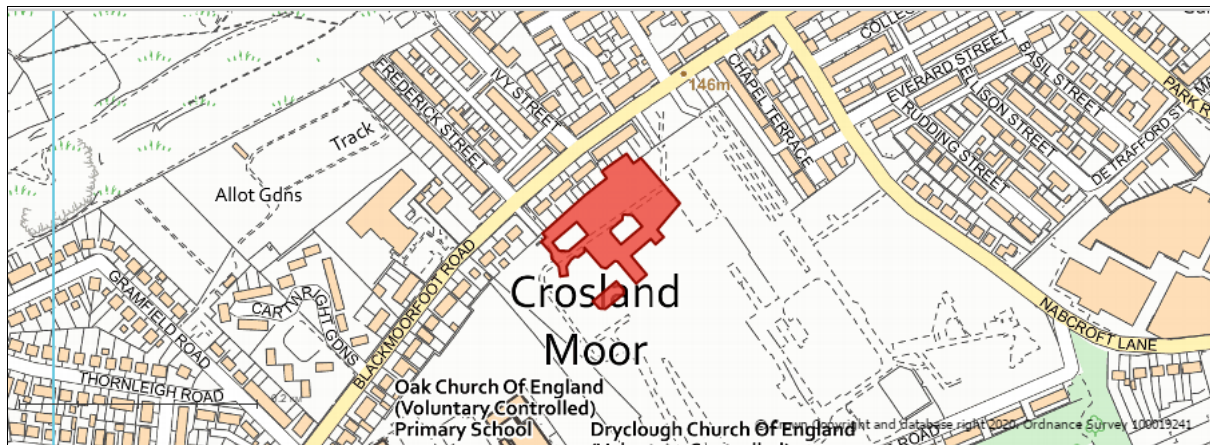
12-Mar-2020

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: Crosland Moor and Netherton

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

Secure a S106 Deed of Variation to retain all previously agreed planning contributions granted under planning permissions 2018/93200 and 2018/93098:

1. The provision of on-site POS and subsequent maintenance
2. The provision of an Education contribution of £171,000
3. £17,000 towards the provision of a pedestrian/ cycle route within the development
4. Contributions to provide signal equipment to the site access site access onto Blackmoorfoot Road as per 2018/93098.
5. The Council can require the developer to submit a viability re-appraisal in the event of non-lawful implementation on the site after 12 months from the date of the permission being granted pursuant to the last Reserved matters approval of Outline application 2018/93098.

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

1.0 INTRODUCTION

1.1 The former St Luke's hospital site has received planning permission for the erection of 226 dwellings across two permissions. This application relates to the St Luke's north-west corner, which was previously granted full planning permission for 26 dwelling under application 2018/93200. Outline Application 2018/93098 and Reserved Matters application 2018/93201 granted the other 200 dwellings within the site.

1.2 This proposal seeks permission for a re-plan of the smaller part of the site. The re-plan would have a higher density compared to that previously approved, resulting in the previous 26 dwellings becoming 31. A similar re-plan is sought on the neighbouring site, via ongoing reserved matters application 2019/93902, which would result in a layout of 195 dwellings. Therefore, across the two re-plans, the same number of units would be kept.

- 1.3 This application is brought to the Huddersfield Planning Sub-Committee in accordance with the Kirklees Delegation Agreement as the site has an area exceeding 0.5ha and seeks less than 61 units.

2.0 SITE AND SURROUNDINGS

- 2.1 The former St Lukes Hospital site comprises 9 hectares of land approximately 2km to the south west of Huddersfield. It formerly accommodated the St. Luke's hospital buildings, which closed in 2011 and with demolition starting early 2015.
- 2.2 Remnants of the buildings and access roads remain in the form of hardstanding and the site is now partially overgrown with grassed areas. Development has commenced on site for the previously approved residential developments. The site slopes upwards from east to west, following the incline of Blackmoorfoot Road.
- 2.3 The surrounding area is predominantly residential in nature with dwellings bordering the site to the north (Blackmoorfoot Road), east (Nabcroft Lane) and the south (Sunningdale Road). To the west of the site is Dryclough C of E Infant School.
- 2.4 The site contains a significant number of protected trees. These are mostly individual orders, with group orders to part of the eastern, southern and north western boundaries. There are no public rights of way through the site, but there is a public footpath close to the south western boundary.
- 2.5 This application relates to a portion of the site located in the north-west corner of the former St Luke's grounds. It is to the rear of dwellings on Blackmoorfoot Road to the north and the boundary with the school playing fields to the west.

3.0 PROPOSAL

- 3.1 The proposal has the same layout and road arrangement approved via the previous planning permission 2018/93200. However, of the 26 dwellings approved by 2018/93200, 16 of the plots are to be modified. The modifications sought include changing house types as well as subdividing several detached dwellings into semi-detached. As a result of the re-plan, the 16 plots to be modified will become 21 dwellings (which, plus the 10 unaffected from 2018/93200, will give a combined total of 31 within this part of the site).
- 3.2 The housing mixture, as previously approved and now sought, is as follows:

Previously Approved

3-bed = 10

4-bed = 16

Across 7 house types

Proposed (excluding unaffected)

2-bed = 4
3-bed = 8
4-bed = 9

Across 12 house types

Combined (proposed plus unaffected from previously approved)

2-bed = 4
3-bed = 14
4-bed = 13

Across 17 house types

3.3 The 12 new house types are new to the site. Nonetheless they have a consistent architectural style and form to the original designs.

3.4 All other elements of the proposal are to remain as previously approved.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site (including the whole of the former St Luke's grounds)

Whole site

2013/90248: Prior notification for demolition of existing buildings – Prior Notification Approved

2014/93099 - Outline planning permission for development comprising up to 200 dwellings with associated infrastructure and open space; retail units (open use class A1); accommodation for potential neighborhood uses (use class A2/D1/D2/sui generis); restaurant/public house (use class A3/A4); and petrol filling station (sui generis) – Conditional Outline Approval

2016/91337: Variation of conditions for 2014/93099 – Variation / Removal Granted

2018/93098- Section 73 Variation/ removal of conditions 28,32,33,34 &35 of Outline approval 2016/91337.

Note: Plus, various discharge of conditions

North-west of the site (this application site)

2018/93200: Erection of 26 dwellings – S106 Conditional Full Permission

Note: The base application which the proposal seeks a re-plan of.

Rest of site

2018/93201: Reserved Matters application for 200 dwellings pursuant to Outline approval 2018/91337 – S106 Reserved Matters Granted

2019/93902: Reserved Matters for 195 units (variation to 2018/93201 above)
– Ongoing

Note: The ongoing re-plan of the neighboring site, which reduces the numbers by 5 to off-set the increase proposed within this application.

4.2 Surrounding Area

Land to rear of, 60 to 78, Nabcroft Lane

2020/91203: Reserved matters application pursuant to outline permission 2017/91273 for erection of residential development (19 dwellings) – Ongoing

Moor End Academy, Dryclough Road

2017/90155: Erection of school, formation of outdoor play areas and fenced MUGA and alterations to existing site access and parking – Conditional Full Permission

4.3 Enforcement

COMP/20/0256: Major site monitoring – Ongoing

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)

5.1 Discussions took place between the LPA and the new site owners (Avant) about the submission of 2 updated schemes to deliver the scheme they intend to build out for the whole site. This resulted in the current application and the ongoing amended reserved matters ref. 2019/93902.

5.2 Negotiations have included securing a S106 Deed of Variation to tie all previously approved planning contributions.

6.0 PLANNING POLICY

Kirklees Local Plan (2019)

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

6.2 The site is part (0.6ha) of mixed-use allocation MXS1 (9ha, net area 4.49ha) on the LP Policies Map.

- **LP1** – Presumption in favour of sustainable development
- **LP3** – Location of new development
- **LP5** – Master planning sites
- **LP7** – Efficient use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP13** – Town Centre uses
- **LP20** – Sustainable travel

- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP23** – Core Walking and cycling network
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Trees
- **LP49** – Education and health care needs
- **LP53** – Contaminated and unstable land

Supplementary Planning Guidance / Documents

6.3 The following are relevant Supplementary Planning Guidance / Documents published by Kirklees Council or national government.

- MHCLG: National Design Guide
- MHCLG: Technical Housing Standards
- Kirklees Local Plan Supplementary Planning Document – Highways Design Guide

National Planning Guidance

6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 19th February 2019, and 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

- **Chapter 2:** Achieving sustainable development.
- **Chapter 5:** Delivering a sufficient supply of homes
- **Chapter 7:** Ensuring the vitality of town centres
- **Chapter 8:** Promoting healthy and safe communities
- **Chapter 9:** Promoting sustainable transport
- **Chapter 11:** Making effective use of land
- **Chapter 12:** Achieving well designed places
- **Chapter 14:** Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15:** Conserving the natural environment

7.0 PUBLIC/LOCAL RESPONSE

7.1 This application has been advertised by site notices, neighbour letters and within the local paper.

7.2 No representations received.

8.0 CONSULTATION RESPONSES

8.1 Statutory

KC Highways Development Management: Given the limited nature of the changes recommend the same conditions be applied as on the original approval 2018/93200.

8.2 Non-statutory

Given the limited extent of the changes within the proposal no further consultations were considered necessary.

9.0 MAIN ISSUES

- Principle of development
- Urban design
- Residential amenity
- Highways
- Landscape issues
- Representations

10.0 APPRAISAL

10.1. This is technically a stand-alone full application for 21 dwellings. However, it needs to be considered in relation to the extant permissions on this site, and in addition to the approval the agreed contributions across the entire site need to be secured by a Variation to the original Section 106.

10.2. The result of the proposed layout change, along with those proposed in 2019/93902, are as follows:

- Numbers across the whole site to remain at 226 (31 within the north-west corner, increased from 26. 195 on the remainder of the site, decreased from 200)
- Due to the changes in house type, the housing mixture has changed as follows:
 - The number of 2 no bedroom dwellings has increased by 6, from 20 to 26
 - The number of 3 no bedroom dwellings has decreased by 7, from 104 to 97
 - The number of 4 no bedroom houses has increased by 1, from 102 to 103

10.3 The only issues that are affected from the existing approval is the layout and urban design issue / residential amenity and landscape. The road layout is unaffected, as is the amount and disposition of the Public Open Space (POS). The overall density and mix of housing are only marginally altered on this site, while remaining consistent across this application and the neighbouring re-plan. Regardless, that proposed specific to this application is not considered to conflict with either policy or the previously approved principle for development at the site.

Planning contributions

10.4 2018/93200 (26 dwellings) and 2018/93201 (reserved matters for 200) has a shared S106 for their planning contributions. The previously secured Section 106 contributions, consisted of the following and the details are included within the recommendation above.

- affordable housing
- education
- POS provision and maintenance
- sustainable travel plan contributions

The need for these contributions and the level sought is unaltered. As the site will not have a net increase in development through the two re-plan applications, it is proposed that these contributions will be re-secured in a new S106 Deed of Variation (simply tying the new proposal to the previously agreed document). The affordable housing on the site, as noted, remains as agreed: 11 discount sales properties. The plot locations are to change due to the re-plan, however the house type has remained the same and are satisfactory spread out across the site.

10.5 Accordingly, the principle of development and the planning contributions remains unaffected via the proposed re-plan. Consideration must be given to the local impact of the proposed re-plan, considered below.

Urban Design

10.6 The site is flanked by dwellings to the north fronting onto Blackmoorfoot Road. The existing units on Blackmoorfoot screen the site. The amended house types are predominantly two-storeys but do include some two and a half and three storey units. Nonetheless, all of the proposed new house types are similar to the house types already agreed across site, and the increase in numbers does not materially, or adversely affect the street scenes within the site, or the relationship of any houses adjacent the site, for which are part of the Reserved Matters permission.

10.7 All of the dwellings remain set around a shared surface access way. The dwellings face onto the access way, thus providing an active frontage. The dwellings to the west face onto the area of open space, which is an attractive arrangement. Materials have been previously agreed and their use is to be controlled via a condition.

10.8 Landscaping arrangements remain as previously approved. The pedestrian link from the former hospital to Blackmoorfoot Road, as previously approved, is to be reinstated to provide pedestrian permeability across this site.

10.9 In summary, officers consider the re-plan to not materially impact upon visual amenity. The development remains attractive within itself and will not appear incongruous within the wider area. The proposal is deemed to comply with LP24 of the Kirklees Local Plan.

- 10.10 In regard to the historic environment, the site does not fall within a Conservation Area. There are noted to be several listed buildings fronting onto Blackmoorfoot Road near to the former St Luke's grounds. Nonetheless these are a sufficient distance away from the site and the proposed works would not impact upon their setting: The proposal is not considered to conflict with LP35 of the Kirklees Local Plan.

Residential Amenity

- 10.11 The amended layout satisfies the Councils space about buildings policy; both within the scheme and also in relation to the dwellings backing onto the site from Blackmoorfoot Road, where the distances are in excess of the Councils standards. There are no levels issues on this part of the site, so whilst located to the south of the Blackmoorfoot Road dwellings it is not considered there will be any adverse impact such as overbearing, overshadowing or overlooking.
- 10.12 The dwellings to the eastern edge of this site (and some within the reserved matters scheme) back onto the remaining commercial area and its service yard. The scheme provides for a planted buffer area along that point that should provide a satisfactory visual screen, however given the potential future use it is considered that a noise report should be conditioned providing appropriate mitigation, which may take the form of an acoustic fence.
- 10.13 The proposed re-plan is not considered to have any material impact upon residential amenity and remains in accordance with policies LP24 and LP52 of the Kirklees Local Plan.

Highways Issues

- 10.14 This scheme and the accompanying Reserved Matters proposal are both served off the new principle access from Blackmoorfoot Road. The proposal does not impact upon the previously approved access, being set within the site: details of the access and other highway improvement works within the area are secured via condition and the S106 to be signed, as per the previous approvals.
- 10.15 The changes to house types will not interfere with the approved road layout, such as interfering with sightlines or distracting drivers. All units have an acceptable level of on-site parking. With regards to traffic generation, while five additional dwellings are proposed on this site, the increase will be off-set by the neighbour site's decrease in 5. Regardless, an increase in 5 dwellings will not materially impact upon traffic generation which use the same access point for access onto Blackmoorfoot Road.
- 10.16 The amended plan is acceptable Highways Development Management, who subject to their previously requested conditions be applied to this approval as were placed on 2018/93200. Subject to this, the proposal is deemed to comply with LP21 of the Kirklees Local Plan.

Conditions and other material planning considerations

- 10.17 All other material planning considerations, including but not limited to; landscaping, drainage, ecology, crime prevention, noise pollution, are unaffected by the proposed re-plan. Subject to the same conditions being imposed as the original application (ref. 2018/93200) officers raise no objections.
- 10.18 The conditions previously attached to 2018/93200, and now being re-proposed, may be found in section 12 of this report.

Representations

- 10.19 No public representations have been received.

11.0 CONCLUSION

- 11.1. The site is a brownfield site in an area surrounded by residential properties and which has the benefit of an existing planning permission. Furthermore, the dwellings make a welcome contribution towards the housing needs of the district as well as representing the development of a 'stalled site'.
- 11.2 The amended layout and density are acceptable to officers, detailed changes, and the technical issues of remediation and drainage have been resolved or can be dealt with by condition.
- 11.3 Approval is recommended, subject to the signing of a variation of the existing Section 106 agreement to safeguard the already agreed obligations that relate to the whole site. These obligations, the levels or types of contributions and the trigger points are unaltered by this scheme.

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

- 12.1 The proposed conditions are a repeat of those proposed within 2018/93200. No additional conditions are considered necessary.
1. Time limit for commencement (3 years)
 2. Development to be done in accordance with plans
 3. Development to be done in accordance with previously approved material schedule
 4. Boundary treatment to be provided and retained
 5. Remediation strategy to be submitted
 6. Approved remediation strategy to be undertaken
 7. Validation report to be submitted
 8. Details of electric vehicle charging points to be submitted
 9. Acoustic barrier details to be submitted, approved, implemented, and retained.
 10. Ventilation scheme for plots referenced in Noise Impact Assessment
 11. Separate drainage and foul
 12. Surface water drainage to be detailed and implemented.
 13. Details of local highway improvement works (Park Road West / Blackmoorfoot / Nabcroft Lane) to be submitted, implemented, and retained.

14. Submission of access arrangements and plans, to be implemented and retained.
15. No residential development until scheme detailing construction and layout specification for the Nabcroft Lane/Blackmoorfoot Road junction
16. Travel Plan to be submitted
17. Construction management plan
18. Internal adoptable road details
19. Ecological enhancement details to be provided.
20. Landscape and ecological management plan to be submitted and approved.

Background Papers

Application and history files available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93950>

Certificate of Ownership

Certificate A signed.

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 07-Oct-2020

Subject: Planning Application 2020/90691 Erection of chicken shed (Listed Building within a Conservation Area) 75, Wooldale Road, Wooldale, Holmfirth, HD9 1QG

APPLICANT

Mr & Mrs Weatherburn

DATE VALID

06-Mar-2020

TARGET DATE

01-May-2020

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Holme Valley South

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed development is located within the designated Green Belt whereby, as set out in the National Planning Policy Framework, the construction of new buildings, save for certain exceptions, is inappropriate development. The construction of buildings for agriculture is one such exception. Policy LP54 of the Kirklees Local Plan qualifies this in requiring such buildings to be genuinely required for the purposes of agriculture. Information submitted with the application has failed to demonstrate that the building is genuinely required for the purpose of agriculture and therefore the proposal is contrary to policy LP54 a. of the Kirklees Local Plan.

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission (reference: 2020/90691), for the erection of a chicken shed.
- 1.2 The application is brought before the Huddersfield Sub-Planning Committee for determination in accordance with the Council's Scheme of Delegation at the request of Councillor Firth for the reason outlined below:

'I visited the above mentioned property last Friday at the request of Mr Matthew Weatherburn , the Owner. I don't know whether you have visited the property or not, but I can find nothing untoward with what he is wanting to do. No.1 Mr Weatherburn is registered as a Smallholder with DEFRA - his registration No.49/544/0081. No.2 Mr Weatherburn is registered to have as many as 500 hens on that Holding Number. But he only wants about 12 hens and, believe it or not, the hen hut is about the right size for up to 24 hens, the size of which will include storage for dry corn feed, crushed sea shells known as grit for calcium, feeding equipment , water fountains etc. When I visited the site last week I personally thought the hen hut/the grassed lawn/steps and all the dry stone walling were a credit to Mr Weatherburn, plus the workmanship and design very well thought out etc. I don't particularly like the word 'Hobby Farmer' and is not something we need, as a Council, to get involved with. I come from 6 plus generations of farmers and think we need more 'Hobby Farmers' , they make a very pleasant change from all the House Building which has been well overdone, especially over the last few years. The Holme Valley area was always known for its Textiles and Farming. The farmers bred sheep which in turn provided the textile mills with the wool. Poultry were kept to provide eggs as a quality food supplement, and the larger farms provided the bakers with cereal products/eggs. Unfortunately, now with all the house building which has taken place we provide very little into the food chain and we manufacture very little. If we don't do more to support the 'hobby farmers' and small businesses, The Holme Valley will be just another 'do nothing' dormant area'.

- 1.3 The Chair of the Sub-Committee has accepted that the reason for making this request is valid having regard to the Councillor's Protocol for Planning Sub-Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is no. 75 Wooldale Road, Wooldale, Holmfirth, HD9 1QG
- 2.2 The application site relates to a paddock measuring approximately 0.2 acres in size, the paddock adjoins the domestic curtilage of no. 75 Wooldale Road to the east. No. 75 Wooldale Road is a Grade 2 listed three storey semi-detached dwelling occupied by the applicant of this application.
- 2.3 The listing description is as follows:

'SE 15 08 WOOLDALE ROAD 13/436 (Wooldale)

Nos 73 and 75 GV II

Two houses. Late C18 – early C19. Hammer dressed stone. Quoins. Stone slate roof with gable copings on carved kneelers. Central stack. Two storeys with 3 to rear. Elevation to road is later extension with catslide roof. Rear elevation: each dwelling has one 3-light window to ground floor, and two 2-light windows to first and second floors'.

3.0 DESCRIPTION OF PROPOSAL:

- 3.1 The application seeks retrospective approval for the erection of a chicken shed on land adjacent to the domestic curtilage of no. 75 Wooldale Road.
- 3.2 The chicken shed measures approximately 7.4m x 5.5m, with an approximate ridge height of 3.1m. The shed is constructed from timber walls, with timber doors and polycarb windows. The roof consists of pitched sheet timber with plastic sheeting.
- 3.3 The paddock is a registered holding with a county parish holding number of 49/544/0081. The holding has 30 hybrid hens producing circa 28 eggs every day. These eggs are sold to local residents at the gate to the west of the site.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 COMP/19/0134 – General investigation in respect to the erection of a shed.

Officer note: The above investigation relates to the chicken shed subject to this application, it was recommended that planning permission would be required for this structure in this location.

5.0 HISTORY OF NEGOTIATIONS/AMENDMENTS RECEIVED:

- 5.1 No amendments were sought in this instance.

6.0 PLANNING POLICY BACKGROUND:

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

6.2 The application site is unallocated in the Kirklees Local Plan but is identified as being located within the Green Belt, a bat alert area, Conservation Area, Holme Valley Neighbourhood Area and partially (to the south) within the Strategic Green Infrastructure Network. The site is also adjacent to Grade 2 listed buildings to the east and has a number of TPO's within it.

6.3 KIRKLEES LOCAL PLAN (LP):

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP10 – Supporting the Rural Economy
- LP21 – Highways and Access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity & Geodiversity
- LP31 – Strategic Green Infrastructure Network
- LP35 – Historic Environment
- LP54 – Buildings for Agriculture and Forestry

6.4 NATIONAL POLICES AND GUIDANCE:

- Chapter 6 – Building a strong, competitive economy
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding, and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 4 representations have been received on the proposals. 3 have been received in support, and 1 in objection to the proposals. Comments have been summarised below.

Support -

- No intrusion in terms of noise;
- It seems appropriate to site a chicken shed in this rural location;
- The house is on a steep hillside and does not spoil the view;
- Well situated;
- Excellent for the animals welfare;
- Local produce a good thing in these difficult times;
- The building is far away enough from other dwellings and the road;
- No. 73 Wooldale Road are the only neighbours who can see the building;
- Looking forward to being able to purchase local free-range eggs.

Object –

- The 'shed' is much larger than necessary for a dozen hens;
- The shed was previously used for parties by the owner and his daughters;
- The shed has been in situ for the best part of a year or possibly longer but the 'Free Range Eggs sold here' sign only arrived early March 2020;
- The sign is on a gate post on the drive some distance from their house, the residents are also out all day, it seems doubtful that there is any real interest in selling the eggs produced;
- There are numerous large gabions installed and significant changes to the nature of what was previously a meadow, with the removal of 3 large trees and numerous smaller trees and bushes this has significantly changed the delightful rural character of this land.

Officer note: The applicant has provided justification within the submitted Conservation Heritage Impact Assessment for the reasoning behind the size of the chicken shed. It is considered that this reasoning is acceptable in this instance. In respect of the building and its use, this application is seeking to remedy the previous situation which was raised as a complaint to the planning enforcement team. Clarification was provided by the applicant on the matter of the location of the sign, the applicant confirms that due to the current COVID 19 situation it is deemed safer to have the sign away from the house, additionally the applicants dogs will bark if the gate to their dwelling is used. The applicant also states that there is an honesty box for customers to place their money in and that they are self-employed and therefore regularly return home, with his wife being able to also work from home. From looking at the planning history of the site the applicant was granted consent under application 2015/93171 for the felling of 1 Sycamore, 3 Lombardy Poplars and 1 Pine. They were also given consent to prune 1 Oak and 1 Sycamore, it is therefore considered that the works undertaken appear to be in line with what was approved by the Council's trees officer.

Holme Valley Parish Council – Comments received 12th May 2020. Support.

8.0 CONSULTATION RESPONSES:

- 8.1 The following is a brief summary of consultee advice received, more details of this advice are contained within the assessment section of this report, where appropriate
- 8.2 **KC Conservation & Design** – Comments received 13th May 2020. There are no objections to this proposal.
- 8.3 **KC Environmental Health** – Comments received 19th May 2020. The officer has no objections to the proposals but does recommend conditions in regard to the number and types of chickens kept on site and that waste should be controlled and managed in line with the Waste Management Plan provided.
- 8.4 **KC PROW** – No comments have been received within statutory timescales.
- 8.5 **KC Trees** – Comments received 7th May 2020. The officer raised no objections, although if the application is to be refused the removal of the structure needs to be done without causing further harm.

9.00 SUMMARY OF PRINCIPAL PLANNING ISSUES:

- Principle of development
- Scale, design, and visual impact of the proposed development
- Impact of the proposed development upon the privacy and amenity of neighbouring properties
- Impact on highway safety
- Other matters

Principle of Development:

- 9.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Policy LP54 of the Kirklees Local Plan sets out the criteria against which proposals for agriculture and forestry in the Green Belt will be assessed, as detailed below. It is against this policy that the chicken shed will be first considered. The wording of this policy states that *'proposals for new buildings for agriculture and forestry will normally be acceptable, provided that:*
- a. The building is genuinely required for the purposes of agriculture or forestry;*
 - b. The building can be sited in close association with other existing agricultural buildings, subject to the operational requirements of the holding it is intended to serve. Isolated new buildings will only be accepted exceptionally where there are clear and demonstrable reasons for an isolated location;*
 - c. There will be no detriment to the amenity of nearby residents by reason of noise or odour or any other reason; and*
 - d. The design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.*
- 9.2 Paragraph 19.11 continues that when proposals for new agricultural buildings are received the local planning authority will scrutinise the history of the holding to ascertain whether any agricultural or other suitable building has recently been severed from the holding or converted to another use.
- 9.3 The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt, the most relevant in this case being to assist in safeguarding the countryside from encroachment. Paragraph 143 of the NPPF states that inappropriate development should not be approved except in very special circumstances. Certain forms of development are exceptions to 'inappropriate development'... these are set out within paragraphs 145 and 146 of the NPPF.
- 9.4 One of the exceptions to 'inappropriate development' in paragraph 145 is the erection of a building to be used for agriculture or forestry. In relation to determining whether or not an agricultural building is inappropriate, the NPPF does not set out any limiting criteria in relation to size or other matters. As the proposal is for an agricultural building to be used as a chicken shed the proposal would fall within one of the specific exceptions of paragraph 145 of the NPPF and, for the NPPF alone, would not constitute inappropriate development in the Green Belt.

Is the building 'genuinely required' for the purposes of agriculture

- 9.5 Local Plan Policy LP54 (a) requires buildings to be genuinely required for the purposes of agriculture. Within the policy justification of Local Plan Policy LP54 paragraph 19.10 highlights that the construction of buildings for agriculture is not considered to be inappropriate in the Green Belt although they must be genuinely required in connection with an agricultural enterprise for which the need can be demonstrated. It will also depend on the extent and type of the holding in question and will be unlikely to apply to hobby farms. Hobby farms are usually defined as those where the enterprise is not the applicant's main, principal, or full-time occupation or business.
- 9.6 In this instance it is stated within the submitted Conservation and Heritage Impact Assessment that the chicken shed is being used to store 30 chickens to provide free range eggs to sell. It is considered that the number of chickens kept on site is minimal and whilst it is acknowledged that within the submitted Conservation/Heritage Impact Assessment that this has been done to ensure that there are no noise or smell concerns for local residents and neighbouring properties, this small number of hens would only produce around 28 eggs per day, this would not create a sufficient income for the applicant to live from. Additionally, within an email from the applicant dated 1st April 2020 it was highlighted that they use an honesty box to collect money from customers and that he is self-employed and that his wife also works, it is therefore deemed that the egg production is not the applicants main source of income and therefore the proposals are considered to be hobby farming defined as *'a small farm operated primarily for pleasure rather than profit'*.
- 9.7 Local Plan Policy LP10 relates to supporting the rural economy. Within the policy justification of LP10 paragraph 7.30 states that an overall balance needs to be struck between providing local employment opportunities, promoting sustainable patterns of development, and protecting the character of the countryside and reflecting Green Belt purposes. Whilst it is acknowledged that the proposals are seeking to produce free range eggs to be sold to residents, the production of eggs is considered to be minimal and would not provide local employment opportunities given its size. This is further supported by the submitted application forms which states under Part 19 'Employment' that existing and proposed employee details are not applicable for this proposal. Additionally, paragraph 2 of this policy states that *'in all cases where development is proposed in the Green Belt regard must be had to the relevant policies in this plan and relevant national planning policy'*.
- 9.8 Given the conclusion drawn above in respect to 'hobby farming', it is in officers opinion that a genuine agricultural need for the building cannot be demonstrated. Therefore, the proposals would not comply with LP54a of the Kirklees Local Plan or paragraph 141 of the NPPF which states that Local Planning Authorities should plan positively to enhance the beneficial use of Green Belts by, inter alia, retaining landscapes and visual amenity. The erection of a new building not genuinely required for the purposes of agriculture would harm the visual amenity of the area and result in a new building on formally open land.

Impact on Visual Amenity:

- 9.9 Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.
- 9.10 Local Plan Policy LP24 states that all proposals should promote good design by ensuring the following:
- 'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape' and that 'extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers'.*
- 9.11 Paragraphs 193 & 194 of the NPPF state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss of less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Kirklees Local Plan Policy LP35 also seeks to preserve or enhance the significance of designated heritage assets.
- 9.12 In this instance the chicken shed is located to the east of the Grade 2 Listed Buildings (Nos. 73 & 75 Wooldale Road) within the Conservation Area. Given the nature of the proposals the Council's Conservation and Design officers were consulted, they concluded that as the structure is small in scale and set away from the listed building at a lower level, it is not considered to harm the setting of the listed building. This part of the conservation area is rural in character and partially surrounded by mature trees with land dropping steeply towards open fields to the south. The chicken shed as constructed in timber sits comfortably in this environment and does not harm the character of the conservation areas and therefore, they raise no objections to this proposal. It is therefore in officer's opinion that the chicken shed does not detract from the Grade 2 Listed Buildings or the Conservation Area in this instance, given its size, location and materials used.
- 9.13 In conclusion, the proposals are considered to be appropriate in size, scale, and design in this location, and that they would not appear incongruous or overly dominant in the general context of this site. Furthermore, it is considered that given the chicken sheds location within the site the proposals would not detract from the setting and significance of the neighbouring listed buildings or significantly harm the character and appearance of the Conservation Area. The proposals therefore accord with LP24 and LP35 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Impact on Residential Amenity:

- 9.14 The National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings. This is echoed within Kirklees Local Plan Policy LP24 which states that: -

'Proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary'.

Impact on no. 73 Wooldale Road

- 9.15 This dwelling adjoins the application site to the north. Given the separation distance between the chicken shed and this neighbouring property and the differing ground levels, it is in officer's opinion that there are no concerns in regards to overshadowing, overlooking or the shed being overbearing in nature.
- 9.16 In terms of noise and odour, whilst it is possible that there will be additional noise coming from this site that wasn't there previously, there are only 30 chickens housed in the shed and it is therefore in officers opinion that any noise and odour coming from the site would not be detrimental to the amenity of this neighbouring dwelling. However, it is noted that Environment Health officers did raise some initial concerns in respect of noise and odour and stated that the number of birds would need to be controlled via a condition to ensure that this does not become a concern moving forward. In addition, a Waste Management Plan was provided to support the proposals and sets out a strategy for cleaning out the chicken shed and managing odour. The Waste Management Plan would also need conditioning if the application was approved.

Impact on Highway Safety:

- 9.17 The application site appears to have no off-street car parking available and fronts the public highway Wooldale Road in Wooldale to the west. The proposals seek no amendments to the existing access or provision of parking facilities.
- 9.18 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.19 Whilst the proposals would result in some intensification of cars visiting the site to purchase the eggs, it is noted that the site is accessible for local residents on foot and there is on street parking located further down Wooldale Road, it is unlikely that customers would be parked for a long duration when collecting the eggs and it is therefore the opinion officers that the scheme would not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21 and LP22, and the guidance contained within the National Planning Policy Framework.

Other Matters:

Biodiversity

9.20 Whilst it is acknowledged that the site is located within an identified bat alert area, the building is already constructed and therefore it is considered very unlikely to have an impact on the bat population or any other matters of biodiversity.

Climate Change

9.21 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.

9.22 The proposal is for a small-scale chicken shed within a paddock to the rear of No. 75 Wooldale Road. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

9.23 There are no other matters for consideration.

10.0 CONCLUSION:

10.1 In conclusion, whilst it is acknowledged that the proposal is deemed to be acceptable in regards to visual impact, residential amenity, trees and highways, it is considered that the development fails to comply with Policy LP54 (a) of the adopted Kirklees Local Plan in that the information submitted by the applicant does not demonstrate that the building is genuinely required for the purpose of agriculture. Therefore, the proposal is not considered to be acceptable in principle in this Green Belt location.

10.2 Paragraph 11 of the NPPF advises that Local Planning Authorities should be approving development proposals that accord with an up-to-date development plan without delay, as the development proposed is contrary to the adopted development plan, it is therefore recommended for refusal.

Background Papers:

Application and history files.

Available at: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/90691>

Certificate of Ownership

Certificate A signed.