

Public Document Pack



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

Julie Muscroft

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Wednesday 2 June 2021

Notice of Meeting

Dear Member

Planning Sub-Committee (Heavy Woollen Area)

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 10 June 2021**.

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

Councillor Mumtaz Hussain (Chair)
Councillor Nosheen Dad
Councillor Adam Gregg
Councillor Steve Hall
Councillor John Lawson
Councillor Fazila Loonat
Councillor Gwen Lowe
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor Joshua Sheard
Councillor Melanie Stephen
Councillor Kath Taylor

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

Substitutes Panel

Conservative

B Armer
V Lees-Hamilton
R Smith
M Thompson
D Hall
J Taylor

Green

K Allison
S Lee-Richards

Independent

C Greaves
T Lyons

Labour

M Akhtar
E Firth
M Kaushik
J Ramsay
M Sokhal
S Ullah

Liberal Democrat

PA Davies
A Marchington
A Munro

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Sub-Committee

To receive any apologies for absence, or details of substitutions to Sub-Committee membership.

2: Minutes of Previous Meeting

1 - 8

To approve the Minutes of the meeting of the Sub-Committee held on 14 April 2021.

3: Declaration of Interests and Lobbying

9 - 10

Sub-Committee Members will advise (i) if there are any items on the Agenda upon which they have been lobbied and/or (ii) if there are any items on the Agenda in which they have a Disclosable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

4: Admission of the Public

Most agenda items will be considered in public session, however, it shall be advised whether the Sub-Committee will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

5: Deputations/Petitions

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

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

6: Public Question Time

The Sub-Committee will receive any public questions.

In accordance with:

- Council Procedure Rule 11 (3), questions regarding the merits of applications (or other matters) currently before the Council for determination of which the Council is under a duty to act quasi judicially shall not be answered.
- Council Procedure Rule 11 (5), the period for the asking and answering of public questions shall not exceed 15 minutes.

Planning Applications

11 - 12

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

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Tuesday 8 June 2021.

To pre-register, please email governance.planning@kirklees.gov.uk or phone Andrea Woodside 01484 221000 (Extension 74993).

Members of the public may address the meeting in person or virtually. Measures will be in place to adhere to current COVID secure rules, including social distancing requirements. This will mean that places will be limited for those attending in person.

For virtual representations, 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 Online Agenda prior to the meeting.

7: Planning Application - Application No: 2020/91215

13 - 58

Outline application for erection of residential development - Land at, Green Acres Close, Emley, Huddersfield.

Contact: Victor Grayson, Planning Services

Ward affected: Denby Dale

8: Planning Application - Application No: 2019/92515 59 - 70

Partial demolition of existing building and erection of first floor and two storey rear extensions - Mohaddis E Azam Education Centre and Masjid E Madani, 225C, Ravenshouse Road, Dewsbury Moor.

Contact: Sarah Longbottom

Ward affected: Dewsbury West

9: Planning Application - Application No: 2021/91400 71 - 78

Erection of first floor side and rear extensions - 74-76, Pilgrim Crescent, Dewsbury Moor, Dewsbury.

Contact: Jennifer Booth

Ward affected: Dewsbury West

10: Planning Application - Application No: 2021/90209 79 - 90

Erection of detached dwelling – Adjacent to 18, Wells Road, Thornhill, Dewsbury.

Contact: Jennifer Booth

Ward affected: Dewsbury West

11: Planning Application - Application No: 2021/90807 91 - 100

Use of land to rear for dog training and erection of fence - Pasture Farm Barn, 8, West View, Scholes, Cleckheaton.

Contact: Callum Harrison

Ward affected: Cleckheaton

- 12: Planning Application - Application No: 2021/90090** 101 - 116
- Variation condition 2 (plans) on previous permission 2017/91596 for change of use of barn to 2 dwellings, erection of rear extension to existing cottage, demolition of existing cattle shed, erection of tractor and hay store and alterations to layout - Egypt Farm, Cliffe Lane, Gomersal.
- Contact: Callum Harrison
- Ward affected: Liversedge and Gomersal
-
- 13: Planning Application - Application No: 2021/90212** 117 - 124
- Variation condition 2 (plans) on previous permission 2017/91597 for Listed Building Consent for alterations to barn to 2 dwellings, erection of side and rear extensions to existing cottage - Egypt Farm, Cliffe Lane, Gomersal.
- Contact: Callum Harrison
- Ward affected: Liversedge and Gomersal
-
- 14: Planning Application - Application No: 2021/90706** 125 - 134
- Removal of condition 23. on previous permission no. 2013/93186 for demolition of a building and formation of additional coach and bus parking/storage area, with screen planting and amended vehicular access arrangements - Arriva Lodge Garage, Whitehall Road West, Hunsworth, Cleckheaton.
- Contact: Nick Hirst
- Ward affected: Cleckheaton
-
- 15: Planning Application - Application No: 2021/90708** 135 - 142
- Change of use of clothes shop to hot and cold food dessert cafe and take away - 677, Huddersfield Road, Ravensthorpe, Dewsbury.
- Contact: Jennifer Booth
- Ward affected: Cleckheaton
-

Planning Update

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

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Wednesday 14th April 2021

Present: Councillor Steve Hall (Chair)
Councillor Mahmood Akhtar
Councillor Nosheen Dad
Councillor Michelle Grainger-Mead
Councillor John Lawson
Councillor Aleks Lukic
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor John Taylor
Councillor Graham Turner

Observers: Councillor Martyn Bolt
Councillor Gwen Lowe
Councillor Fazila Loonat
Councillor Habiban Zaman

1 Membership of the Sub-Committee

There were no apologies for absence or substitutions of membership.

2 Minutes of Previous Meeting

RESOLVED – That the Minutes of the Meeting held of 17 February 2021 be approved as a correct record subject to amendment to reflect that Councillor Patrick substituted for Councillor J Taylor.

3 Declaration of Interests and Lobbying

Councillors Grainger-Mead, Lukic, J Taylor and Turner indicated that they had been lobbied on Application 2020/91601. Councillor J Taylor advised that he would not participate in the discussion or vote on this item on the grounds that he had previously provided planning advice to the applicant.

Councillors Grainger-Mead, S Hall and Lukic indicated that they had been lobbied on Application 2019/91239.

Councillors Dad, Grainger-Mead, S Hall, Lawson, Lukic, A Pinnock, Scott, J Taylor and Turner indicated that they had been lobbied on Application 2020/91215.

Councillors Grainger-Mead, S Hall, Scott and Turner indicated that they had been lobbied on Application 2020/92368.

Planning Sub-Committee (Heavy Woollen Area) - 14 April 2021

Councillors S Hall, Lawson, Lukic and Turner indicated that they had been lobbied on Application 2020/91747.

Councillors Lukic and Scott indicated that they had been lobbied on Application 2020/90501.

Councillors Dad, Lukic, Lawson, A Pinnock and Turner indicated that they had been lobbied on Application 2021/90302.

Councillor S Hall indicated that he had been lobbied on Application 2020/94233.

4 Admission of the Public

It was noted that no exempt items were listed for consideration.

5 Deputations/Petitions

No deputations or petitions were received.

6 Planning Application - Application No: 2020/91601

The Committee gave consideration to Application 2020/91601 – Change of use from agricultural land to A4 drinking (Drinking Establishment) and erection of extensions and alterations at Dunkirk Inn, 231 Barnsley Road, Lower Denby, Huddersfield.

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

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

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

- time limit for implementation – 3 years
- development in accordance with plans and specifications
- details/samples of roofing/walling materials including details of green roofs
- details of all boundary treatments including details of retaining walls
- phase 1 preliminary risk assessment report
- phase II intrusive site investigation report
- remediation strategy
- implementation of remediation strategy
- validation report
- noise from fixed plant and equipment
- kitchen extract scheme
- scheme for fats, oils and grease entering the drainage network
- construction site working times
- car parking condition
- details of waste/recycling facilities

Planning Sub-Committee (Heavy Woollen Area) - 14 April 2021

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

For: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, Lukic, Pervaiz, A Pinnock and Scott (9 votes)

Against: Councillor Turner (1 vote)

7 **Planning Application - Application No: 2019/91239**

The Committee gave consideration to Application 2019/91239 – Demolition of existing public house and erection of four dwellings at The Shears, 201 Halifax Road, Hightown, Liversedge.

RESOLVED –

- 1) That the application be refused on the grounds that The Shears Inn dates from the late 18th century and makes an important contribution to the townscape of Hightown, has an important part in the history of the Luddite movement in Yorkshire and is a non-designated heritage asset and identified in the West Yorkshire Historic Environment Record, and that the proposed development would result in the complete loss of the building and that its replacement with a development that would not respect or enhance the local townscape, and deliver a minimal additional public benefit.
- 2) That the proposed development would be contrary to Policies LP24 and LP35 of the Kirklees Local Plan and paras. 192 and 197 of the National Planning Policy Framework.

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

For: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, Lukic, Pervaiz, A Pinnock, Scott, J Taylor and Turner (11 votes)

Against: (no votes)

8 **Planning Application - Application No: 2015/90321**

The Committee gave consideration to Application 2015/90321 – Demolition of existing buildings and erection of 43 dwellings with associated access, parking, landscaping and open space at Park Farm, off Smithies Lane, Heckmondwike.

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

RESOLVED – That the application be refused on the grounds that (i) significant highway improvement works are required in order to bring Smithies Lane up to adoptable standards in order to serve the proposed development (ii) the existing section of highway referred to as Phase I on the submitted plans is not suitable for adoption in its current form and as such it would not be possible for the remaining phasing of the works to be joined into this as required to serve the proposed development and (iii) without securing the required highway improvement works, to allow the intensification of use of this substandard access would be detrimental to highway safety and contrary to Policy LP21 of the Kirklees Local Plan.

Planning Sub-Committee (Heavy Woollen Area) - 14 April 2021

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

For: Councillors Grainger-Mead, Lawson, Lukic, Pervaiz, A Pinnock, Scott and Turner (7 votes)

Against: (no votes)

Abstained: Councillors Akhtar, Dad, S Hall and J Taylor

9 **Planning Application - Application No: 2020/91215**

The Committee gave consideration to Application 2020/91215 – Outline application for erection of residential development at land at Green Acres Close, Emley, Huddersfield.

RESOLVED – That, contrary to the Officer’s recommendation, the consideration of application be deferred at the request of local residents.

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

For: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, Pervaiz, A Pinnock, Scott, J Taylor and Turner (10 votes)

Against: Councillor Lukic (1 vote)

10 **Planning Application - Application No: 2020/92368**

The Committee gave consideration to Application 2020/92368 – Erection of 14 dwellings with garages and formation of new access road at land south of Leeds Road, Mirfield.

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

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

RESOLVED –

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

- three years to commence development
- development to be carried out in accordance with the approved plans and specifications
- facing and roofing materials details to be provided
- final site levels to be confirmed and agreed
- landscaping strategy to include details of green gabion wall
- notwithstanding submitted plans, boundary treatment and retaining walls (gabion baskets) details to be submitted
- gabion baskets management plan
- remove permitted development rights for alterations, extensions and outbuildings on all plots
- all side facing windows to be obscure glazed

Planning Sub-Committee (Heavy Woollen Area) - 14 April 2021

- implementation and retention of approved noise mitigation measures
- provision of cycle/walkway improvement details along frontage, and provision arrangements
- technical details of new road to adoptable standard
- parking spaces proposed to be provided and retained, including all garages to be retained for vehicle storage
- provision of bin-storage facilities
- construction management plan to detail construction vehicle arrangements and process to be submitted
- highway condition survey to be undertaken and maintained
- sightline to be provided and secured as shown on plans
- submission of cycle storage details, and implementation
- submission of technical drainage strategy
- temporary drainage strategy for during construction period
- provision of electric vehicle charging points (1 per dwelling)
- contaminated land (phase 1, phase 2, remediation and validation as required)
- aboricultural method statement
- removal strategy for invasive knotweed
- submission of ecological design strategy, to include securing hedgerow net gain
- in accordance with ecological impact assessment recommendations
- submission of lighting strategy for ecological preservation
- no interference with adjacent PROW
- retention of highway milestone

2) That authority be delegated to the Head of Planning and Development to secure a S106 Agreement to cover (i) affordable housing – 3 units (20%) each as discounted market sales housing (ii) open space (offsite) - £21,753 contribution to off-site enhancements to local open space, to address shortfalls in specified open space typologies on site (iii) ecology - £40,020 contribution towards off site measures to achieve biodiversity net gain and (iv) management and maintenance (drainage and on-site POS) – the establishment of management and maintenance arrangements 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).

3) That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Planning and Development shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, Lukic, Pervaiz, A Pinnock, Scott, J Taylor and Turner (11 votes)

Against: (no votes)

Planning Sub-Committee (Heavy Woollen Area) - 14 April 2021

11 **Planning Application - Application No: 2020/91747**

The Committee gave consideration to Application 2020/91747 – Demolition of former dairy/snooker centre/storage and erection of 9 light industrial units at land adjacent to 60 Northgate, Cleckheaton.

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

RESOLVED – That, contrary to the Officer's recommendation, the consideration of the application be deferred in order to enable site visits to be undertaken.

Recorded Votes were taken in accordance with Council Procedure Rule 42 (5) as follows;

To approve;

For: Councillors Lukic, Pervaiz and Turner (3 votes)

Against: Councillors Dad, Grainger-Mead, Lawson, A Pinnock and Scott (5 votes)

Abstained: Councillors Akhtar, S Hall and J Taylor

To Defer;

For: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, A Pinnock, and Scott (7 votes)

Against: Councillors Lukic and Turner (2 votes)

Abstained: Councillor J Taylor

12 **Planning Application - Application No: 2020/90501**

The Committee gave consideration to Application 2020/90501 – Change of use and alterations to convert trade counter retails unit to function room and store at former Harrisons Electrical Warehouse, Huddersfield Road, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Hamish Gledhill (Applicant's agent).

RESOLVED – That, contrary to the Officer's recommendation, the application be refused on the grounds that the applicant has failed to demonstrate that the proposal would not have an unacceptable adverse impact on highway safety and the operation of the local highway network, and that the proposal is therefore considered to be contrary to the requirements of Policies LP16, LP21 and LP22 of the Kirklees Local Plan and Chapters 9 and 12 of the National Planning Policy Framework.

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

For: Councillors Grainger-Mead, S Hall, Lukic, A Pinnock, Scott, J Taylor and Turner (7 votes)

Against: (no votes)

Abstained: Councillors Akhtar, Dad, Lawson and Pervaiz

Planning Sub-Committee (Heavy Woollen Area) - 14 April 2021

13 Planning Application - Application No: 2021/90302

The Committee gave consideration to Application 2021/90302 – Erection of first floor extensions and alterations to form first floor accommodation at 1 Penn Drive, Hightown, Liversedge.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Jon McLeod (local resident), Reece Jagger (applicant) and Mark Hellewell (applicant's agent).

RESOLVED – That, contrary to the Officer's recommendation, the application be refused on the grounds the detrimental impact which the proposal would have upon neighbour amenity and the character of the area.

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

To approve

For: Councillors Lukic and J Taylor (2 votes)

Against: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, Pervaiz, A Pinnock, Scott and Turner (9 votes)

To refuse

For: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, Pervaiz, A Pinnock, Scott and Turner (9 votes)

Against: Councillors Lukic and J Taylor (2 votes)

14 Planning Application - Application No: 2020/94233

The Committee gave consideration to Application 2020/94233 – Change of use of car sales offices to hot food takeaway store at 491 Bradford Road, Batley.

Under the provisions of Council Procedure Rule 36(1), the Sub-Committee received representations from Councillors Zaman, Loonat and Lowe.

RESOLVED –

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

- time limit for implementation – 3 years
- in accordance with submitted plans
- kitchen extract scheme to be submitted for approval prior to occupation

2) That, pursuant to (1) above, the permission be granted for a temporary two year period and that conditions regarding bin storage, waste collection and opening hours be amended whereby opening hours (collection only) would be 12:00 to 20:00 on Sundays and Bank Holidays and 12:00 to 22:30 Monday to Saturday.

Planning Sub-Committee (Heavy Woollen Area) - 14 April 2021

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

For: Councillors Grainger-Mead, S Hall, Lawson, Lukic, Pervaiz, A Pinnock, Scott, J Taylor and Turner (9 votes)

Against: Councillors Akhtar and Dad (2 votes)

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

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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

PLANNING POLICY

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

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

National Policy/ Guidelines

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

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

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

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

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

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Jun-2021

Subject: Planning Application 2020/91215 Outline application for erection of residential development Land at, Green Acres Close, Emley, Huddersfield, HD8 9RA

APPLICANT

Highstone Homes Ltd

DATE VALID

24-Apr-2020

TARGET DATE

24-Jul-2020

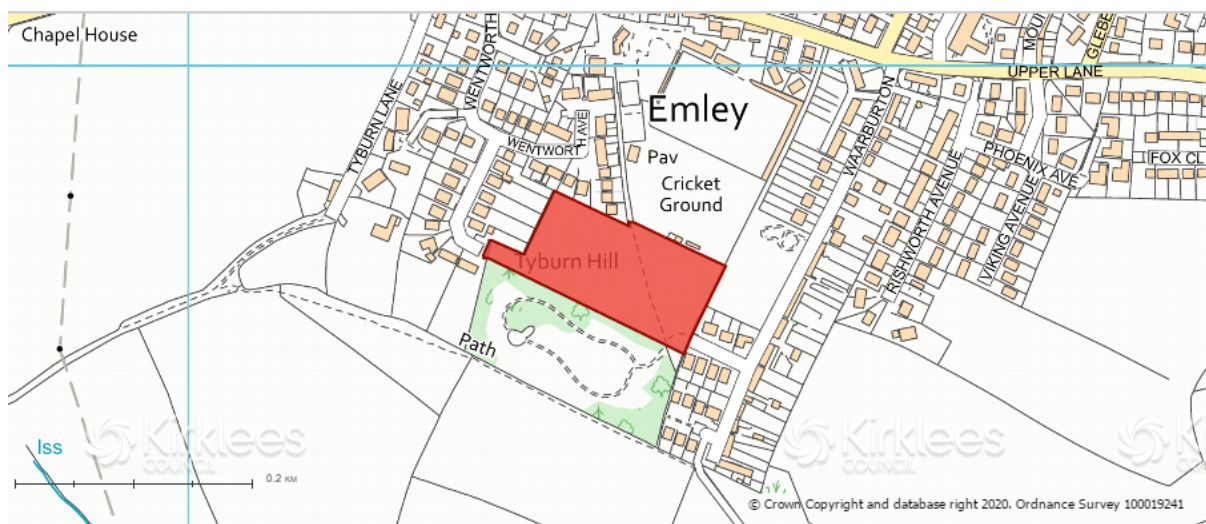
EXTENSION EXPIRY DATE

24-Dec-2020

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Denby Dale

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 Section 106 agreement to cover the following matters:

- 1) Affordable housing – 20% of units, with a policy-compliant tenure and unit size mix, to be provided in perpetuity.
- 2) Education – Financial contribution to be calculated with reference to number of units proposed at Reserved Matters stage, unit sizes and projected pupil numbers.
- 3) Highways and transport – Measures to encourage the use of sustainable modes of transport, including a financial contribution to be calculated with reference to details and number of units proposed at Reserved Matters stage, the highway impacts of the proposed development, and consultee responses. Improvements to off-site public rights of way.
- 4) Open space – Financial contribution towards off-site provision, to be calculated with reference to details proposed at Reserved Matters stage.
- 5) Biodiversity – Contribution towards off-site measures to achieve biodiversity net gain, to be calculated with reference to details proposed at Reserved Matters stage and opportunities for on-site and near-site compensation.

- 6) 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).
- 7) Traffic Regulation Order – Funding of consultation on, and implementation of (if deemed appropriate, following consultation) a Traffic Regulation Order (TRO) to restrict parking at the Wentworth Drive / Beaumont St junction.

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

1.0 INTRODUCTION:

- 1.1 This is an application for outline planning permission, with all matters reserved (other than access), for residential development.

- 1.2 The application is presented to the Heavy Woollen Sub-Committee, as the site is larger than 0.5 hectares in size.
- 1.3 The application is essentially a resubmission of a previous application (ref: 2019/90380, considered by the Heavy Woollen Sub-Committee on 25/04/2019), but with a revised access proposal.
- 1.4 A report relating to the current application was considered by the Heavy Woollen Sub-Committee on 04/11/2020. At that meeting it was resolved to defer the committee's decision to allow the applicant to carry out parking surveys at the Wentworth Drive / Beaumont Street junction, to enable further assessment of the impacts of the proposed development upon highway safety.
- 1.5 A second report relating to the current application was considered by the Heavy Woollen Sub-Committee on 17/02/2021. At that meeting it was resolved to defer the committee's decision to allow officers to prepare information regarding the status of the strip off land at the terminus of Wentworth Drive, and to present that information at a future meeting of the Sub-Committee.
- 1.6 A third report relating to the current application was prepared for the Heavy Woollen Sub-Committee meeting of 14/04/2021, however at that meeting it was resolved to defer further consideration of the application in light of the recent death of key local representative Paula Kemp, and to ensure residents' interests were not prejudiced.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is 1.18 hectares in size. The majority of the site is allocated for housing in the Local Plan (site allocation ref: HS137), however a small part of the site (approximately 60sqm, at the terminus of Wentworth Drive) is outside the site allocation.
- 2.2 To the north of the application site are residential properties on Wentworth Avenue and a cricket ground which is designated as urban green space in the Local Plan. To the east is a recreation field and residential properties on Green Acres Close. To the south is Emley's Millennium Green, most of which is in the green belt. To the west are residential properties on Wentworth Drive.
- 2.3 The application site, the Millennium Green, and some of the adjacent residential properties, occupy a relatively flat and elevated area of land (Tyburn Hill) approximately 200m AOD.
- 2.4 The application site is greenfield and is grassed. No buildings exist within the site's boundaries. A hard surface exists in the southeast corner of the site, providing access to the Millennium Green.
- 2.5 There are no protected trees on or immediately adjacent to the application site, however there are trees within the adjacent Millennium Green and elsewhere around the edges of the site.

- 2.6 The application site is dissected by public footpath DEN/21/20, and is edged by public footpath DEN/96/10 to the east. These are Public Rights of Way (PROWs).
- 2.7 The application site is not within or close to a conservation area. The site includes no listed buildings, however two Scheduled Ancient Monuments (Emley Standing Cross, which is also Grade II listed, and Emley Day Holes) are within walking distance of the site. The site also has some landscape sensitivity resulting from its location, surrounding topography and visibility from surrounding public open space, and from public footpaths.

3.0 PROPOSAL:

- 3.1 Outline planning permission (with details of access) is sought for residential development of the site. A single vehicular access is proposed from Wentworth Drive, and pedestrian access points are proposed where public rights of way already enter the site. The existing gated access points to Green Acres Close and the Millennium Green would be retained. Details of access through the site have not been submitted for approval.
- 3.2 Other matters (namely appearance, landscaping, layout and scale) are reserved.
- 3.3 Although the applicant does not seek approval of a layout or specific number of residential units, an indicative site layout plan has been submitted, showing 44 units arranged as detached, semi-detached and terraced dwellings, some with garages. A new estate road would extend eastwards across the site from Wentworth Drive, private drives would be provided off this estate road, and pedestrian access would be provided from the existing public footpaths. The alignment of public footpath DEN/21/20 would be largely maintained, with part of it becoming the footway of the proposed estate road.
- 3.4 Other application documents refer to a residential development of “approximately” 50 new dwellings. This number is also indicative.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 99/91668 – Planning permission was refused on 24/09/1999 for the formation of a grass full-size practice pitch and an all-weather training surface with associated lighting and the formation of millennium green, on a site that includes the current application site and land to the south which is now the Millennium Green. Refusal reasons related to 1) noise and disturbance to nearby residents, 2) visual intrusion caused by floodlights, 3) highways safety, and 4) development prejudicing the future development of Provisional Open Land. A subsequent appeal was dismissed 10/08/2000. Planning permission was granted 12/01/2000 for the change of use of agricultural land to the south to recreational use (ref: 99/92555) and planning permission was granted on 23/04/2001 for the erection of a millennium monument (ref: 2001/90226).

4.2 2019/90380 – Outline planning permission was refused on 26/04/2019 for the erection of residential development and associated access. The council's reason for refusal was as follows:

1. The proposed development would intensify vehicular movements on Warburton, which would increase risks to pedestrian safety and the risk of conflicts between drivers, due to the lack of adequate footways, visibility and space for parking. The proposed development would therefore have a detrimental impact on highway safety. This would be contrary to Kirklees Local Plan Policies PLP5 (as modified) and PLP21 (as modified).

4.3 A subsequent appeal (ref: APP/Z4718/W/19/3239659) against the council's refusal was dismissed on 23/12/2019, with the appeal Inspector stating:

“...the proposal would have a significant and unacceptable impact on pedestrian and highway safety in Warburton... My concerns relating to highway and pedestrian safety in Warburton are matters of overriding concern and consequently I conclude that the development would not accord with the highway safety and traffic impact requirements of Policies LP5 and LP21 of the LP; the SPD and paragraph 109 of the National Planning Policy Framework”.

4.4 Following the dismissal of the appeal and further research, the applicant ascertained that land at terminus of Wentworth Drive (previously described by the applicant as a ransom strip in the ownership of three parties) was adopted highway, and that vehicular access could therefore be taken through it.

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

5.1 The applicant requested pre-application advice from the council in May 2018. Written pre-application advice (ref: 2018/20216) was issued by the council on 07/02/2019, the main points of which are summarised as follows:

- Given proposed allocation of site for housing in the Local Plan, subject to highways, design, residential amenity, public rights of way and other matters being appropriately addressed, residential development at this site is acceptable in principle.
- Subject to details, residential development at this site is considered to be sustainable development.
- The proposed quantum and density of development was appropriate (44 units were shown on an indicative layout).
- Proposed indicative layout did not satisfactorily accommodate all of the site's constraints. Treatment of public rights of way needed revisiting, dwellings should relate better to the surrounding open spaces, risks of crime and anti-social behaviour should inform the layout, family-sized dwellings should face the open spaces, and side elevations and high fences should not line footpaths.
- A contribution towards off-site public open space provision would normally be appropriate, however some on-site provision may be appropriate here, if carefully designed along footpath.

- Early consideration of landscaping, boundary treatments and lighting would be appropriate.
- Two storey dwellings would be appropriate.
- Proposed short terraces, detached and semi-detached dwellings are appropriate.
- A variety of house types would be appropriate.
- High quality materials (including natural local stone and brick) would be appropriate.
- Car parking should be accessible, usable and overlooked, and should not dominate the street.
- Ball Strike Risk Assessment may be required. Applicant should consult with Sport England.
- Proposed development is unlikely to harm heritage assets, however a full assessment would be necessary.
- Proposed residential units should provide adequate outlook, privacy and natural light. Applicant is encouraged to follow the Government's Nationally Described Space Standard.
- 20% affordable housing required with a 54% Social or Affordable Rent / 46% Intermediate tenure split, Affordable housing should be peppercotted around site and designed to not be distinguishable from private accommodation.
- Proposed unit size and tenure mix should reflect known housing need.
- Providing vehicular access via Green Acres Close is far less appropriate than via Wentworth Drive, given Warburton's narrow carriageway widths, on-street parking, level of use, lack of footways, poor sight lines in places, and houses with front doors opening directly onto the road.
- Evidence required at application stage of applicant's efforts to secure access from Wentworth Drive.
- Should applicant demonstrate that vehicular access cannot reasonably be achieved from Wentworth Drive, applicant would need to mitigate the proposed development's unacceptable impact on highway safety caused by intensification of vehicular movements to Warburton.
- Proposed improvements to footpaths could encourage pedestrians to use these routes.
- Proposed works to Upper Lane / Warburton junction would improve sight lines and could be considered beneficial, however details are needed.
- Proposed works to Warburton are unnecessary or questioned.
- Warburton is unsuitable for any further intensification of use.
- Transport Assessment required, and its scope should be agreed with officers.
- Travel Plan required.
- Road Safety Audit and designer's response required.
- Construction Management Plan required.
- Detailed advice provided regarding parking, cycle storage, design of roads proposed for adoption, waste storage, and highways retaining structures.
- Contribution towards Metro cards may be necessary.
- Proposed development should provide convenient pedestrian routes, new and enhanced green infrastructure links, and a walkable neighbourhood.

- Access to Millennium Green (including for maintenance vehicles) must not be hindered by development.
- Site-specific Flood Risk Assessment, Surface Water Drainage Report, drainage maintenance plan, and temporary drainage (during construction) plan required. Infiltration may be possible at this site.
- Some adjacent trees should be regarded as constraints. Impact assessment required.
- Preliminary Ecological Appraisal required. This may identify a need for an Ecological Impact Assessment.
- Phase I Contaminated Land Report required.
- Electric vehicle parking spaces required.
- Noise Assessment required. Site may be subject to elevated levels of noise from adjacent sports pitches and recreation field. Health Impact Assessment required.
- Site is within a Development High Risk Area as defined by the Coal Authority. Coal Mining Risk Assessment required.
- Section 106 planning obligations likely to relate to affordable housing, education, highways, public open space and drainage.
- Pre-application public consultation is encouraged.

5.2 During the life of the current application the applicant submitted amended indicative layouts that removed previously illustrated landscaping from the site's southeast corner (which would have restricted access to the Millennium Green), and that added a curved kerb and footway to the site's vehicular entrance at Wentworth Drive. In relation to highways matters, a Road Safety Audit and a designer's response were submitted, as was a points of access plan, an indicative plan of works to public footpath DEN/21/20, and an assessment of the Wentworth Drive / Beaumont Street junction. Gas monitoring information was also submitted in response to a request from Environmental Health officers. An amended Flood Risk Assessment, a Biodiversity Net Gain Assessment and a ball strike risk assessment were submitted by the applicant.

5.3 Following the Sub-Committee's deferral on 04/11/2020, the applicant submitted the findings of parking surveys carried out at the Wentworth Drive / Beaumont Street junction.

5.4 Following the Sub-Committee's deferral on 17/02/2021, the applicant submitted the findings of further parking surveys carried out at the Wentworth Drive / Beaumont Street junction, as well as the findings of a speed survey and a solicitor's letter relating to the strip of land at the terminus of Wentworth Drive.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

6.2 The site is allocated for housing in the Local Plan (site allocation ref: HS137). The site allocation relates to 1.28 hectares (gross and net site area), sets out an indicative housing capacity of 44 dwellings, and identifies the following constraints:

- Potential third-party land required for access
- Public right of way crosses the site
- Limited surface water drainage options
- Part/all of site within a High Risk Coal Referral Area

6.3 The site allocation also identifies the following site-specific considerations:

- Development on the site shall ensure access to the Millennium Green is retained
- The public right of way shall be retained

6.4 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP4 – Providing infrastructure
LP5 – Masterplanning sites
LP7 – Efficient and effective use of land and buildings
LP9 – Supporting skilled and flexible communities and workforce
LP11 – Housing mix and affordable housing
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP23 – Core walking and cycling network
LP24 – Design
LP26 – Renewable and low carbon energy
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
LP38 – Minerals safeguarding
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP49 – Educational and health care needs
LP50 – Sport and physical activity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP63 – New open space
LP65 – Housing allocations

Supplementary Planning Guidance / Documents:

6.5 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Interim Affordable Housing Policy (2020)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Street Principles (2017)
- Viability Guidance Note (2020)

6.6 A draft Housebuilder Design Guide SPD, Open Space SPD and Biodiversity Net Gain Technical Advice Note were published by the council in 2020. These have undergone public consultation but have not been adopted.

Climate change

6.7 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

6.8 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan 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.

National Planning Policy and Guidance:

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

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

6.10 Since March 2014 Planning Practice Guidance for England has been published online.

6.11 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- Planning for Sport Guidance (2019)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development that would affect a public right of way.

7.2 The application has been advertised via five site notices posted on 20/05/2020, an advertisement in the local press dated 15/05/2020, and letters delivered to addresses adjacent to the application site and further afield. Of note, given that access to the application site is now proposed from Wentworth Drive, consultation letters were sent to all properties on Wentworth Drive, Wentworth Avenue and Manderlay Gardens. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 18/06/2020. In light of the Coronavirus / Covid-19 epidemic, consultation letters asked that comments be made within 35 days (rather than the statutory 21).

7.3 228 representations were received from occupants of neighbouring properties, members of the public and the Emley Millennium Green Trustees (and their solicitors). These have been posted online. Photographs of road congestion, video footage of a bird of prey, and commissioned reports (IOP Consulting, June 2020 and Northern Transport Planning Ltd, June 2020) were submitted with representations. The following is a summary of the points raised:

- Objection to principle of development here, notwithstanding site allocation. Proposal would bring no benefit. The adverse impacts of the proposal would significantly and demonstrably outweigh any benefits. Derelict buildings should be developed instead.

- Low-cost housing is already available for sale in Emley – more is not needed.
- Loss of open space.
- Proposal is disproportionate to size to the village. Character of old village would be harmed. Development would not contribute to local character or distinctiveness. Development would cause extensive further urbanisation in a rural transitional area.
- Emley cannot support any more housing. Area is already well served by new housing developments.
- Previous reason for refusal is just as valid for current proposal.
- Previous refusal on limited grounds does not mean all other aspects of scheme are acceptable.
- Traffic and congestion concerns. Chapel Lane / Beaumont Street / Upper Lane are already very busy. 100 additional vehicles would pass through Wentworth Drive daily. Beaumont Street / Wentworth Drive junction was designed in 1975 for 40 houses with car ownership 50% less than it is now. Bend in road, newly positioned bus stop and volume of traffic make turning out of Wentworth Drive difficult. Emergency vehicles would struggle to get through village. Traffic prevents older people leaving their homes. Emley already carries traffic to/from the M1. Online shopping has increased traffic. HGVs, agricultural vehicles and buses travel through the village. Other developments in Skelmanthorpe, Scissett and Clayton West will add to traffic in Emley. Local sports fixtures also generate traffic. Road widening, speed restrictions, footways and other measures are needed to accommodate the additional traffic. This and other developments should be refused until Flockton bypass and other improvements are implemented. Efficiency of local highway network would be reduced.
- Highway safety objections. Wentworth Drive / Beaumont Street lacks visibility, there is a blind rise, low winter sun affects visibility, vehicles parked at this junction further reduce visibility and turning space, traffic speeds through, near misses occur, minor collision has occurred, and additional traffic would add to existing risks. Vehicles swerve into the mouth of Wentworth Drive to avoid collision. Cyclists are often forced off the road and are deterred from cycling in Emley. Danger to children using nearby roads. Road Safety Audit has not been submitted.
- Local roads and footways are already inconvenient, inadequate and dangerous for people with disabilities.
- Residents of the proposed development are unlikely to commute by bicycle.
- Refuse vehicle currently has to reverse the entire length of Wentworth Drive. Comments of KC Waste Strategy noted. Turning space needed. Bend in Wentworth Drive is already hazardous. Chapel Lane / Beaumont Street / Upper Lane have several junctions and concealed entrances and are often heavily parked. Chapel Lane is narrow and lacks footways in places. Vehicles mount footway to pass.
- Concern regarding increased traffic on Warburton. Unclear if access is still proposed from Green Acres Close. Objection to unofficial use of Green Acres Close for access. Access onto Warburton is inappropriate due to road width and lack of parking. Green Acres Close is too narrow to accommodate waggons.
- Unclear how ransom strip issue at Wentworth Drive has been resolved. Risk that developer may not take access from the west and may revert to Green Acres Close access proposal. Vehicular access into the site

via the gated entrance at Green Acres Close would not be prevented. If this access was approved there would be no way of ensuring that it remained gated nor that it would not be used as an access to the site.

- Query as to why a geotechnical survey of Warburton and Green Acres Close was carried out on 25/03/2020.
- Routes of construction traffic queried.
- Roads are already in a poor condition, and stability of roads is queried. Four mine shafts close to entrance to Wentworth Drive may not have been capped properly – query as to whether this has been investigated.
- Applicant's traffic survey relates to Warburton, and not to the Wentworth Drive / Beaumont Street junction and is out-of-date. Traffic survey or officer observations at Wentworth Drive would not provide a true account if carried out during lockdown.
- Generic thresholds regarding Transport Statements and junction assessments should not apply where there is significant local concern.
- Applicant's Transport Statement is inadequate and omits key information regarding roads and junctions.
- Concern regarding Highway Development Management officer comments.
- Lack of visitor parking in proposal.
- Pedestrian routes to/from site are unsafe. Footway of Wentworth Drive unpassable by pedestrians due to overgrown hedge, wheelie bins and parked vehicles. Development would endanger older people, children, dog walkers and horse riders. With the previous application it was noted that pedestrian routes needed to be improved. Applicant does not propose improvements to ends of footpaths meeting Upper Lane.
- Claimed public right of way (where units 17, 31, 32 and 33 are indicatively shown) would be blocked. Layout should be amended to accommodate this route.
- Clarification required as to whether public rights of way across site could in fact be retained.
- Lack of public transport in Emley. Village only has an hourly bus service. All residents of the proposed development would travel by car.
- Lack of local facilities. Emley only has one shop. Schools and GPs are oversubscribed. No guarantee that education funding would be spent on local schools or would increase capacity. Playground and youth club are barely adequate. Lack of local employment opportunities.
- Local utilities are under strain and cannot support the proposed development.
- Increased pollution. Adverse impact on air quality caused by emissions.
- Light pollution would affect wildlife and prevent star gazing. Objection to lighting of footpath.
- Increased noise, including from improved footpath.
- Adverse impact on health and wellbeing. Development would cause stress to residents.
- Loss of amenity (including privacy) for adjacent residents.
- Climate change impact. Development would be unsustainable and contrary to council's climate change declaration. Sustainable modes of transport are not an option in Emley and would not be used by residents of the proposed development.
- Traffic, noise, dust and disturbance (including to wildlife) during construction.

- Adverse impact on Millennium Green. Detrimental effect on its character, nature and tranquillity. Application site's zone of influence extends into the Millennium Green, and impacts will therefore need to be considered. Attenuation tanks should not be provided within 6m of the Millennium Green boundary. Risk of artificial light from the development affecting Millennium Green "dark zone". Millennium Green is a conservation area. Development and boundary treatment should be spaced away from boundary, to allow maintenance of Millennium Green fences. Millennium Green would have to be dug up to provide drainage connection to watercourse. Value of Millennium Green has been proven during pandemic.
- Proposed refuse vehicle turning area would encroach into Millennium Green car park.
- Query if disabled access to Millennium Green would be maintained.
- Development footprint should be kept away from adjacent hedgerows and trees. Buffer zone should be provided. Viability of proposed vehicular access questioned, as it would intrude into overhang of existing hedgerows and trees. Developer should set up a management company responsible for maintaining hedgerows and trees.
- Impact on flora and fauna, including bats and other species. Loss of habitat. Adjacent trees are nested by many bird species. Birds of prey visit the site. Millennium Green is a release site for rescued hedgehogs.
- Application lacks ecological survey of the site and Millennium Green.
- Site is within a High Risk Coal Referral Area.
- Query as to whether a methane drainage survey including boring and extraction been carried out.
- Noted that Lead Local Flood Authority have objected to the application. Drainage problems exist in the village. Run-off from development may affect surrounding streets. Watercourse (to which a connection is proposed) is within a high flood risk area.
- Laying connection to watercourse would require uprooting of trees and hedgerows, and disruption to farm.
- Additional traffic would put Emley Standing Cross at risk.
- Unfair for development to adversely affect viability of adjacent sports facilities.
- Ball strike risk assessment must be submitted.
- Inaccuracies in applicant's documents regarding local facilities.
- Claimed social and economic benefits of development are queried.
- Development would be targeted by criminals.
- Increased risk of anti-social behaviour along footpath.
- Query as to why site is referred to as land at Green Acres Close, when access is proposed from Wentworth Drive.
- Number of proposed units is inconsistent across application documents.
- Application documents have not been updated since the last application was considered.
- No pre-application consultation took place. Lack of public consultation on application is underhand. Lack of consultation with Emley Millennium Green Trustees.
- Concern that application is being considered during an unprecedented pandemic. Due process is not being followed. Lockdown would have prevented public meeting or consultation being held. Application is not being subjected to public scrutiny.

- No evidence of applicant's claim that there is local support for delivery of new homes.
- Council should disregard additional council tax income that would be generated.
- Application is a waste of council time and taxpayer's money.
- Application is an attempt to enrich the landowner and developer to the detriment of residents.
- Development is contrary to National Planning Policy Framework and the Local Plan.

7.4 Cllr Turner referred to the initial indicative layout and noted that the proposal would use the car park for the Millennium Green and would make access to the Millennium Green very difficult. In later comments, Cllr Turner stated:

- *I am still of the opinion that the access to this site is inadequate.*
- *Taking vehicles from the site down Wentworth Drive to allow access to the main road network will overload what is already a difficult and very busy junction.*
- *The junction is often blocked by cars parking on Wentworth and on Chapel Lane.*
- *The site lines are regularly obscured by vehicle parking on the road due to the lack of off-street parking.*
- *Upper Lane is in effect a one lane, again due to on street parking and any extra traffic using that as a route to either the motorway network or Wakefield or South Yorkshire will add to this existing problem.*
- *The whole road network in Emley is busy and whichever direction you choose to leave the village involves using small narrow roads.*

7.5 Cllr Simpson made the following comments:

- *As highlighted by Cllr Turner, it appears that the Millennium Green parking would be badly affected. This would be an issue in of itself, as well as causing on-street parking issues.*
- *Without the above, I was already concerned about the parking provision (whether or not it meets policy I do not know, but I do not believe the policy is adequate for our villages anyway). With the above included I think this will cause a number of parking issues.*
- *It has been suggested that it is possible that the developer could/would be entitled to undertake works on/under the Millennium Green itself to facilitate the development. This would be wholly unacceptable in my view, if this is true.*
- *The statements and suggestions around sustainable travel in the plans are wrong and ludicrous. Emley is one of the most isolated of our villages with a poor bus service that does not link directly into the other villages. It is by no means accessible by foot, cycle or public transport in any way other than being able to walk to the pub, first school and small Londis. Statements made such as 'the site is highly accessible by foot, cycle and public transport to a number of local facilities' and 'minimises trips by private car' are frankly ludicrous.*
- *The application describes Skelmanthorpe as a small town, which is neither true nor helpful.*
- *The application describes 'a mini-supermarket; a post-office; a hot food takeaway'. There is no 'mini-supermarket' it is a small corner shop, and*

the post office is a small function within that. Similarly, unless this has changed very recently, there is no hot food takeaway.

- *I am very concerned that the plans provided thus far show that no thought has yet been given to the junction by which the development will be accessed (from the main road) - the Upper Lane/Wentworth Drive junction. This junction is a serious concern of mine. Cars approach the junction at great speed coming into the village. The only thing that slows the traffic is the almost permanent obstructions of cars parking on the main road which essentially make this section one way and brings vehicles into conflict. This is what I suspect generated the speed measurement in the application, though I do not know where the cables were placed. I do know however that speeding here is an issue. There is also the bus stop at the junction, on the opposite side of the road to where cars are usually parked. There are numerous other junctions in the immediate and close vicinity. In my view, this section of Upper Lane, specifically at this point of access, has the greatest potential for serious highways issues in the entire village and it is clear to me that increased traffic here would make it less safe. The developer should consult and create a highways plan to mitigate the increase in journeys by making this section of highway safer however possible. I do not think it is acceptable, as the developer says in their application, to say that 'the proposed development will not materially exacerbate the existing situation' and wash their hands of it or pretend that issues do not exist or will not be affected.*
- *I believe that trip generation figures should not only be included for the additional dwellings, but a measurement of existing traffic from the Wentworth estate should be taken to give Committee Members and officers a fuller understanding of traffic at this junction at peak times.*
- *The Access statement says that 'access is the only material change to the previous application'. If this is the case, then why is it only an outline application? It could have a number of material changes for all we know without the details and a full application, and they may well attempt to force these through if successful at this first stage. As far as this application is concerned the only thing that is the same is the site and the developer.*
- *I am particularly concerned by the junction/access issue and I feel it is absolutely vital that the developer looks at this again and provides a full plan for mitigation in consultation with highways before this reaches the stage at which a decision can be considered.*

7.6 In later comments, Cllr Simpson added:

- *I remain very concerned about the access included in the proposal, in particular the Wentworth Drive / Beaumont St junction, and believe that highways safety and access would be made less safe without mitigations being put in place.*
- *Unless a double yellow line scheme is incorporated at the junction as a condition, I believe that this should be rejected – or in the least deferred until a more satisfactory proposal for the access and road safety can be presented.*
- *As can be seen from the attached picture, vehicles regularly park closely to the proposed access from the main road, which is at the entrance to the village, and cars also park on the main road making it a*

one way most of the time – as well as a bus stop used by school services next to the junction.

- *I know that the issue of parked cars is a constant issue here and has been for many years. I attended the site yesterday and can confirm that vehicles were again parked dangerously at the junction edge. This is a consistent issue that needs to be addressed.*
- *In the least, a yellow line scheme should be devised to prevent cars from parking within 10m of the junction edge on both the main road and Wentworth Drive, and these lines should be extended this further down the main road (on the side of the junction) to ensure visibility and safer traffic flows.*

7.7 Mark Eastwood MP wrote to object to the application, stating:

- *I am concerned that this particular planning application has not had enough public consultation for such a significant development of this size. I do not feel it is appropriate that the developer is allowed to rely upon public consultation from a previously rejected application when this is a new application with a notably different unique access point.*
- *Concerning the new access point, I worry about access, particularly Wentworth Drive and the junction with Beaumont Street.*
- *There is insufficient off-road parking for residents on Beaumont Street, and both the White Horse Inn and Band Room, often hold events which result in cars parking on the street and causing problems for those accessing the Wentworth estate.*
- *I am concerned that the applicant has not given due consideration to the re-sited bus stop, which adds to visibility problems exiting Wentworth Drive, due to people queueing for bus services.*
- *At the junction of Wentworth Drive and Beaumont Street, vehicles travelling along Beaumont Street westbound, frequently have to manoeuvre their car into the entrance of Wentworth Drive, to avoid the traffic coming the other way. For those vehicles that are travelling east and approaching a blind rise, they often have to cross onto the other side of the road due to the parked cars on the side opposite the entrance to Wentworth Drive. This would be a problem in itself if it were just cars. However, matters are made worse because HGV's, double-decker buses and large agricultural vehicles often use the route.*
- *Slightly further up from Beaumont Street towards the centre of the village, into Upper Lane, there is blind vehicular access to crucial village landmarks - Emley AFC, the Cricket Club, Youth Club, Community Centre and the Wentworth Bar.*
- *Any additional volume of traffic at this already precarious spot could lead to more accident problems. I would also like to raise my concerns at why a traffic survey has not been afforded for Wentworth Drive, yet I note a traffic study for Warburton has been - albeit somewhat out of date.*
- *The geographical nature of Emley Village means that using the car for many people is vital. Cycling or walking to work is not an option, and public transport here is not as frequent as some of the more urban communities across Kirklees.*
- *I along with many residents are also concerned that Emley First School will not see the benefit of any extra educational funds from this development.*

- *I am not aware that an ecological survey has been undertaken either of the site or the Millennium Green, where rescued wildlife including hedgehogs are being released post-injury and rehabilitation. I have particular concerns about the protection of hedgehogs. The hedgehog is an extraordinary creature with a long and celebrated history in this country. The Government's 25 Year Environment Plan sets out the Government's ambition for nature recovery and our threatened and iconic species. The framework is clear that local authorities must "identify, map and safeguard" wildlife sites as part of their local plans.*
- *Hedgehog numbers are declining in numbers, and I am therefore concerned about the role habitat loss plays. The destruction of habitat due to construction traffic accessing via Warburton/Green Acres is something that concerns me and that an ecological survey has not been undertaken exacerbates this concern.*
- *Given the concerns outlined above (and I know there are many more that others have raised which I have not touched upon). A significant development such as this, in my opinion, should at the very least be afforded a new public consultation. Transparent, open discussion with residents is at the heart of responsible development, and this is particularly relevant when regular working practices are disrupted, as has happened with the coronavirus outbreak.*

7.8 Denby Dale Parish Council objected to the proposed development, referring to drainage, parking and highways issues, and making the following points:

- *Excess traffic on Wentworth Drive.*
- *Dangerous junction from Wentworth Drive into Beaumont Street, due to the bus stop, on street parking and brow of the hill adjacent.*
- *The roads in Emley have been neglected for years and as a result the main out road to Wakefield which is Upper Lane is riddled with hollows. The lane is used for on street parking, reducing the flow of traffic to just one lane. This results in traffic queueing. The other road out of the village Church Street is also neglected and sunk in places.*
- *On the plan the turning circle for dustbin wagons is too small.*
- *There will be a tendency for traffic to try and get out down Warburton which is only one lane wide and has no pavement.*

7.9 Shortly before, and following, the Sub-Committee's deferrals on 04/11/2020 and 17/02/2021, 12 further representations were received, including a further representation from the Emley Millennium Green Trustees. Concerns already made (and summarised at paragraph 7.3 above) were raised, and the following further points were made:

- *No evidence that ransom strip issue has been resolved. Land is still in fragmented ownership. Details are needed, as access is not a reserved matter. Risk that unresolved issue would result in Warburton being used for access. Ransom strip is not adopted highway. Incorrect to say it has been re-designated as adopted highway. Only constructed highway can be adopted. Section 38 application to adopt the land could only follow approval of planning permission. Council is ignoring misuse of information.*
- *Maintenance access rights for Emley Millennium Green have still not been addressed.*

- Millennium Green is within zone of influence of application site. Impact on Millennium Green must be fully assessed. Ecological survey of Millennium Green has not been carried out.
- Traffic survey was carried out during lockdown.
- Local roads flood or are impassable when it has snowed.
- Number of proposed dwellings should be reduced, to reduce traffic at Wentworth Drive / Beaumont Street junction. 20 dwellings would be preferable.
- Double yellow lines at Wentworth Drive / Beaumont Street junction would only move the problem elsewhere and would not slow down traffic.
- Proposed improvements to public right of way DEN/21/20 are welcomed.
- DEN/21/20 meets Upper Lane where there is no footway. Unsafe crossing point. Council has previously rejected improvements to this public right of way.
- Occupiers of the development would be wholly reliant on private vehicles.
- Sustainable development not proposed.
- No guarantee that education contribution would be put towards local school.
- British hedgehogs are now classified as officially vulnerable to extinction by the International Union of Conservation of Nature (IUCN). Millennium Green is a hedgehog release site. Proposed development would have an effect on hedgehogs and their habitat.
- Recommendations and suggestions made by officers have not been listened to.
- Full planning application, rather than outline, is required.

7.10 Cllr Simpson stated that the concept of a Traffic Regulation Order (for the Wentworth Drive / Beaumont Street junction) had his support, and that yellow line markings were essential. He added that whoever draws up the TRO scheme should attend the site at a peak-times to see how that area operates with the parked vehicles and given the multiple junctions. Cllr Simpson stated that the details need to be right so as to not create more issues in the vicinity.

7.11 Prior to the Sub-Committee's meeting of 14/04/2021, representations were made to Members and officers, noting the recent death of Paul Kemp, noting the partial reopening of the White Horse PH and the associated on-street parking, and raising further questions regarding the strip of land at the terminus of Wentworth Drive.

7.12 The additional information submitted during the life of the application (including the recently submitted Wentworth Drive / Beaumont Street junction parking surveys, speed survey and solicitor's letter) did not necessitate public re-consultation.

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

8.0 CONSULTATION RESPONSES:

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

8.1 Statutory:

Coal Authority – No objection, however further, more detailed considerations of ground conditions, foundation design and gas protection measures may be required at a later stage. Application site falls within the defined Development High Risk Area, therefore within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority's information indicates that the site is located in an area where historic unrecorded underground coal mining is likely to have taken place at shallow depth. Applicant's Geo-environmental Appraisal draws upon appropriate sources of coal mining and geological information along with the results of an intrusive site investigation. The Coal Authority would recommend that further comments be sought from the council's Environmental Health / Public Protection Team regarding gas monitoring requirements and any resultant need for the incorporation of gas protection measures within the proposed development.

Sport England – Objection withdrawn, subject to conditions. Analysis and recommendations in applicant's ball strike risk assessment are satisfactory. Applicant's assessment demonstrates that it will be possible to develop new housing to the south of the cricket ground without the latter's continued existence being prejudiced, provided ball-stop netting is installed along the development's boundary in accordance with the assessment's recommendations. The absence of an objection from Sport England is subject to the following conditions being attached to the decision notice should the Local Planning Authority be minded to approve the application:

1) The Reserved Matters application shall detail ball-stop netting of a height and location specified within the mitigation approach section of the Labosport report reference LSUK.20-0563. The fencing shall be erected and brought into use prior to the occupation of any dwelling within the ball strike risk zone.

2) Prior to the commencement of development, a scheme for the management and maintenance of the approved ball-stop netting shall be submitted to and approved by the Local Planning Authority (following consultation and advice from Sport England). The approved scheme shall be brought into effect upon first occupation of any dwelling within the ball-strike risk zone and shall remain in operation whilst the cricket ground and approved dwelling houses remain in use.

Any amendment to the above wording, or use of another mechanism in lieu of the above conditions, should be discussed with Sport England. Sport England does not object to amendments to its recommended conditions, provided they achieve the same outcome, and it is consulted on any amendments. If the council decides not to attach the above conditions (or an agreed variation), Sport England would wish to maintain its objection to the application.

KC Highways – Having regard to the applicant's December 2020 and March 2021 parking surveys, the Wentworth Drive / Beaumont Street junction would continue to function safely (with the development implemented), without the need for junction improvements or a Traffic Regulation Order.

Previous comment: In summary, Highways Development Management (HDM) concluded that the proposals are acceptable and recommended the imposition of conditions regarding internal adoptable roads and improvements to a Public Right of Way. The sequence of negotiations is set out below:

The initial highways consultation response made several comments requiring further clarification as follows:

- 1) The 2019 application included footpath improvement works including surfacing and lighting which are not included as part of this application. The applicants were asked to explain why these are not considered necessary with this application.
- 2) Whilst it is acknowledged that the number of proposed dwellings is at a level that would not usually even require a Transport Statement, given the level of objections to this proposal and concerns raised regarding the capacity of the Wentworth Drive / Beaumont Street junction HDM recommended that a PICADY assessment of the junction be undertaken to demonstrate that the junction has sufficient capacity.
- 3) A stage 1 Road Safety Audit together with designer's response was required to consider the road safety implications associated with the proposed access from Wentworth Drive, the Wentworth Drive / Beaumont Street junction and the route from Beaumont Street to the proposed site.

Following these comments, the applicant provided further information in response to the comments of HDM, as follows:

- 1) PROW Improvements – Improvements are proposed to PROW DEN/21/20, which include widening to 2m, tarmac surfacing and the provision of street lighting. This footpath runs diagonally through the site, connecting to Upper Lane opposite Church Street. Both PROW DEN/21/20 and 96/10, which runs along the eastern boundary of the site, are shown to be improved within the extents of the application site.
- 2) Capacity of the Wentworth Drive / Beaumont Street junction – Guidance states that no assessment is needed for developments between 0 and 50 dwellings, a Transport Statement (which excludes junction capacity assessment) is required for developments of between 50 and 80 dwellings, and a Transport Assessment (which includes junction capacity assessment) is only needed for developments of 80+ dwellings. The development comprises 44 dwellings and is therefore below the threshold even required

for a Transport Statement. The level of traffic generated, whether applying our bespoke trip rates or your robust internal, trips rates remain low. No capacity assessment of the Wentworth Drive / Beaumont Street junction is therefore provided.

3) A Road Safety Audit has been prepared by Via Solutions. The scope of the Road Safety Audit is to consider the safety implications of the proposed highway works to provide a new access to serve a new residential development on the site. The works considered within this Audit are related to the proposed access junction and its linkage to the remainder of the highway network and the improvements to part of the PROW (DEN21/20).

In response, HDM summarised the recommendations of the Road Safety Audit, as follows:

1) A corner radius should be provided to northern footway of the access road leading into the site from Wentworth Drive.

2) The pedestrian route along north side of Wentworth Drive leading into the new access road could be affected by turning vehicles using the existing turning head if it not taken out.

3) Potential use of PROW DEN/21/20 by motorcycles and a recommendation that staggered barriers are provided to both ends of the improved section of the footpath.

4) A designer's response to the Road Safety Audit generally accepts the comments of the Audit and recommended suitable amendments to the proposals.

HDM concluded by stating that the proposals are now considered acceptable and suggested the following conditions should accompany any approval:

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

Reason: To ensure that suitable access is available for the development.

Improvements to public right of way DEN/21/20: Prior to development commencing, a detailed scheme for the provision of improvements to public right of way DEN/21/20 which include widening to 2m, tarmac surfacing and the provision of street lighting with associated signing and white lining shall be submitted to and approved in writing by the LPA. The scheme shall include construction specifications, white lining, signing, surface finishes together with an independent Safety Audit covering all aspects of the work. Unless otherwise agreed in writing by the LPA, all of the agreed works shall be implemented before any part of the development is first brought into use.

Reason: In the interests of highway safety and to achieve a satisfactory layout.

March 2021 comment: Applicant's March 2021 parking surveys are noted. Highways Development Management have also undertaken surveys on Wednesday 31/03/2021 (06:45 and 18:00).

At 06:45, three cars were parked on Wentworth Drive away from the junction and two cars were parked on Beaumont Street. At 18:00 one car was parked on Wentworth Drive away from the junction, three cars were parked on Beaumont Street and one on Chapel Lane. Overall, when compared to the applicant's surveys these results show just one additional car at the junction at 06:45 and the same number of vehicles at 18:00.

The updated parking surveys undertaken over seven days show a slight increase when compared to the previous results, however based on the findings of these surveys, no specific highway safety concern resulting from on street parking has been identified sufficient to justify any specific mitigation or interventions as a direct result of the proposed development.

Notwithstanding the above, the applicant has confirmed that should officers or Members still consider it necessary to implement parking restrictions in the vicinity of the junction, the applicant is willing to offer a contribution to fund the implementation of a Traffic Regulation Order (TRO) to control parking in the vicinity of the junction.

Highways Development Management views regarding this proposal are unchanged and based on the survey information it is our view that the Wentworth Drive / Beaumont Street junction would continue to function safely (with the development implemented), without the need for junction improvements or a TRO. However, given the nearby public house was closed at the time of the surveys, funding should be secured for the TRO to enable the junction to be monitored after Covid 19 restrictions are lifted.

KC Lead Local Flood Authority – No objection, subject to conditions requiring details of drainage system, overland flows and flood routing, and temporary drainage.

Overall, the amount of information provided is suitable for outline stage (with only approval of access sought). Applicant has assessed the surface water discharge options using the hierarchy of preference, and carried out infiltration testing, showing that infiltration methods of discharge are likely to be feasible on site, especially in the northern part of the site. LLFA has no objection in principle to provision of soakaways on site, providing it is shown that they are feasible through further assessment, as stated in section 5.3.3 of the applicant's Flood Risk Assessment. If the soakaways are not feasible, discharge into the watercourse (as stated in section 5.3.4) would be accepted. However, a condition survey of the watercourse will be expected, to ensure that it is in a suitable condition to accept the flows. If the infiltration solution is not feasible, the LLFA would have no objection in principle to a 3l/s discharge rate, as proposed in section 5.3.5, providing an appropriate assessment of discharge point is carried out (as above). Section 5.3.6 states that attenuation for up to the 1 in 30-year event will be provided in underground tanks. The applicant will need to ensure that the 1 in 100 + climate change event is managed on site, no buildings are flooded and there is no risk to the users of the development.

Section 38 road adoption by Kirklees as a Highway Authority cannot take place unless sewerage located under the carriage way is adopted first.

As part of a Section 106 agreement the council are required to ensure the site is managed in a safe and suitable way up until adoption by a regulatory body. This requirement should also apply to drainage on the site.

8.2 **Non-statutory:**

KC Biodiversity Officer – Preliminary Ecological Appraisal (PEA) report provides an adequate baseline to determine the current application and that the proposals are unlikely to result in significant ecological harm. Applicant has correctly calculated the site's ecological baseline value (4.81 habitat units and 0.47 hedgerow units), and that to achieve a 10% biodiversity net gain post-development, a minimum of 5.29 habitat units and 0.52 hedgerow units would need to be delivered. This should be taken into account when further design work is carried out, and the post-development value of the site (measured using the Biodiversity Metric 2.0 or latest version, if available) should be supplied at Reserved Matters stage. Condition requiring Ecological Design Strategy recommended.

KC Education – £35,301 education contribution required (assuming 50 units, all with two or more bedrooms).

KC Environmental Health – Regarding air quality, condition requiring electric vehicle charging points recommended. Conditions regarding site contamination recommended. Noise report lacks background noise information and is unacceptable, therefore condition requiring noise report recommended. Condition securing Construction Environmental Management Plan recommended.

KC Landscape – Concern that no existing vegetation would be retained. Retentions should be shown on plan and should be reinforced with additional planting. Some dwellings appear close to existing hedgerow and trees, which may cause maintenance problems and nuisance. Root protection areas should be recognised and shown. Opportunities exist for tree planting along new routes. Enhanced landscaping scheme expected. 44 dwellings would trigger a need for open space and a Local Area of Play. Given local deficiencies, £82,927 off-site contribution (towards the nearby facility at Warburton) required, without prejudice. Details of bin storage required. Condition recommended regarding landscaping.

KC Public Rights of Way – No objection, if it is clarified and confirmed that "access" consent is sought only for agreement to the proposed main site all-purpose access.

KC Strategic Housing – Nine affordable housing units required (five social/affordable rent, four intermediate).

KC Trees – No objection to principle of development. Adjacent trees may be impacted by the development of this site. Some of the properties along the southern boundary may be too close to the trees, however with minimal design changes this could be overcome. Any detailed application will need to be supported by sufficient arboricultural information to show that the adjacent trees have been taken account of in any finalised design.

KC Waste and Recycling – Detailed advice provided regarding layout, and conditions recommended.

West Yorkshire Police Crime Prevention Design Advisor – Support principle of development. Comments made regarding indicative layout, boundary treatments and other aspects of the development.

Yorkshire Water – Recommend conditions regarding separate surface and foul water drainage systems, and completion of surface water drainage works. Developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer. No objection in principle to applicant's Flood Risk Assessment, whereby surface water will drain to a watercourse located to the south of the proposed development. A new surface water sewer would have to pass through the adjacent Millennium Green – if this land has the status of Common Land and/or Village Green, Yorkshire Water's powers to lay pipes in private land are likely to be impacted. The landowners' consent will be required for the construction of a new outfall structure to a watercourse. No assessment of the capacity of the local sewerage has been undertaken with regard to its capacity for surface water arising from the development.

9.0 MAIN ISSUES

- Responses to reasons for deferral
- Land use and principle of development
- Sustainability and climate change
- Urban design issues
- Residential amenity and quality
- Point of access
- Highway and transportation issues
- Flood risk and drainage issues
- Ecological considerations
- Trees
- Environmental and public health
- Sport England
- Ground conditions
- Representations
- Planning obligations
- Other planning matters

10.0 APPRAISAL

Responses to reasons for deferral

Land at the terminus of Wentworth Drive

- 10.1 Following the Sub-Committee's deferral of 17/02/2021, officers prepared the relevant adoption documentation regarding the status of the strip of land at the terminus of Wentworth Drive, and will include extracts from these documents in the committee presentation. Additional commentary is also provided in the following paragraphs.

- 10.2 Of note, the adoption documentation does not contradict the HM Land Registry information that local residents have obtained. The strip of land is indeed still in fragmented, third party ownership, however the land is *also* adopted highway. In relation to the current application (and the council's consideration of it), the key question here is not who has registered title to the strip of land (which, in this case, is a grassed verge), but whether the verge forms part of the public highway. Where a verge forms part of the public highway, the title which is registered with HM Land Registry is "subsoil" title only. In other words, the registered title holders own the subsoil, but the surface is part of the public highway.
- 10.3 On large residential developments such as Wentworth Drive, the highway layout and its extent are usually agreed between the developer of the land and the local highway authority. This is then drawn up in an agreement under the Highways Act. Under the terms of the agreement, the developer agrees to construct the highway and dedicate it to public use, while the local authority agrees to adopt the new highway upon satisfactory completion. When the highway authority adopts the new highway upon satisfactory completion, it issues a certificate of completion and adoption.
- 10.4 In this case, the relevant documents (in determining if the grassed verge at the terminus of Wentworth Drive forms part of the public highway) are 1) the historic Highways Act agreement between the developer and the highway authority, and 2) the subsequent certificate of completion and adoption which was issued by the highway authority upon satisfactory completion of the new highway.
- 10.5 The Highways Act agreement in this instance was made under Section 40 of the Highways Act 1959 between Kirklees Council's predecessor (in this role): the former West Yorkshire Metropolitan County Council, and the developer of Wentworth Drive: Dunford Building Services Ltd. The agreement was dated 06/04/1979.
- 10.6 The certificate of completion and adoption, issued upon satisfactory completion of the works by Dunford Building Services, was issued on 18/05/1981 by the former County Council.
- 10.7 It is clear that the grassed verge was part of the highway extent dedicated by the developer and subsequently adopted by the County Council. This is not unexpected, as the former County Council is likely to have insisted on the verge forming part of the highway, to avoid blighting future development opportunities on the adjoining land.
- 10.8 Further commentary (similar to the above) was set out in the applicant's solicitor's letter dated 01/04/2021, which additionally stated that the grassed verge has the same adopted status as the carriageway, that the above-referenced documentation establishes that Wentworth Drive is an adopted highway, and that once a highway is created and adopted it can only cease to be a public highway if there is a due process of stopping up (a formal statutory procedure with formal requirements which, at Wentworth Drive, has not occurred).

- 10.9 The solicitor's letter goes on to state that it would be wrong to assert that if land was owned by some party other than the council, this would be inconsistent with the land being adopted highway. The letter notes that the concept of ownership and adoption are separate matters, and that the question of ownership is no bar to public use of the road (or verge, which has the same status) or indeed to doing works to such a road for connections to development sites. It is indeed common for third party ownership to apply to land that is adopted highway – in such scenarios, the local highway authority's responsibility is often referred to as being applicable to the "top two spits" (i.e., the surface and such part of the subsoil required for the maintenance of the highway).
- 10.10 In a final key point, the solicitor's letter states that the council (as Local Planning Authority) should not withhold planning permission on the grounds that the proposed development would be reliant on access via land in third party ownership. The letter states:
- "...there is no principle in law that requires the planning decision maker to be satisfied that the development, if approved, can be lawfully carried out. Planning permission does not alter or in any way interfere with land ownership. The planning process works in law so as to allow applications to be made and permission to be granted on land which the applicant does not own or even control. Any individual can apply for planning permission on land which is outside their ownership".*
- 10.11 Of note, and as detailed in section 24 of the submitted application form, prior to submitting the current application for outline planning permission, the applicant served formal notice on the third-party owners of the land in question, as well as on the council as Local Highway Authority. No representations were received by the council (as Local Planning Authority) from those parties in relation to the current application.
- 10.12 Some of the concerns of local residents regarding the proposal to provide vehicular access via Wentworth Drive are based on an assumption that the applicant would attempt to revert to proposing access via Green Acres Close and Warburton at a later date, should vehicular access from Wentworth Drive prove not to be possible. However, notwithstanding the certainty of the status of the strip of land at the terminus of Wentworth Drive (as set out in the above paragraphs), it is noted that the applicant has only applied for approval of vehicular access from Wentworth Drive, and that vehicular access via Green Acres Close and Warburton has been firmly rejected at appeal on highway safety grounds. Furthermore, a relevant condition is recommended, limiting the use of the Green Acres Close gate to that required for the Millennium Green and the emergency services. In light of the above-mentioned appeal decision, it is considered that this condition would be fully enforceable.

Wentworth Drive / Beaumont Street junction

- 10.13 As noted in the previous committee report, following the Sub-Committee's deferral on 04/11/2020, the applicant carried out parking surveys at the Wentworth Drive / Beaumont Street junction. The surveys were undertaken

on Thursday 17/12/2020 (06:00 to 10:00 and 15:00 to 19:00) and on Saturday 19/12/2020 (17:00 to 23:00). The surveys recorded all parked vehicles within the agreed study area every 15 minutes. Low numbers of parked vehicles were recorded on Wentworth Drive, Beaumont Street and Chapel Lane. The extent of the survey area will be illustrated in the committee presentation.

10.14 Of note, the nearby public house (the White Horse) was closed at the time the surveys were carried out.

10.15 Upon submitting the parking survey findings, the applicant stated:

“Based on the findings of these surveys, no specific highway safety concern resulting from on street parking has been identified sufficient to justify any specific mitigation or interventions as a direct result of this development.

Notwithstanding the above, should Highways/Members still consider it necessary to implement parking restrictions in the vicinity of the junction Highstone are willing to offer a contribution (sum to be agreed but anticipated to be in the order of £5,000) to fund the implementation of a Traffic Regulation Order to control parking in the vicinity of the junction”.

10.16 In light of concerns expressed by some Members (at the meeting of 17/02/2021) regarding these findings, the applicant carried out additional parking surveys at the Wentworth Drive / Beaumont Street junction. These related to the same survey area as the December 2020 surveys, were undertaken over a seven-day period between Wednesday 10/03/2021 and Tuesday 16/03/2021, and recorded the location of all parked vehicles every 15 minutes on weekdays (06:00 to 10:00 and 15:00 to 19:00) and at the weekend (17:00 to 23:00). Again, the nearby public house (the White Horse) was closed at the time the surveys were carried out, however the applicant has pointed out that schools were open following the relaxation of restrictions on 08/03/2021, and additionally noted that as a high proportion of residents would have been working from home due to lockdown restrictions, the surveys are likely to have recorded greater volumes of resident parking on street than would ordinarily occur.

10.17 The applicant's March 2021 surveys largely verified the earlier (December 2020) findings. As previously, low numbers of parked vehicles were recorded on Wentworth Drive, Beaumont Street and Chapel Lane, although slightly higher numbers (than in December) were recorded. During weekdays, a maximum of six vehicles were recorded within the survey area in the morning periods, and a maximum of eight were recorded in the afternoon/evening periods. On average, 3.8 vehicles were recorded within the survey area during weekdays. During the weekend survey period, a maximum of six vehicles, and an average of 4.5 vehicles were recorded.

10.18 To provide further verification of the applicant's findings, Highways Development Management officers carried out surveys on Wednesday 31/03/2021 (06:45 and 18:00). At 06:45, three cars were parked on Wentworth Drive away from the junction and two cars were parked on Beaumont Street. At 18:00 one car was parked on Wentworth Drive away

from the junction, three cars were parked on Beaumont Street and one on Chapel Lane. Overall, when compared to the applicant's March 2021 surveys these results show just one additional car at the junction at 06:45 and the same number of vehicles at 18:00.

- 10.19 A partial/phased reopening of pubs and other hospitality has been allowed in recent weeks, with pub gardens reopening on 12/04/2021, and further relaxations applied on 17/05/2021. Although it is possible that pub custom (and numbers of people driving to pubs) in recent weeks may still not be representative (due to the mostly wet May, the excellent weather over the late May bank holiday weekend, and the possibility of some people remaining reluctant to gather in pubs, for example), and although ongoing working from home may still be affecting parking levels in residential streets, up-to-date information regarding parking at the Wentworth Drive / Beaumont Street junction would be useful, and officers intend to provide snapshot survey information in the committee update, to supplement the surveys already carried out.
- 10.20 In response to concerns regarding highway safety in relation to existing traffic speeds, the applicant noted the findings of an earlier speed survey carried out close to the Wentworth Drive / Beaumont Street junction (specifically, Upper Lane westbound and Chapel Lane eastbound) on Wednesday 19/06/2020 (10:30 to 16:00) which recorded 85th percentile wet weather speeds of 30mph eastbound and 28mph westbound. In addition to that earlier survey, a further survey was carried out by the applicant on Thursday 11/03/2021, and this recorded "broadly comparable" speeds of 30.4mph eastbound and 31.9mph westbound. For completeness, the applicant has recalculated visibility splays using these slightly higher recordings and has submitted drawing 19093/IN/04 which demonstrates that appropriate visibility can still be achieved at the Wentworth Drive / Beaumont Street junction.
- 10.21 In response to the applicant's December 2020 and March 2021 findings, Highways Development Management (HDM) officers advised that they remain of the view that the Wentworth Drive / Beaumont Street junction would continue to function safely (with the development implemented), without the need for junction improvements or a Traffic Regulation Order (TRO). HDM officers have, however, reiterated that as the nearby public house was closed at the time of the surveys, funding should be secured for the TRO to enable the junction to be monitored after the Covid 19 restrictions are lifted.
- 10.22 In light of the absence of evidence that the proposed development would cause a highway safety problem that requires mitigation it is not recommended that the applicant's offer (to fund a TRO) be accepted for evidenced highways safety reasons. It is, however, noted that fewer parked vehicles at this junction could assist in at least reducing fear of perceived highway safety risks. It is further noted that HDM officers have recommended that the matter be monitored – evidence of greater numbers of parked vehicles may be gathered once the nearby public house reopens, and adequate funding of a TRO would enable this monitoring to be carried out.

- 10.23 The approximate figure of £5,000 (offered by the applicant) is unlikely to cover the cost of the TRO. A more accurate figure would be included in the Section 106 agreement, once further advice from Highway Safety colleagues has been received. The funding of the TRO would need to be made payable prior to commencement of works.
- 10.24 Of note, the applicant's offer would not *guarantee* that parking restrictions would be introduced – implementation of such a change would be subject to local consultation. It is also noted that the hours and physical extent of parking restrictions (if deemed appropriate) would not be determined at this stage.

Land use, principle of development and quantum

- 10.25 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.26 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.27 Full weight can be given to site allocation HS137 (formerly H358), which allocates the site for residential development.
- 10.28 Regarding site allocation H358, the Inspector's Report of 30/01/2019 stated at paragraph 306:

H358, east of Wentworth Drive, Emley – The site is contained between dwellings off Wentworth Drive and Warburton Road, and is well related to the built-up form of the village. The Council's highways evidence indicates the main site access can be achieved from Wentworth Drive, and no other fundamental constraints to development have been identified. The site contains a PROW and provides access to the adjoining Millennium Green, and this should be referenced in the policy for reasons of effectiveness (SD2-MM213). Subject to this modification, I am satisfied that the proposal is sound.

- 10.29 Ordnance Survey maps from 1893 onwards annotate parts of Tyburn Hill as "Allotment Gardens", however these annotations do not clarify precisely which land was used as allotments. That use has ceased in any case, and aerial photographs from 2000 onwards do not indicate the application site was in use as allotments over the last 20 years. Therefore, it is considered that the proposed development does not conflict with the final sentence of Local Plan policy LP61 which protects small, valuable green spaces (including allotments) not identified on the Policies Map, or with policy LP47 which encourages the provision of allotments.
- 10.30 Subject to highways, design, residential amenity, public rights of way and other matters being appropriately addressed, it is considered that residential development at this site is acceptable in principle and would make a welcome contribution towards meeting housing need in Kirklees.

- 10.31 The site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.
- 10.32 Given the above, and notwithstanding local objections to the principle of development here, it is considered that the proposed residential use, and the principle of residential development at this site, is policy compliant.

Sustainability and climate change

- 10.33 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.
- 10.34 Subject to further details that would be submitted at Reserved Matters stage, it is considered that residential development at this site can be regarded as sustainable, given the site's location adjacent to an already-developed area, its proximity to some (albeit limited) local facilities, and the measures related to transport that can be put in place by developers.
- 10.35 Emley and the application site are not isolated and inaccessible, however it is noted that public transport provision in the village is limited – there is no railway station within walking distance, and a Huddersfield-Wakefield bus provides an hourly (at best) service. Although Emley has a relatively extensive network of public rights of way, it is noted that distances between settlements, topography, and shortcomings such as a lack of footpath lighting and footpaths meeting streets without footways mean residents of the proposed development are unlikely to travel on foot in large numbers on a daily basis when moving to and from their homes, workplaces and other destinations. Cycling, although possible along roads, is unlikely to be taken up in large numbers by residents, due to the area's topography and lack of dedicated cycle paths. A major residential development in Emley that was entirely reliant on the private car is unlikely to be considered sustainable, therefore at Reserved Matters stage the applicant would need to propose effective measures to discourage private car journeys and promote the use of sustainable modes of transport. The council's proposals for the Core Walking, Cycling and Riding Network (which extends to the western edge of Emley) would need to be referred to in the applicant's proposals. It is recommended that the provision of electric vehicle charging points be secured by condition.
- 10.36 Regarding the social infrastructure currently provided and available in Emley (which is relevant to the sustainability of the proposed development), it is noted that local GP provision is limited, and this has been raised as a concern in many representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. Furthermore, it is noted that

funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations. Several residents have pointed out that the applicant's description of other local facilities includes errors, and while these are noted, it is also noted that Emley currently has a shop offering Post Office services, two churches, two pubs, a school, and sports and recreation facilities, such that at least some of the social and community needs of residents of the proposed development can be met within Emley, which further indicates that residential development at this site can be regarded as sustainable.

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

Urban design issues

- 10.38 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP7 and LP24 are relevant to the proposed development in relation to design, as is the National Design Guide.
- 10.39 The application site is located at the edge of an existing, well-established settlement. Residential development exists immediately to the east and west of the site, and this means the proposed development would sit comfortably within its context without appearing as a sprawling, inappropriate enlargement to Emley. Although the proposed development would be visible from several public vantagepoints, its visual impact would not be significant or adverse in the context of the surrounding development already built. Green belt land to the south of the site would continue to provide green framing around the enlarged settlement, and urban green space to the north would continue to provide relief in the form of an undeveloped green space between built-up areas.
- 10.40 The proposed site layout shown in drawing 3049-0-002 rev F, and the number of dwellings illustrated, must be regarded as indicative, given that the applicant does not seek approval of appearance, landscaping, layout and scale, and has not specified a number of units for approval. Any layout to be fixed at Reserved Matters stage would need to result in a policy-compliant, high quality development with local distinctiveness, would need to relate well to the public rights of way that pass through the site, would need to ensure areas of public realm are adequately addressed and overlooked, would need to be informed by the applicant's ball strike risk assessment, and would need to respond to the comments of the West Yorkshire Police Architectural Liaison Officer and other consultees.
- 10.41 With 44 units indicatively illustrated in a 1.18-hectare site, a density of approximately 37 units per hectare would be achieved. This is close to the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7 and it is noted that site allocation HS137 refers to an indicative capacity of 44 units, albeit for a 1.28-hectare site.

- 10.42 It is not anticipated that the proposed development would adversely affect the significance of nearby heritage assets, however this matter would need to be considered in detail at Reserved Matters stage.
- 10.43 Details of elevations, house types, materials, boundary treatments, landscaping and other more detailed aspects of design would be considered at Reserved Matters stage. Full details of any levelling and regrading works, and of any necessary retaining walls and structures, would also need to be provided at Reserved Matters stage.
- 10.44 In light of the above assessment, it is considered that the relevant requirements of chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5, LP24 and LP35 would be sufficiently complied with. There would also be an acceptable level of compliance with guidance set out in the National Design Guide.

Residential amenity and quality

- 10.45 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.46 The principle of residential development at this site is considered acceptable in relation to the amenities of neighbouring residential properties.
- 10.47 As noted above, the site layout shown in drawing 3049-0-002 rev F is indicative, however it is nonetheless appropriate to comment on it in relation to the amenities of existing neighbouring residents, to inform future design work. Based on this layout and the limited information submitted at this outline stage, it is considered likely that impacts upon the outlook, privacy and natural light currently enjoyed by neighbouring residents will be acceptable or can be made acceptable through careful (re)design. The proposed positioning and likely heights of the proposed dwellings (in relation to the site's boundaries and to the habitable room windows and outdoor amenity spaces of neighbouring properties) would certainly affect existing outlook, but not to an unacceptable degree. The proposed dwellings would, or could, be positioned far enough away from neighbouring properties to not adversely affect the amenities currently enjoyed by existing residents.
- 10.48 In terms of noise, although residential development would introduce (or increase) activity and movements to and from the site, given the quantum of development that would be proposed at Reserved Matters stage, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and it is not considered incompatible with existing surrounding uses. The increased number of people and vehicles passing through Wentworth Drive would certainly affect the amenities of those existing residents, however it is considered that this impact would not be so great as to warrant the refusal of outline planning permission on amenity grounds.

- 10.49 A condition is recommended, requiring the submission and approval of a Construction Management Plan. The necessary conditions-stage submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time.
- 10.50 The amenities and quality of the proposed residential accommodation is also a material planning consideration, although it is again note that details of the proposed development's appearance, landscaping, layout and scale are reserved at this stage.
- 10.51 All units shown on the applicant's indicative layout would benefit from dual aspect, and are capable of being provided with adequate outlook, privacy and natural light. Dwellings could be provided with adequate outdoor private amenity space.
- 10.52 At Reserved Matters stage, the applicant would be encouraged to provide accessible bathrooms (and possibly bedrooms or adaptable rooms) at ground floor level in the larger units, providing flexible accommodation and ensuring that a household member with certain disabilities could live in this dwelling. Dwellings should have WCs at ground level, providing convenience for visitors with certain disabilities.
- 10.53 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, as of April 2021, all permitted development residential conversions will be required to be NDSS-compliant.
- 10.54 Should outline planning permission be granted, at the subsequent Reserved Matters stage the applicant will be advised to meet these standards.

Point of access

- 10.55 Following the dismissal of appeal ref: APP/Z4718/W/19/3239659 on 23/12/2019 and further research, the applicant team ascertained that land at terminus of Wentworth Drive (previously described by the applicant as a ransom strip in the ownership of three parties) was adopted highway, and that vehicular access could therefore be taken through it. Further detail regarding the status of this land is provided at paragraphs 10.1 to 10.12 of this committee report.

- 10.56 Of note, during the life of the previous application and appeal, the council did not accept that vehicular access via Wentworth Drive was not possible. The applicant did not demonstrate that the possibility of providing access from Wentworth Drive had been fully explored. Site allocation HS137 does not specify whether the site should be accessed from either Wentworth Drive or Green Acres Close, however the “Potential third-party land required for access” text included in the site allocation indicates that the council expected access to be provided from Wentworth Drive, and this access point has always been preferred by the council.
- 10.57 For the avoidance of doubt and given that relevant legislation defines “access” as “the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes...” (therefore, it can include access through a site), the applicant submitted an access points plan, which – along with the submitted location plan – would be the only drawing listed on the council’s decision letter. Approval of this plan would confirm that only points of access (and not access through the site) are approved.
- 10.58 Residents have noted that a gated vehicular access from Green Acres Close is shown on the applicant’s drawings and have expressed concern that vehicular access into the site at this point would not be prevented, nor would there be a way of ensuring that this access point remained gated. To address this concern, a relevant condition is recommended, prohibiting its use for everyday access by residents, and limiting its use to that required for the Millennium Green and the emergency services.

Highway and transportation issues

- 10.59 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.60 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.61 Existing highways conditions around the application site must be noted. The site meets the terminus of Wentworth Drive to the west and the terminus of Green Acres Close to the east. Wentworth Drive has footways on both sides of the carriageway, has no yellow road markings, and connects to the wider highway network at Beaumont Street (which is a continuation of Upper Lane) to the north. Green Acres Close serves nine dwellings, has vehicular and

personnel gates at its terminus (providing access to the application site and the Millennium Green), and connects to the wider highway network via Warburton, which already serves over 80 dwellings, and which has no footways along the majority of its length, has poor sight lines in places, has existing driveways with poor sight lines, has houses with front doors opening directly onto the carriageway, and has reduced carriageway width (for both pedestrians and vehicles) in places due to on-street parking.

- 10.62 The majority of representations made in response to the council's consultation have raised concerns regarding highway safety and congestion, with many raising concerns regarding additional traffic at the Wentworth Drive / Beaumont Street junction.
- 10.63 The applicant's Transport Statement notes that, in order to calculate the level of traffic generated by the proposed development, a turning count was undertaken at the nearby junction of Upper Lane / Warburton on 20/06/2019 (a Thursday) and 22/06/2019 (a Saturday) over a 24-hour period. These counts have been used by the applicant to interpolate bespoke trip rates for the proposed development. Based upon these rates the proposed development is estimated by the applicant to generate 27 two-way movements in the morning peak (07:00 to 08:00) and 25 two-way movements in the afternoon peak (16.00 to 17:00).
- 10.64 A highways consultant commissioned by residents commented that the estimate of traffic generation produced by the applicant was unreliable as it was based on trips generated by properties on Warburton which were unlikely to be representative of the proposed development. With the site poorly located for access to public transport and local facilities, the consultant stated that the council's favoured trip rate of 0.7 vehicle movements per hour per dwelling was instead appropriate. This would indicate 35 additional vehicle movements per hour. The consultant stated that traffic generated by the proposed development would therefore exceed the relevant materiality threshold, with material impacts on safety and operation anticipated on Wentworth Drive and at the junction with Beaumont Street.
- 10.65 The council's Highways Development Management officers considered the above information and agreed with the residents' consultant's conclusion regarding traffic generation (namely, that the bespoke trip generation figures quoted by the applicant may be unrepresentative and that 0.7 vehicle movements per dwelling referred to in the applicant's 2019 Transport Statement should be used). Officers noted, however, that this resulted in an increase of only seven two-way movement in the peak hours, which is not considered significant.
- 10.66 Vehicle speed surveys were undertaken along Beaumont Street on 11/03/2020 (a Wednesday) during sunny / intermittent shower weather conditions. The survey recorded 200 vehicles in each direction on the approach to the Wentworth Drive junction. The results show that the 85th percentile wet weather vehicle speeds were 30mph eastbound and 28mph westbound. The findings of later speed surveys are detailed at paragraph 10.20 of this committee report. No personal injury collisions have been recorded within the five-year period ending 20/03/2020 at this junction.

- 10.67 The highways consultant commissioned by residents has argued that the Wentworth Drive / Beaumont Street junction is characterised by sub-standard highway features in relation to visibility and stopping sight distance. The consultant went on to note that on-street parking is evident adjacent to the junction, with conflicting turning movements arising from the proximity of other junctions and accesses such that the material increases in traffic arising from the proposed development would be unacceptable on road safety grounds.
- 10.68 The council's Highways Development Management officers noted these concerns but have advised that the applicants have demonstrated that sight lines of 2.4m x 41m and 2.4m x 37m can be achieved at the Wentworth Drive / Beaumont Street junction and have further illustrated acceptable visibility in the recently submitted amended drawing 19093/IN/04. These are considered acceptable based on Manual for Streets guidance which is considered appropriate to this site.
- 10.69 However, notwithstanding the above conclusion (nor that the number of indicatively proposed dwellings is at a level that would not usually even require a Transport Statement), given the level of objections to this proposal and concerns raised regarding the capacity of the Wentworth Drive / Beaumont Street junction, officers recommended that a PICADY assessment of the junction should be undertaken to demonstrate that the junction has sufficient capacity.
- 10.70 In response, the applicant referred to relevant guidance that states that no assessment is needed for developments of up to 50 dwellings, that a Transport Statement (which excludes junction capacity assessment) is required for developments of between 50 and 80 dwellings, and that a Transport Assessment (which includes junction capacity assessment) is only needed for developments of 80+ dwellings. The applicant noted that the proposed development indicatively comprises 44 dwellings and is therefore below the threshold even required for a Transport Statement. The applicant further argued that the level of traffic generated, whether applying the applicant's bespoke trip rates or the council's robust internal rates, remains low.
- 10.71 Notwithstanding the above response from the applicant, a capacity assessment of the Wentworth Drive / Beaumont Street junction was eventually provided. This demonstrates that the junction is operating well within capacity, and officers concurred with these findings.
- 10.72 Details of the applicant's further assessments of the Wentworth Drive / Beaumont Street junction (submitted following the Sub-Committee's deferrals of 04/11/2020 and 17/02/2021) are provided at paragraph 10.13 onwards of this committee report. The findings of these surveys have not attracted adverse comment from Highways Development (HDM) officer.

- 10.73 In response to other comments made by HDM officers, a Road Safety Audit and designer's response were submitted by the applicant. This recommended a minor change to the footway at the terminus of Wentworth Drive, and staggered barriers to public footpath DEN/21/20 to deter use by motorcyclists. The designer's response generally accepted the recommendations of the audit, and suitable amendments have been made to the proposals.
- 10.74 Improvement works to public footpath DEN/21/20 are also proposed in the form of widening to 2m, tarmac surfacing and the provision of street lighting. The proposed widening and resurfacing works are welcomed and would help the development comply with Local Plan policies LP20, LP24dii and LP47e, which promote and require the creation of safer pedestrian environments, walkable neighbourhoods, good connectivity and permeability, and layouts that encourage active and sustainable travel.
- 10.75 The proposed provision of street lighting along the footpath has been given careful consideration, given the potential for amenity impacts upon adjacent residential properties, and given that lighting of part of a footpath could encourage people to use less-safe sections of footpath that remain unlit. Bollard lighting was considered. However, this would not normally be specified for a footpath, it would be more vulnerable to vandalism, it would not significantly improve safety (although it could help increase a *perception* of safety), and it would attract an objection from the West Yorkshire Police Designing Out Crime Officer as it would not provide sufficient upwards lighting spread to illuminate a person's face for identification purposes and to establish intent. Potential light pollution and amenity problems can be limited by rear shields that would restrict light spill from 5m high columns. Illumination of a further section of the footpath (dotted green on drawing 19093/GA/02) is not proposed, however this is not considered problematic as the unilluminated section of footpath would be short, it passes through a wide space overlooked by existing properties, and at times it is likely to borrow light from adjacent uses.
- 10.76 The applicant would prefer these footpath works to be costed at outline application stage, and included in the Section 106 agreement, however these works would be more appropriately secured via a condition and S278 agreement.
- 10.77 The provision of improvements at the point where this footpath meets Upper Lane were also considered (as the road lacks a footway here, and pedestrians step out from the footpath directly onto the carriageway), however there is insufficient space here to add a footway without unacceptably reducing carriageway width (which is already limited due to the position of the historic Emley Standing Cross, a Grade II listed building and Scheduled Ancient Monument).
- 10.78 Related to this point, residents have stated that the council (when considering application ref: 2019/90380 and making representations at appeal ref: APP/Z4718/W/19/3239659) had rejected earlier proposals for improvements to this footpath, and that officer advice has been inconsistent. To clarify, concerns were raised regarding improvements to footpath DEN/21/20 in the context of the previous application and appeal where the

applicant proposed to introduce significant vehicular traffic to Warburton (which lacks footways for much of its length) and did not propose any pedestrian access to the site from Wentworth Drive. As part of those earlier proposals, the applicant attempted to rely (at least partly) on the proposed footpath improvements as a way of addressing concerns that pedestrians (moving north-south) would have to share carriageway space with vehicles using Warburton. Under the current proposals, the applicant is proposing access via Wentworth Drive (therefore, a pedestrian connection via existing and proposed footways would be created) and is not proposing to introduce additional vehicular traffic to Warburton (therefore, pedestrians using that road would be at less risk). In this current context, therefore, residents of the proposed development would have a wider choice of north-south walking routes, and there is now less concern regarding highway safety risk to pedestrians.

- 10.79 Alterations to public rights of way within the extents of the application site would be detailed at Reserved Matters stage. As regards the other well-trodden pedestrian routes that cross the site, any layout to be proposed at Reserved Matters stage should accommodate existing desire lines wherever possible, however it is noted that a public right of way does not currently exist where units 17, 31, 32 and 33 are indicatively shown.
- 10.80 Access to the adjacent Millennium Green would not be restricted by the proposed development.
- 10.81 Given that the submitted site layout plan is indicative, commentary on the detailed design of the internal estate roads is not necessary at this stage. Matters such as gradients, carriageway widths, forward visibility and refuse storage would be considered when a layout and quantum of development is proposed. There is adequate space within the application site for policy-compliant provision of on-site parking (including visitor parking) and cycle parking for the indicative 44 units, however details of this provision would be considered at Reserved Matters stage.
- 10.82 A pre-commencement condition is recommended, requiring the submission of the above-mentioned Construction Management Plan. This would need to include details of construction traffic routes.

Flood risk and drainage issues

- 10.83 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) was submitted by the applicant. An amended FRA was submitted during the life of the application.
- 10.84 The applicant's earlier FRA appropriately recommended site investigation to ascertain whether infiltration (for the disposal of surface water) would be possible – infiltration would indeed be the preferred surface water disposal method and Lead Local Flood Authority (LLFA) data suggests the site is likely to be highly suitable for infiltration. The applicant's later, amended Flood Risk Assessment (rev D) now includes details of the infiltration testing undertaken on site, as requested by the LLFA. The amended FRA confirms that the site may be suitable for soakaways as a means of surface water disposal. As soakaways have a bearing on site layout (as stand-off distances from buildings need to be maintained), discussion of a drainage strategy for

the site will need to take place with officers when further design work is carried out. If infiltration systems are considered unfeasible for the site, then the development should drain to the identified watercourse to the south, or as a last resort to the public sewer.

- 10.85 Of note, notwithstanding what is stated at paragraph 3.4 of the applicant's initial and amended FRA ("It is understood that a route through adjacent land to the south of the site has been agreed to allow a discharge to the watercourse some 400m away from the site") and the comments of Yorkshire Water, no detailed drainage proposal including a connection to that existing watercourse has been submitted. Several residents have expressed concern that such a connection would involve excavation and the laying of pipework across the Millennium Green, and through farmland, causing disruption and losses of trees and hedgerows. Emley Millennium Green Trustees have also advised that no consent for such excavation and pipe laying has been issued.
- 10.86 In updated comments, the LLFA raised no objection to the granting of outline planning permission for residential development at this site.
- 10.87 It is not considered necessary to pursue further, detailed information regarding drainage and flood risk at this outline stage, given that a proposed site layout, and details of the number of residential units (and their locations in relation to potential sources and mitigation of flood risk) would not be fixed. A detailed drainage scheme would be required at Reserved Matters stage, as would details of flooding routes, permeable surfaces, rainwater harvesting, water butts, and rainwater gardens and ponds. In accordance with LLFA advice, conditions to secure these details are recommended.

Ecological considerations

- 10.88 The application site is greenfield land and is grassed. Trees and shrubs exist along the site's edges. The site is within a Biodiversity Opportunity Zone (Pennine Foothills) and an Impact Risk Zone of a Site of Special Scientific Interest.
- 10.89 The applicant submitted a Preliminary Ecological Appraisal Report which states that on-site habitats do not represent a significant constraint to development, and that no protected species have been identified. The report does not recommend that any further, detailed ecological studies be carried out, but recommends "standard" precautions regarding nesting birds and hedgehogs.
- 10.90 For the previous application, the council's Biodiversity Officer raised no objection to the proposed development, stating that it was unlikely to result in significant ecological harm, subject to conditions. For the current application, the applicant has correctly calculated the site's ecological baseline value (4.81 habitat units and 0.47 hedgerow units), and it is noted that to achieve a 10% biodiversity net gain post-development, a minimum of 5.29 habitat units and 0.52 hedgerow units would need to be delivered. This should be taken into account when further design work is carried out, and the post-development value of the site (measured using the Biodiversity Metric 2.0 or latest version, if available) should be supplied at Reserved Matters stage. Of note, a 10% biodiversity net gain is not currently a planning policy requirement but may become mandatory by the time a Reserved Matters application is submitted for this site, if the Environment Bill is passed.

- 10.91 Given that the site's ecological baseline value could change before a Reserved Matters application is prepared, and given the requirements relating to net biodiversity gain that may become applicable in the near future, it is considered that outline planning permission can be approved at this site subject to a condition stating:

Prior to the submission of the Reserved Matters referred to in Condition 1, details of the site's baseline ecological value shall be submitted to and approved in writing by the Local Planning Authority. These details shall inform the design of the development and shall include details of measures needed to secure a biodiversity net gain. The development shall be implemented in accordance with the measures approved at Reserved Matters stage.

- 10.92 A condition requiring the submission of an Ecological Design Strategy is also recommended.
- 10.93 It is considered possible to develop the site for residential use while providing the required biodiversity net gain, in accordance with relevant local and national policy, including Local Plan policy LP30 and chapter 15 of the NPPF.

Trees

- 10.94 There are no protected trees on or immediately adjacent to the application site, however there are trees within the adjacent Millennium Green and elsewhere around the edges of the site. Many of these are worthy of retention, some may overhang the site boundary, and some should be regarded as constraints at the application site.
- 10.95 Some of the dwellings indicatively shown along the site's southern boundary may be too close to existing trees, however with minimal design changes these concerns could be overcome. When a detailed layout is prepared prior to Reserved Matters stage, the applicant would need to provide a good level of separation between the proposed dwellings and these trees, and a full assessment of potential impacts upon these trees would need to be carried out.
- 10.96 The council's Arboricultural Officer has raised no objection in principle to residential development at this site.

Environmental and public health

- 10.97 The proposed development would cause an increase in vehicle movements to and from the site, however air quality is not expected to be significantly affected. To encourage the use of low-emission modes of transport, electric/hybrid vehicle charging points would need to be provided in accordance with relevant guidance on air quality mitigation, Local Plan policies LP21, LP24 and LP51, the West Yorkshire Low Emission Strategy (and its technical planning guidance), the NPPF, and Planning Practice Guidance.

10.98 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the adjacent sports and recreation facilities, the affordable housing that would be secured, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions and Reserved Matters stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.

Sport England

10.99 As the application site is immediately adjacent to a cricket field, Sport England were consulted on the current application. Initially, the applicant did not submit a ball strike risk assessment in relation to the adjacent facility, and as with the previous application, Sport England submitted an objection in relation to ball strike risk.

10.100 Although officers were of the view that ball strike risk should not prevent the principle of residential development being accepted at this site (it is noted that no quantum or layout would be approved at this outline application stage, and that mitigation measures (if needed) can be detailed and considered at Reserved Matters stage), the applicant responded to Sport England's concerns by submitting a ball strike risk assessment during the life of the application. This states that "...all but the fastest shots for community-level cricket will be stopped by a 17m high mitigation system" and "In order to completely remove the risk of any ball surpassing the boundary, a 25m mitigation system would be required". The report goes on to state that a 17m height mitigation is a sensible and sufficient solution in reducing the risk of cricket balls surpassing the boundary and landing in the proposed residential area, although the report does not recommend the specific design of a mitigation.

10.101 Upon receipt of the applicant's ball strike risk assessment, Sport England were reconsulted, and their objection was withdrawn, subject to two conditions (set out under paragraph 8.1 above) being applied. Following further communication with the applicant, on 06/10/2020 Sport England agreed to their recommended conditions being modified as follows:

1) The Reserved Matters application shall detail ball-stop netting of a height and location specified within the mitigation approach section of the Labosport report reference LSUK.20-0563 or an appropriate alternative that delivers the required mitigation to protect the operation of the cricket ground and the approved dwellings. The approved scheme shall be brought into use prior to the occupation of any dwelling within the ball strike risk zone.

2) Prior to the commencement of development, a scheme for the management and maintenance of the approved ball-stop netting or an appropriate alternative mitigation measure shall be submitted to and approved by the Local Planning Authority (following consultation and advice from Sport England). The approved scheme shall be brought into effect upon first occupation of any dwelling within the ball-strike risk zone and shall remain in operation whilst the cricket ground and approved dwelling houses remain in use.

10.102 Officers recommend that these conditions be applied. Of note, the conditions as worded above do not necessarily require the erection of 17m high ball strike mitigation (such as netting or fencing). Such an installation would be of concern, given its visual impact. Furthermore, an installation of that height would require planning permission in its own right, such that it would be inappropriate to secure its provision by condition – instead, the development description for the current application would need to be changed and a re-consultation exercise would be necessary. However, with the “or an appropriate alternative” wording included in the first condition above, alternatives to netting could be proposed by the applicant at Reserved Matters stage, and members of the public would have an opportunity to comment on those proposals as and when the council carries out consultation on that application.

10.103 Of note, should Members resolve to grant outline planning permission without the above conditions, the current application would need to be referred to the Secretary of State for Housing, Communities and Local Government, who would have 21 days to advise the council whether the application is to be “called in”.

Ground conditions

10.104 With regard to ground contamination, the applicant submitted a Geo-environmental Appraisal. Environmental Health officers requested details of gas monitoring carried out at the site. This had been submitted by the applicant, and the comments of Environmental Health officers will be reported in the committee update. Appropriate conditions are recommended to ensure compliance with Local Plan policy LP53.

10.105 The application site is within the Development High Risk Area as defined by the Coal Authority, therefore within the site and surrounding area there are coal mining features and hazards. This is, however, not a reason for refusal of outline planning permission. The applicant’s site investigation found the Flockton Thin coal seam to be intact coal across the site, and the deeper Second Brown Metal seam was not encountered. No evidence of mine workings was identified during the investigation. In light of these findings, and the absence of an objection or contrary advice from the Coal Authority, no conditions relating to the site’s coal mining legacy are considered necessary. However, as noted by the Coal Authority, further, more detailed consideration of ground conditions, foundation design and gas protection measures may be required at detailed design stage.

10.106 Residents have stated that four mine shafts close to the entrance to Wentworth Drive may not have been capped properly, however there is no evidence (currently before the council) that this is the case, nor has the matter been raised in the Coal Authority’s consultation response.

Representations

10.107 A total of 240 representations were received from occupants of neighbouring properties. The comments raised, which are summarised in section 7 above, have been addressed in this report.

10.108 Representations have been made directly to Members and officers by representatives of the Millennium Green regarding legal obligations applicable to that open space. These concerns appear to have largely been triggered by the indicative layout plan submitted with the current application, however it is again noted that this plan would not be among the approved drawings and documents, if outline planning permission is granted. The indicative plan has only been submitted for information, to indicate how (in the applicant's opinion), a residential development might be laid out at this site. If the council grants outline permission, no layout or number of units would be fixed at that stage.

Planning obligations

10.109 Although affordable housing, education, open space and highways-related measures could be secured by condition at this outline stage, the applicant has asked that any approval of outline planning permission be subject to a Section 106 agreement, securing planning obligations. This is indeed possible, although without a number of units, layout or other aspects of the development being fixed at this stage, financial contributions cannot be included in the agreement (although, in some cases, caps based on the maximum number of units likely to be acceptable at this site, could be set out). To mitigate the development's impacts and to secure the public benefits of relevance to the planning balance, the following planning obligations would need to be secured:

- 1) Affordable housing – 20% of units, with a policy-compliant tenure and unit size mix, to be provided in perpetuity.
- 2) Education – Financial contribution to be calculated with reference to number of units proposed at Reserved Matters stage, unit sizes and projected pupil numbers.
- 3) Highways and transport – Measures to encourage the use of sustainable modes of transport, including a financial contribution to be calculated with reference to details and number of units proposed at Reserved Matters stage, the highway impacts of the proposed development, and consultee responses. Improvements to off-site public rights of way.
- 4) Open space – Financial contribution towards off-site provision, to be calculated with reference to details proposed at Reserved Matters stage.
- 5) Biodiversity – Contribution towards off-site measures to achieve biodiversity net gain, to be calculated with reference to details proposed at Reserved Matters stage and opportunities for on-site and near-site compensation.
- 6) 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).
- 7) Traffic Regulation Order – Funding of consultation on, and implementation of (if deemed appropriate, following consultation) a Traffic Regulation Order (TRO) to restrict parking at the Wentworth Drive / Beaumont St junction.

10.110 Notwithstanding the above references to Reserved Matters, it is in any case recommended to applicants that these details be submitted at Reserved Matters stage, so that each of these matters (and financial viability, if applicable) can be considered concurrently with the layout and quantum of the proposed development, and amendments (to improve viability) can be made if necessary.

Other planning matters

10.111 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and although the proposed development does not meet the relevant threshold (housing developments which would deliver 60 dwellings or more), any agreement by the applicant to provide a training or apprenticeship programme to improve skills and education would be welcomed. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided.

10.112 Solicitors acting for the Emley Millennium Green Trustees have advised that there are no registered rights to access the Millennium Green for any purpose, including but not limited to the laying of pipes for any purpose. As noted above, access to the adjacent Millennium Green would not be restricted by the proposed development. Any other rights the Emley Millennium Green Trustees may have agreed with the Savile Estate are not a planning matter, and any dispute (arising from the proposed development) regarding those rights would need to be resolved between those parties.

10.113 The availability of houses for sale elsewhere in Emley is not a reason for withholding outline planning permission. Market churn is normal and is not an indication of a lack of demand for housing (or a certain housing type) in Emley.

10.114 Financial gains made by the landowner and applicant (should outline planning permission be granted) are not material planning considerations.

11.0 CONCLUSION

11.1 The application site is allocated for residential development under site allocation HS137, and the principle of residential development at this site is considered acceptable.

11.2 The site is constrained by public rights of way, the adjacent cricket ground, adjacent trees, coal mining legacy, ecological considerations, drainage and other matters relevant to planning. While these constraints would necessitate further, careful and detailed consideration at Reserved Matters stage, none are considered to be prohibitive to the principle of residential development at this site, therefore it is recommended that outline permission be granted.

11.3 The proposed vehicular point of access and pedestrian points of access are considered acceptable in highways terms.

11.4 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The

proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions and further consideration at Reserved Matters stage, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

1. Standard OL condition (submission of Reserved Matters)
2. Standard OL condition (implementation of Reserved Matters)
3. Standard OL condition (Reserved Matters submission time limit)
4. Standard OL condition (Reserved Matters implementation time limit)
5. Development in accordance with plans and specifications
6. Flood risk and drainage – full scheme to be submitted
7. Separate systems of foul and surface water drainage to be provided
8. Details of access and internal adoptable roads
9. Restricted access from Green Acres Close
10. Section 278 works to public footpath
11. Ecology and biodiversity net gain (including submission of an Ecological Design Strategy)
12. Tree protection measures to be implemented prior to commencement
13. Restriction on timing of removal of hedgerows, trees and shrubs.
14. Landscaping – full details to be submitted
15. Construction Management Plan to be submitted
16. Electric vehicle charging points to be provided
17. Contaminated land
18. Coal mining legacy – details of intrusive site investigation to be submitted
19. Details of ball strike risk mitigation to be submitted at Reserved Matters
20. Details of management and maintenance of ball strike risk mitigation to be submitted pre-commencement
21. Submission of details of crime prevention measures.
22. Submission of details of noise mitigation measures.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91215>

Certificate of Ownership – Certificate B signed

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Jun-2021

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

APPLICANT

S Valli

DATE VALID

26-Jul-2019

TARGET DATE

20-Sep-2019

EXTENSION EXPIRY DATE

17-Feb-2020

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Dewsbury West

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.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee due to the significant number of representations received. The application was deferred at the Planning Sub-Committee Meeting on 20 February 2020 in order for the applicant to address concerns relating to the design of the proposals and parking provision at the site.
- 1.2 The Chair of the Sub-Committee has confirmed that the reason for referring the application to committee is valid having regard to the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

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

3.0 PROPOSAL:

- 3.1 Permission is sought for the partial demolition of the existing building and erection of first floor and two storey rear extensions which would result in the creation of a two storey building. This would provide additional accommodation for storage at the first floor level, in addition to office, computer room and conference room. The proposals would also involve external alterations to the fenestration (window openings) and the addition of a dome on the roof.
- 3.2 The proposed extensions would be faced in stone to all elevations.
- 3.3 The current proposal follows two previous approvals for extensions to the building, the most recent of which is still extant.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2021/91211 – Discharge of Conditions 3 and 7 on previous permission 2017/93161 for erection of extensions and alterations - approved

2018/92581 (land adjacent No.225c) – Change of use of land to car park – pending consideration

2017/93161 – Erection of extensions and alterations – approved (not implemented)

2015/92957 – Erection of extensions and alterations – approved (not implemented)

2008/91573 – Erection of extensions and alterations to Muslim education centre - refused

2006/91570 – Change of Use from Off Licence and General Store to Mosque/Madrassa with alterations to form 6 no. parking spaces - approved

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

5.1 This application was first brought to the Heavy Woollen Planning Sub Committee on 9 January 2020 and was deferred at the request of the applicant.

5.2 The application was subsequently deferred at the Heavy Woollen Planning Sub-Committee in order to allow the applicant to address concerns relating to the design of the proposals, in addition to parking provision at the site. Amended plans have recently been received which aim to address visual amenity concerns and these have also included an amendment to the description of development, as partial demolition of the existing front elevation and southern corner would be required. These amendments have been the subject of a period of re-publicity.

6.0 PLANNING POLICY:

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

The application site is unallocated on the Kirklees Local Plan.

6.2 Kirklees Local Plan (2019):

LP 1 – Achieving sustainable development

LP 21 – Highway Safety and Access

LP 22 - Parking

LP 24 – Design

LP 48 – Community Facilities and services

6.3 National Planning Policy Framework:

Chapter 8 – Promoting Healthy and Safe Communities

Chapter 12 – Achieving well designed places

Chapter 15 – Conserving and enhancing the natural environment

6.4 Supplementary Planning Guidance:

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

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

7.0 **PUBLIC/LOCAL RESPONSE:**

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

The comments received in support are summarised as follows:

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

The objections received are summarised as follows:

Residential Amenity

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

Highway Safety

- The Mosque is causing severe disruption with vehicles blocking residents’ driveways and residents being delayed on their own journeys.
- Highway safety officer has taken action against the mosque and the police have been seen moving cars

- Over the last 10 years, whilst the Mosque has been operating, the Committee has done nothing to solve problems such as traffic, and made no effort to do anything about the safety of children
- Even if the Mosque creates a car park, it will not be big enough. The land to the side was acquired for parking but instead they have erected building upon it
- Parking issues caused by the mosque are affecting adjacent local businesses
- The Mosque have indicated that there are less users than the actual figure

Other Matters

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

7.2 In relation to the amended plans received on 19 May 2021, these have recently been advertised by Neighbour Notification letter and to date, one further representation has been received. This re-iterates highway safety concerns as set out above.

8.0 CONSULTATION RESPONSES:

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

8.1 Statutory:

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

8.2 Non-statutory:

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

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

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

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.
- 10.2 In terms of extending and making alterations to a building, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the principle of extending the building has been established previously by the granting of the earlier permissions (the most recent of which can still be implemented).
- 10.3 The application relates to the extension of a community facility (place of worship). Policy LP48 of the KLP states that *“Proposals will be supported for development that protects, retains or enhances provision, quality or accessibility of existing community, education, leisure and cultural facilities that meets the needs of all members of the community”*.
- 10.4 The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues, along with other policy considerations, will be addressed below.

Urban Design issues

- 10.5 Relevant design policies include Policies LP2 and LP24 of the KLP and Chapter 12 of the NPPF. These policies seek for development to harmonise and respect the surrounding environment, with Policy LP24 (a) stating; *‘[Proposals should promote good design by ensuring]: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape’*.
- 10.6 The existing building is of single storey scale with additions of varying design located to the rear, and is considered to have a neutral impact upon visual amenity and the character of the street scene. Surrounding the site the predominant character of existing development is that of two storey brick dwellings with hipped roofs, although immediately adjacent to the north is the attached retail unit. Further to the north lies a traditional two storey stone dwelling.

- 10.7 The proposals would result in a two storey building with parapet roof, and would include 4 minarets to each corner of the building, in addition to a green fibre glass dome which would be located centrally and to the front within the roof. The design of the proposals is, to a certain degree informed by the religious function of the building.
- 10.8 The building as extended would be externally faced in stone. The current proposal would result in a building which would have a height of approximately 9.5m, with the dome on top of this.
- 10.9 With respect to the scale of the development, section drawings submitted through the course of the application demonstrate that the building (not including the dome) would be no taller than the residential dwellings opposite (to the front). At the time of the Heavy Woollen Planning Sub-Committee in February 2020, Officers had concerns that the overall design of the development, taking into account the proposed materials of construction, vertical emphasis of the fenestration and height of the dome would result in a building which would appear out of proportion with surrounding development, and detract from the character of the area. As a result, Officers considered that the proposals would result in a strident feature within the street scene, and highly prominent when viewed from both the north and south along Ravenshouse Road. Members deferred the application in order for the applicant to address visual amenity concerns in addition to the matter of parking provision.
- 10.10 Amended plans have recently been received which show the following changes:
- Amended design of dome to reflect that which was approved as part of application 2017/93161
 - Amended fenestration (window details) to address Officer's concerns (previous proposals were considered to have a significant vertical emphasis contributing to the appearance of the building being out of proportion with surrounding development)
 - Re-instatement of parapet roof in line with previous approval ref 2017/93161.
- 10.11 The applicant still proposes the use of stone to all elevations of the building, as indicated on the amended plans. A recent Discharge of Conditions application ref 2021/91211 in relation to approval ref 2017/93161 approved the use of render with stone features and the applicant was advised that this would be more appropriate to reflect the appearance of the existing building, particularly since stone is not predominantly used within the vicinity of the site (with the exception of one building to the north). Notwithstanding this, it is recommended to require the submission of external facing materials by condition.
- 10.12 In summary, the recent amendments to the proposals, taking into account the previous approval on the site, are considered on balance, to be acceptable in terms of visual amenity and accord with Policy LP24 of the KLP and guidance contained within Chapter 12 of the NPPF.

Residential Amenity

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

Highway issues

- 10.19 KC Highways DM have raised concerns in relation to previous applications due to the potential impact on parking and traffic generation through this residential area. They also raised concerns to the previous application which was approved in 2018, as they considered that the development had inadequate levels of off street parking provision. In addition, part of the reason for deferral of the application at the Heavy Woollen Committee in February 2020 related to Members' concerns in regard to parking provision to serve the development.

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

Representations

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

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

The comments raised by objectors are addressed as follows:

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

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

The privacy of residents on Ravenshouse Road will be reduced

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

Extensions will restrict light and views

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

Use of the mosque results in noise disturbance to neighbouring residents

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

Various concerns relating to highway safety

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

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

Response: This is not a material planning consideration

There is no need for a two storey extension

Response: Noted

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

Response: This is acknowledged.

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

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

The shop does not belong to the Mosque

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

The Mosque will not be used for local people

Response: This is noted.

Other Matters

Coal Mining Legacy

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

Air Quality

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

Climate Change

- 10.26 Chapter 12 of the KLP relates to climate change and states that "Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development". This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development. The provision of electric vehicle charging points, as referred to in paragraph 10.24 above, would help to contribute towards the climate change emergency.

Crime Prevention

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

11.0 CONCLUSION

11.1 To conclude, Officers consider that taking into account the previous approval, the amended proposals are acceptable, on balance, from a visual amenity perspective, and in accordance with relevant policies.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval

12.0 CONDITIONS

1. Timescale for implementation
2. Development to be carried out in accordance with approved plans and specifications
3. Samples of external materials to be submitted
4. Call to Prayer (control hours, length of time and sound level)
5. Electric Vehicle Charging Points
6. Reporting of unexpected contamination
7. Intrusive site investigations (in relation to coal mining legacy)
8. Details of external artificial lighting

Background Papers:

Web link to application details –

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

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

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

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

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

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

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Jun-2021

Subject: Planning Application 2021/91400 Erection of first floor side and rear extensions 74-76, Pilgrim Crescent, Dewsbury Moor, Dewsbury, WF13 3NL

APPLICANT

T & S Khan

DATE VALID

06-Apr-2021

TARGET DATE

01-Jun-2021

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: Dewsbury West

Ward Councillors consulted:

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed first floor side extension, by reason of the design and scale, would result in the formation of an incongruous feature within the street scene which would not be subservient to the main house. To permit the proposed first floor side extension would be contrary to policy LP24 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.

2. The first floor rear extension, by reason of the roof design, would result in the formation of an incongruous feature within the street scene which would not be subservient to the main house. To permit the proposed first floor side extension would be contrary to policy LP24 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.

3. The proposed first floor side extension, by reason of its size and proximity to the adjacent 20 Pilgrim Avenue, would have an unacceptable overbearing and oppressive impact on the amenities of the occupiers of the neighbouring property. To permit the first floor side extension would be contrary to policy LP24 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to committee at the request of Cllr D O'Donovan.

1.2 "I would like the application to go to committee as I would like members to consider whether the design would be so incongruous as there are other extensions in the wider area and whether the first-floor side extension is really so harmful to the neighbouring property, 20 Pilgrim Avenue"

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

2.0 SITE AND SURROUNDINGS:

2.1 74 & 76 Pilgrim Crescent are brick built properties, at the end of a terraced row. 74 Pilgrim Crescent has a single storey garage attached to the side. There is a canopy to the front and a single storey extension across the rear of both of the dwellings. There is a large, shared parking area to the front and a shared enclosed yard area to the rear.

2.2 The properties are located on a street with properties of a similar age and style with hipped roof forms.

3.0 PROPOSAL:

- 3.1 The applicant is seeking permission for a first-floor side extension and hip to gable enlargement to 74 Pilgrim Crescent and a first floor rear extension across both 74 & 76 Pilgrim Crescent.
- 3.2 The first floor side extension is to be built over the existing garage to the side of 74 Pilgrim Crescent and would have a pitched roof form. The plans also show the hipped roof over the main house (74) being altered from a hip to a gable.
- 3.3 The rear extension would project 3m from the original rear wall and would be positioned over the existing ground floor extensions to the rear of both properties. The roof forms would be perpendicular pitches.
- 3.4 The walls are proposed to be constructed using brick with tiles for the roof covering.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2021/90470 - first floor side extension and hip to gable enlargement to 74 Pilgrim Crescent and a first floor rear extension across both 74 & 76 Pilgrim Crescent - refused
- 4.2 2007/91355 - erection of single storey extension to front, side and rear of 74 - refused
- 4.3 2007/93219 - erection of single storey extension to front, side and rear of 74 - refused
- 4.4 2007/94637 - erection of single storey extension – approved

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

- 5.1 The submitted plans raised significant concerns in terms of design and scale of both the first floor side and rear extension together with the substantial harm which would be caused to the adjacent 20 Pilgrim Avenue. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. As there were multiple issues, these were considered too significant under this application. As such, amended plans have not been sought. However, the agent is aware of the issues with the proposal as the same plans have already been refused under 2021/90470.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2 **LP 1** – Achieving sustainable development
- LP 2** – Place shaping
- LP 22** – Parking
- LP 24** - Design
- LP 30** – Biodiversity

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Council is currently in the process of producing its supplementary planning guidance on House extensions. Although this is at the draft stage, it does need to be considered in the assessment of planning applications with some weight attached. The general thrust of the advice is aligned with both the Kirklees Local Plan and the National Planning Policy Framework, requiring development to be considerate in terms of the character the host property and the wider street scene.

National Planning Guidance:

- 6.4 Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised by neighbour letter giving till 26/05/2021 for interested parties to comment. No response has been received.

8.0 CONSULTATION RESPONSES:

- 8.1 **Statutory: None**

- 8.2 **Non-statutory: None**

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the principle of

development is considered acceptable and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

Impact on Visual Amenity

- 10.2 The dwellings are located on a residential street with other properties of a similar age and some of the houses have been extended and altered. Dependent upon design, scale and detailing, it may be acceptable to extend the host property. The proposal under consideration consists of two distinct elements which shall be addressed below.
- 10.3 *First floor side extension with hip to gable enlargement:* The first-floor side extension does include a set down for the roof. However, with the use of a pitched roof and the proposed width, this would not form a subservient addition to the property. Furthermore, the property is located in an area which is characterised by the hipped roof forms. The use of a gable would be out of character with the wider area. As such, despite the use of matching materials, the proposed side extension is not considered to be acceptable in terms of visual amenity.
- 10.4 *First floor rear extension:* Although the rear extension would not increase the footprint, the design will result in a substantial development to the rear of both properties. Despite the use of appropriate materials, the design and scale at the rear is not acceptable given the roof design proposed. The first floor rear extension is not considered to be acceptable in terms of visual amenity.
- 10.5 Having taken the above into account, the proposed extensions would cause significant harm to the visual amenity of the host dwellings and the wider street scene. The proposal therefore fails to comply with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would not form a subservient addition to the property in keeping with the existing building and the aims of chapter 12 of the National Planning Policy Framework.

Impact on Residential Amenity

- 10.6 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.
- 10.7 *Impact on 18 & 20 Pilgrim Drive:* The properties to the rear are situated some 24m from the host properties. Given the separation between the host properties and the neighbouring dwellings to the rear, the proposed first floor extensions to the side and rear of 74 & 76 Pilgrim Crescent would cause no harm to the amenities of the occupiers of the neighbouring 18 & 20 Pilgrim Drive.
- 10.8 *Impact on 18 & 20 Pilgrim Avenue:* The neighbours adjacent to the north west side occupy very intimate positions relative to the host property with less than 7m between the rear elevation of 20 Pilgrim Avenue. Given this very close relationship, the proposed first floor extension with the width proposed and the

use of a gabled roof form would result in an unacceptable overbearing and oppressive impact so close to the rear windows and modest amenity space of the neighbouring 20 Pilgrim Avenue.

- 10.9 *Impact on 103 & 105 Pilgrim Crescent:* The 22m separation between the host properties and the neighbours on the opposite side of the road is sufficient to ensure that there would be no undue impact on the amenities of the occupiers of the neighbouring 103 or 105 Pilgrim Crescent.
- 10.10 *Impact on 78 Pilgrim Crescent:* The rear extension would be constructed along the shared boundary with the adjoining and as such would have the potential to result in an overbearing and oppressive impact. However, the projection is limited to 3m which is generally considered to be acceptable and with the use of a pitched roof form taking the vertical emphasis up and away from the neighbour, the impacts on the adjoining 78 Pilgrim Crescent would not be significant.
- 10.11 Having considered the above factors, the very close proximity of the first floor side extension to the neighbouring 20 Pilgrim Avenue would result in a significant overbearing and oppressive impact which is unacceptable. The proposals therefore fail to comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 127 (f) of the National Planning Policy Framework.

Impact on Highway Safety

- 10.12 The proposals will result in some intensification of the domestic use. However, the parking area to the front of the dwellings would not be affected by the proposed extensions and is considered to represent a sufficient provision. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan.

Other Matters

- 10.13 *Biodiversity:* After a visual assessment of the building by the officer, it appears that the building is in good order, well-sealed and unlikely to have any significant bat roost potential. Even so, a cautionary note should be added that if bats are found during the development then work must cease immediately and the advice of a licensed bat worker sought.
- 10.14 *Carbon Budget:* The proposal is a small scale domestic development to an existing dwelling. 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.
- 10.15 There are no other matters for consideration.

Representations

- 10.16 None received

11.0 CONCLUSION

- 11.1 This application to erect a first floor side extension, hip to gable enlargement and first floor rear extension to both 74 & 76 Pilgrim Crescent has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.
- 11.2 The proposed first floor side extension, by reason of the design and scale, would result in the formation of an incongruous feature within the street scene which would not be subservient to the main house. To permit the proposed first floor side extension would be contrary to policy LP24 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.
- 11.3 The first-floor rear extension, by reason of the roof design, would of the first floor rear extension would result in the formation of an incongruous feature within the street scene which would not be subservient to the main house. To permit the proposed first floor side extension would be contrary to policy LP24 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.
- 11.4 The proposed first floor side extension, by reason of its size and proximity to the adjacent 20 Pilgrim Avenue, would have an unacceptable overbearing and oppressive impact on the amenities of the occupiers of the neighbouring property. To permit the first floor side extension would be contrary to policy LP24 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.
- 11.5 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f90470>

Certificate of Ownership –Certificate A signed:

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Jun-2021

Subject: Planning Application 2021/90209 Erection of detached dwelling adj,
18, Wells Road, Thornhill, Dewsbury, WF12 0LE

APPLICANT

F Yaqoob

DATE VALID

20-Jan-2021

TARGET DATE

17-Mar-2021

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: Dewsbury South

Ward Councillors consulted: Yes (referred to in report)

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

1.0 INTRODUCTION:

- 1.1 This application is brought to committee at the request of Ward Councillor M Ahmed for the following reason:
- 1.2 “I would like members to consider whether the design is really appropriate in terms of the adjacent conservation area, the impacts on highway safety of a new dwelling in this location and whether the proximity to the adjacent 18 Wells Road is actually going to result in a harmful relationship in terms of amenities of the occupiers of the adjacent dwelling.”
- 1.3 The Chair of the Sub-Committee has confirmed that Cllr Ahmed’s reasons for the referral to the committee are valid having regard to the Councillor’s Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 Adjacent, 18 Wells Road, Thornhill, Dewsbury. An area of land measuring 0.02ha which historically formed part of the garden to 18 Wells Road. The site is set on a steep banking with a retaining wall to the north adjoining an existing car park to the Alma Public House. There is an existing mature tree within the site which does not contain a tree preservation order.
- 2.2 The site is situated on a narrow no-through road next to a turning circle. The neighbouring properties are single storey when viewed from Wells Road and two-storey when viewed from The Combs. The surrounding properties are predominantly natural stone with concrete roof tiles.

3.0 PROPOSAL:

- 3.1 The applicant is seeking permission for a dwelling with parking.
- 3.2 The proposal is for the erection of a 3 bed detached dwelling with parking and a new access. This would have a single storey appearance from Wells Road with a lower ground floor and two storey appearance to the rear.

- 3.3 The front elevation would have a traditional arrangement of openings whilst the rear would have carefully curated mix of traditional and modern openings with two full height glazed accents and bi-folding doors.
- 3.4 The dwelling would have a width of 11.8m on the ground floor increasing to 16.8m on the lower ground floor with a depth of 6.5m with a parking area to the east which will be formed over the lower ground floor which will have a width of 6m and a depth of 6.5m.
- 3.5 The eaves height on Wells Road would be 2.3m with an overall height of 4.1m with a 1m high wall enclosing the side and rear of the parking area and bin store. The height of the dwelling as viewed from the rear would be 5m to the eaves and 6.9m overall.
- 3.6 The building would be constructed using natural stone for the walls and tiles for the roof covering.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2004/90732 - Erection of detached dwelling with garage - Refused
- 2004/93212 - Erection of detached dwelling with parking spaces - Approved
- 2008/90818 - Erection of detached dwelling with integral garage and car port - Refused
- 2008/91750 - Erection of one dwelling - approved
- 2019/91764 - erection of detached dwelling - refused and dismissed at appeal

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

- 5.1 The initially submitted plans raised concerns in terms of the appearance of the rear elevation in the context of the conservation area. Amended plans were provided by the agent which initially did not overcome the concerns. However, further negotiations yielded an amendment which provided a balanced arrangement of traditional openings and modern accents and removed the balcony.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2
- LP 01 – Achieving sustainable development
 - LP 02 – Place shaping
 - LP 03 – Location of new development
 - LP 21 – Highway safety
 - LP 22 – Parking

- LP 24 – Design
- LP 28 – Drainage
- LP 30 – Biodiversity and geodiversity
- LP 35 – Historic environment
- LP 53 – Contaminated Land

Supplementary Planning Guidance / Documents:

6.3 None

National Planning Guidance:

- 6.4
- Chapter 2 – Achieving sustainable development
 - Chapter 5 – Delivering a sufficient supply of homes
 - Chapter 11 – Making effective use of land
 - Chapter 12 – Achieving well-designed places
 - Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
 - Chapter 15 – Conserving and enhancing the natural environment
 - Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised and 14 representations have been received. 4 in support of the proposals and 10 objections. The concerns raised include:-

- The design is not in keeping with the conservation area,
- The new house will overshadow the adjacent dwelling to the west,
- The new dwelling will overlook the neighbouring house to the west,
- Loss of view for the occupants of the property on Combs Road,
- Highway safety and parking concerns,
- The new house would not be on the same building line as the other properties on Wells Road,
- Ground conditions and stability,
- Drainage,
- Contaminated land,
- The plot is too small for a dwelling.

7.2 The amended plans have been advertised by neighbour letter giving neighbours and interested parties till 02/06/2021 to comment. 4 additional responses have been received. However, no new issues have been raised.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

K.C. Highways Development Management – support the proposals subject to conditions.

K.C. Environmental Health – support the proposals subject to conditions.

8.2 **Non-statutory:**

K.C. Conservation & Design – did not support the initial plans or the first set of amendments. However, the current scheme overcomes the concerns in terms of the Conservation Area. Support the proposal.

K.C. Ecologist – support the proposal subject to a condition re a bat box to ensure a biodiversity gain.

9.0 MAIN ISSUES

- Principle of development
- Visual amenity including the impact on the Conservation Area
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan. This policy stipulates that proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.
- 10.2 The application site was granted planning permission in 2004 and 2008 respectively for the erection of a detached dwelling. Although there was a refusal in 2019, the design and scale were significantly different from the current proposal and is not considered to negate the principle of development here. Given the planning history of this site, officers consider that the principle of developing this site for residential purposes remains acceptable. It is evident that the site has already been vacant for a long period of time. To develop the site for residential purposes would be in line with chapter 11 of the NPPF, which requires local planning authorities to make effective use of land through policies and decisions.
- 10.3 The local planning authority can demonstrate a five year supply of deliverable housing sites. The relevant policies in the recently adopted Local Plan are therefore considered up to date for the purpose of paragraph 11(d) of the NPPF. The presumption stated in paragraph 11(d) of the NPPF does not apply in this occasion and that the proposal shall be assessed against the relevant policies in the adopted Local Plan.

- 10.4 In summary, officers conclude that, having regard to the planning history of the application site alongside the relevant policies in the KLP and the NPPF, the proposal would represent a more efficient use of land than existing and it would positively contribute to the delivery of housing. Accordingly, the principle of the development proposal is considered acceptable and compliant with the aims of chapters 5 and 11 of the NPPF.

Visual amenity including the impact on the Conservation Area

- 10.5 The application site is of a sufficient size to support a dwelling, as proposed with a parking area and modest amenity space. The topography of such a steep site does require careful consideration of how to achieve the space with an acceptable design. However, the neighbouring properties to each side appear single storey from Wells Road and two-storey from The Combs. The scheme under consideration has taken a similar approach. The scale is considered to be acceptable.
- 10.6 Considering the constraints of this site, whilst a dwelling may be acceptable, it is considered to be appropriate to remove permitted development rights for any additions to ensure the site does not become overdeveloped or cause harm to the character of the Conservation Area.
- 10.7 The detailing on the front and side elevations includes traditionally styled and proportioned openings, very similar to the adjacent properties and as such would not be out of character with the area. The northern elevation has a fusion of traditional and contemporary features. These have been carefully curated to form an acceptable hybrid of the traditional and contemporary and arranged to have a satisfactory solid to void ratio which in turn would form an appropriate relationship with the neighbouring properties and views from The Combs up to the Thornhill Conservation Area. The roof form is a pitched roof similar to the neighbour properties. The detailing is considered to be acceptable.
- 10.8 The dwelling is proposed to be constructed using natural coursed stone for the walling with tiles for the roof covering. This is in line with the surrounding development which is predominately stone with a mix of stone slate roofs and concrete tiles. The materials are therefore considered to be acceptable.
- 10.9 The design, scale and materials are all considered to be acceptable and would result in an appropriate form of development in this location and with respect to the adjacent Thornhill Conservation Area. The proposals are therefore considered to comply with LP24 and LP35 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 10.10 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

- 10.11 *Impact on 18 Wells Road:* The proposed position of the new dwelling relative to the adjacent neighbour is such that there would be no significant impact on the amenities of the occupiers of the neighbouring 18 Wells Road. The main ground floor would be situated 10m from the blank side elevation of 18 Wells Road with a door facing. This is a door into the hall which is not a habitable space. The parking area and the floor below would be closer to this neighbour. However, this would be adjacent to the blank side wall and as such would not have any significant impact on the amenities of the occupiers of the adjacent 18 Wells Road. The modest amenity space would be at a lower level to the rear with limited opportunities to affect the amenities of the adjacent neighbour.
- 10.12 *Impact on 18a Wells Road:* The new dwelling would be inset from the boundary with the turning area by 4.2m with a further 11m to the adjacent neighbour to the east. The plans do show double doors on this elevation on the ground floor which would serve a dining room. However, this would look towards the bank side elevation of the neighbour garage and is not considered to result in any loss of privacy. Given the separation together with the scale of the new dwelling proposed, the new dwelling would not have any significantly harmful effect on the amenities of the occupiers of the adjacent 18a Wells Road.
- 10.13 *Impact on 12 Combs Road:* The nearest property relative to the site on Combs Road occupies an elevated position relative to the proposed dwelling and does not actually align with the new house. Given the site is significantly lower together with the scale proposed and the spatial relationship, there would be no significant impact on the amenities of the occupiers of the neighbouring 12 Combs Road.
- 10.14 The properties below on The Combs are situated some 26m from the site. Given this separation together with the topography, the proposed dwelling would have no significant impact on the amenities of the occupiers of the properties on The Combs.
- 10.15 Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 127 (f) of the National Planning Policy Framework.

Highways

- 10.16 This application is for the erection of a 3 bed detached dwelling with parking and a new access on to Wells Road. Wells Road is a 30mph two way single carriageway residential cul-de-sac of approximately 4.5m width but with pinch points of only 3.2m, with a footway on the side of the proposal site and some street lighting. Wells road is very narrow and there is a turning head adjacent to the proposal site, however Kirklees Highway Safety have records of complaints that this turning head is often parked in and that some delivery and servicing vehicles (including emergency services vehicles) cannot access down the road due to obstruction caused by parked vehicles.

- 10.17 There are stops on a medium frequency route within 150m and there are shops and facilities approximately 680m from the site. There are schools approximately 1km from the site.
- 10.18 The site was granted planning permission for a dwelling previously, but this permission has lapsed. Most recently the site was submitted for planning permission for a 5 bed dwelling (19/91764) but this was refused on, amongst other things, highways grounds due to parking and access issues. The refusal was taken to appeal but the appeal was dismissed.
- 10.19 No trip generation details were provided with the application however the highways Officer does not consider that the proposals will generate sufficient trips as to have a severe impact on the efficiency of the local highway network.
- 10.20 The access is new and would need to be done within the appropriate legal agreement (s184) and this will need to be added as a footnote. No visibility splays were provided with the application and from drawing No 2672 02 we do not think that 2.4m x 43m visibility splays would be achievable, however, on balance given the very low speeds expected and the low volumes of traffic at this end of the cul-de-sac, we don't consider this to be a concern.
- 10.21 The proposals are for a three bed dwelling and to comply with local guidance this would require two off street parking spaces. These are provided with a double car deck on the upper floor connected to the access on to Wells Road. As the parking area is positioned above living accommodation and may be problematical to create with a permeable surface, we would like to see drainage details that avoids allowing runoff rainwater to go on to the highway. If this is to be approved, this can be conditioned.
- 10.22 Due to the intensification of use caused by the proposals and to avoid any additional parking on the adopted highway where it would be unsuitable or cause obstruction, we would request that the applicant provides measures to manage parking on the highway, specifically on the existing turning head adjacent to the dwelling. Kirklees Highways Safety have confirmed that they would be happy to support this and have provided the agent with details of the cost. Again, if the proposals are approved this can be conditioned.
- 10.23 The topography of the site drops away sharply from the edge of Wells Road and because of this the details of any retaining structures should be provided to the Kirklees Highways Structures team for approval. This could need to be included in any subsequent permission as a condition. The agent has been made aware that the applicant would benefit from contacting the structures team as soon as possible to discuss their requirements.
- 10.24 A bin collection presentation point was shown on drawing No 2672 02, however the location may not be ideal as some of the bins may be blocked by parked vehicles and therefore may not be able to be collected and the layout may need adjusting slightly. However, this could be achieved with a condition if the proposals are approved.

- 10.25 Due to the narrow width of Wells Road and issues around parking and obstruction, we would also request that a construction access management plan is submitted prior to commencement that provides details of delivery and plant access, parking for both deliveries and contractors, location of material storage and site welfare facilities, traffic management for large deliveries in order to avoid obstruction of the highway and the safety of all users (including the use of a banksman if required) and the use of wheel washing facilities to avoid the spreading of mud or debris on to the adopted highway. This can be conditioned, if the proposal is approved.
- 10.26 On balance, given the location of the proposals, the narrow aspect of the cul-de-sac and existing parking issues, the application is acceptable on highways grounds with the appropriate conditions and is considered to comply with LP21 & LP22 of the Kirklees Local Plan.

Representations

- 10.27 14 representations have been received. 4 in support of the proposals and 10 objections. The concerns raised include:-
- The design is not in keeping with the conservation area – *This is a material consideration and has been addressed in points 10.5 to 10.9 of this report,*
 - The new house will overshadow the adjacent dwelling to the west – *This is a material consideration and has been addressed within point 10.11 of this report,*
 - The new dwelling will overlook the neighbouring house to the west – *This is a material consideration and has been addressed within point 10.11 of this report,*
 - Loss of view for the occupants of the property on Combs Road – *This is not a material consideration. However, the impacts of the proposal in terms of the neighbour Combs Road has been addressed within point 10.13 of this report,*
 - Highway safety and parking concerns – *This is a material consideration and has been addressed in points 10.16 to 10.26 of this report,*
 - The new house would not be on the same building line as the other properties on Wells Road– *This is a material consideration and has been addressed in points 10.5 to 10.9 of this report,*
 - Ground conditions and stability - *Paragraph 179 of the NPPF states that the responsibility for securing a safe development rests with the developer/ landowner. Furthermore, the land stability issues can be considered in detail in the Building Control process, which is independent from the planning process,*
 - Drainage – *this has been addressed in point 10.27 of this report,*
 - Contaminated land – *this has been addressed in point 10.28 of this report,*
 - The plot is too small for a dwelling – *This is a material consideration and has been addressed in points 10.5, 10.6 and 10.9 of this report.*

Other matters

- 10.28 *Drainage:* The application form indicates that all surface water runoff would be diverted to the existing main sewer. This is not consistent with the hierarchy of drainage solutions set out in policy LP28 of the KLP. To ensure that proposal complies with the drainage policy, a condition could be imposed

to require the applicant to submit a scheme detailing surface water and land drainage be submitted to and approved by the Local Planning Authority in writing before development commences.

- 10.29 *Contaminated Land*: The property is close to a potential source of contaminated land. The Environmental Health Officer is supportive of the proposal subject to conditions regarding the provision of the appropriate reports and remediation prior to the development starting. This is considered to comply with LP53 of the KLP.
- 10.30 *Biodiversity*: The application site is located within a bat alert layer. However, the site and its surrounding area are urban in character with no evidence of bat roosts or bat roost potential. Were the application to be permitted, a footnote would be inserted to provide the applicant with advice should bats or evidence of bats be found during construction. Furthermore, a condition would be added regarding the provision of a bat box to ensure a biodiversity net gain. This would accord with the aims of policy LP30 of the KLP and chapter 15 of the NPPF.
- 10.31 *Electric charging point*: To promote the use of electric and low emission vehicles and in accordance with policy LP24 of the KLP, the applicant would be required to provide one electric charging point within the application site. Were this application be permitted, a condition would be inserted to the decision notice to require an electric charging point be provide within the site before the development is first occupied

11.0 CONCLUSION

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

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

1. Timescales
2. Accordance with the plans
3. External Materials
4. Removal of permitted development rights for Classes a – e
5. Parking area to be surfaced
6. Management plans for parking and appropriate safety audit
7. Details of the retaining walls/structures adjacent to highway
8. Details of bin storage
9. Provision of integral bat boxes
10. Electric vehicle parking points
11. Provision of a phase 1 contaminated land report
12. Provision of a phase 2 contaminated land report

13. Provision of a remediation strategy (in relation to contaminated land)
14. Validation report(in relation to contaminated land)

Background Papers:

Application website link:

[Planning application details | Kirklees Council](#)

Certificate of Ownership –Certificate A signed: 19/01/2021

History files

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2004%2f90732>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2004%2f93212>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008%2f90818>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008%2f91750>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91764>

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Jun-2021

Subject: Planning Application 2021/90807 Use of land to rear for dog training and erection of fence Pasture Farm Barn, 8, West View, Scholes, Cleckheaton, BD19 6EE

APPLICANT

A Golden

DATE VALID

01-Mar-2021

TARGET DATE

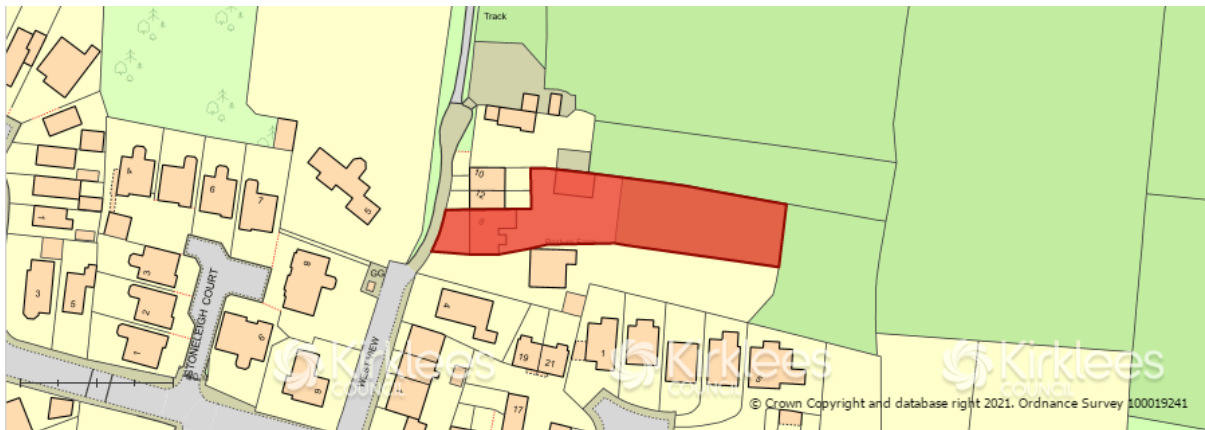
26-Apr-2021

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: Cleckheaton Ward

Ward Councillors consulted: No

Public or private: PUBLIC

RECOMMENDATION:

APPROVE

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

1.0 INTRODUCTION

- 1.1. The application has been called to the Heavy Woollen Sub Committee by Ward Councillor Andrew Pinnock. Cllr Andrew Pinnock requests for this application to be determined at committee based upon the adverse effect that the development will have on the amenity of the neighbouring properties through noise and disturbance.
- 1.2. The Chair agreed to this application being brought to Sub-Committee for determination confirming Cllr Pinnock's reason for making this request is valid having regard to the Councillors' Protocol for Planning Sub-Committees.

2.0 SITE AND SURROUNDINGS

- 2.1. The application relates to a parcel of land set in the Green Belt and to the rear (east) of Pasture Farm Barn, 8 West View, Scholes. As per the application form, the land is currently used as an amenity space associated with the dwelling. It could be debated as to whether the land is domestic curtilage. The land is bound by a more formal garden associated with Pasture Farm Barn to the west, and land/gardens associated with neighbouring dwellings to the north, south and east.
- 2.2. The dwelling of Pasture Farm is set 10m to the south east of the application site, whilst the dwellings addressed as 1, 2, 3, 4 and 5 Tabbs Court are set 20m to the south of the application site.

3.0 DESCRIPTION OF PROPOSAL

- 3.1. The application is seeking permission for the change of use of land to rear of Pasture Farm Barn, 8 West View, Scholes for dog training and erection of fence.
- 3.2. The field is 43m long and 17.5m wide. A 43m long fence will be erected on the south side of the field is the erection of a fence. The fence will have a height of 1.5m and be constructed using wooden stakes with a wire mesh between the pickets. The development does not propose the erection of any other structures, other than the fence.

- 3.3. In terms of operation of the site, the proposal seeks the following:
Operations between 10:00-17:00 Monday to Saturday with no activities on Sundays or Bank Holidays.
The occupant of 8 West View (the dwelling associated with the facility) to operate the training facility.
- The operator states that they will collect dogs and bring them to the site, as well as take them to their address.

4.0 HISTORY OF NEGOTIATIONS

- 4.1. Officers have not deemed any amendments to the proposed scheme are required.

5.0 RELEVANT PLANNING HISTORY

- 5.1. There is no relevant planning history on the application site.

6.0 PLANNING POLICY

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).
- 6.2. The site is set within Green Belt land as allocated on the Kirklees Local Plan (2019).
- 6.3. Kirklees Local Plan (KLP):
LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP10 – Supporting the rural economy
LP21 – Highway safety
LP22 – Parking provision
LP24 – Design
LP56 – Facilities for outdoor sport, outdoor recreation and cemeteries
- 6.4. National Planning Policy Framework
Chapter 2 – Achieving sustainable development.
Chapter 12 – Achieving well designed places.
Chapter 13 – Protecting Green Belt land.

7.0 PUBLIC/LOCAL RESPONSE

- 7.1. The application was advertised by neighbour notification letters. Final publicity expired on 7th April 2021. 14 comments were received, all of which were against the proposal. The matters raised in representations received have been summarised below:
- 7.2. Residential Amenity:
- The proposed use will cause harm on neighbouring dwelling due to noise of dogs barking and the trainer shouting commands.
 - Cause a loss of privacy for neighbours.
 - The proposal will cause odour issues detrimental to the amenity of neighbouring dwellings.

- 7.3. Highways Issues:
- The proposal will further exacerbate existing parking issues.
 - The proposal would Increase number of vehicles and pedestrians on the highway causing safety concerns.
- 7.4. Visual Amenity Issues:
- The proposal will see hedges and bushes removed to the detriment of visual amenity of the area.
- 7.5. Green Belt issues:
- The proposed use is inappropriate in the Green Belt.
- 7.6. Other Matters:
- The use does not integrate well as it would be adjacent to another small holding used for horses and chickens due to safety and animal wellbeing.
 - Dog waste will cause polluting issues to the land.
 - The existing use is not domestic curtilage.
 - Impact on local wildlife.

8.0 CONSULTATION RESPONSES

- 8.1. Below are the summaries of the responses provided by statutory and non-statutory consultees. The consultation response will be discussed in more detail where relevant in assessment below.

8.2 Statutory

None

8.3 Non-Statutory

KC Environmental Health – object to noise caused by dogs barking and the shouting of commands.

NOTE: Consultation with KC Highways was not required due to the proposal not requiring additional parking provision due to the means of operation.

No other consultations were required or sought.

9.0 MAIN ISSUES

- 9.1. The main issues relating to this application are as follows:
- Principle of development
 - Visual Amenity
 - Residential Amenity
 - Highway Safety
 - Ecology
 - Representations

10.0 ASSESSMENT

Principle of Development

- 10.1. The site is allocated as Green Belt on the Kirklees Local Plan and therefore consideration needs to be given to Chapter 13 of the National Planning Policy Framework. Paragraph 145 of the National Planning Policy Framework indicates that the provision of appropriate facilities for outdoor sport and outdoor recreation could be acceptable in principle so long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. LP56 of the Kirklees Local Plan reiterates this policy, stating that proposals should ensure that the scale of the facility is no more than what is reasonable required for the proper functioning of the enterprise, and the facility is unobtrusively located and designed to not introduce a prominent urban element into the countryside, including any new or improved access and car parking areas.
- 10.2. In this instance, the proposed use for dog training, is considered outdoor recreation. The site will be operated by the occupier of Pasture Farm Barn, whom, bring the dogs to the site as well as returning them to their home. Subject to conditions to enforce these operations as well as a further condition to prevent any spectators visiting the site, the proposed development does not require the improvement of access or provision of any additional parking. The only physical development in relation to the proposed development is a picket and mesh fence which is not considered to be an urban element. Therefore, the proposed use is considered appropriate in the Green Belt as set out by Chapter 13 of the NPPF and Policy LP56 of the Kirklees Local Plan.
- 10.3. Furthermore, the creation of a dog training facility in thus rural setting will help support the rural community as per the aims of LP10 of the KLP.
- 10.4. For the reasons set out above, the principle of development is considered acceptable.

Visual Amenity

- 10.5. LP24 of the KLP states that all proposal must respect the form, scale, layout and details. The change of use of the land itself is not physical development and therefore will not impact on the visual amenity of the area.
- 10.6. The erection of the fence could materially impact on the visual amenity of the site. However, a picket and mesh fence respects to the rural setting. In addition to this, the fence can be erected under permitted development rights and therefore planning permission is not actually required for the fence.
- 10.7. For the reasons above, the proposed development is considered to accord with LP24 of the KLP regarding visual amenity.

Residential Amenity

- 10.8. LP24 of the KLP states that proposal must ensure a good standard of amenity for neighbouring occupiers. Chapter 12 of the NPPF also states this.

- 10.9. Officers acknowledge that the formation of a dog training facility in this location could cause harm to the residential amenity of neighbouring occupiers. However, the applicant is willing to operate in such a way where officers do not believe there is material harm to the amenity of adjacent dwelling.
- 10.10. Officers would impose the following conditions on any permission:
- Operations between 10:00-17:00 Monday to Saturday with no activities on Sundays or Bank Holidays.
 - A maximum of two dogs at any one time at the training facility.
 - The occupant of 8 West View (the dwelling associated with the facility) must operate the arena.
 - A maximum of two dogs at any one time at the training facility.
 - Removal of Permitted Development rights for 28-day temporary events.
- 10.11. Considering the conditions above that are agreed to by the applicant, the scale of the operations would be very small. The restriction of two dogs to be at the training facility at any one time, would not cause any more disturbance than the landowner letting their own dogs play, or train their own dogs in this field in an informal nature all day - which would not need any planning permission. Having two dogs living at dwellings as pets is also a common occurrence, therefore, officers do not foresee how having two dogs at a time training at the site would cause any more material harm through barking than any dwelling that has two pet dogs, despite the comments made by KC Environmental Health.
- 10.12. Furthermore, the waste levels that would be generated by training up to 2 dogs at the site at any one time would not be so much that odours would impact the residential amenity of neighbouring occupiers, particularly when you consider the siting of horses next to the field and the rural setting. Environmental health raised no issues regarding odours.
- 10.13. The operating hours are relatively restrictive in the fact they mean the site will only be operated when background noise levels are relatively high. The prevention of spectators will limit the noise generated by persons being at the site also.
- 10.14. The proposed development would not materially cause a loss of privacy to any neighbouring dwellings. Boundary treatment would protect the amenity of neighbouring dwellings, nevertheless, the proposed use is not one to where the operator is expected to be overlooking any dwellings.
- 10.15. For the reasons set out above, the proposal, in conjunction with the conditions referenced in point 10.10, is not considered to cause any material harm to the residential amenity of any neighbouring dwellings.

Impact on Highway Safety

- 10.16. Pasture View Barn is access via a residential cul-de-sac just where the highway meets an unadopted access track to serve a dwelling to the north. The training facility is to be accessed by the drive for Pasture View Barn

- 10.17. As per the operational function of the site and associated conditions set out in point 10.10; not only will the occupant of Pasture View Barn operate the facility, but they state that they will also the collect dogs and bring them to the site, as well as returning them to their address. However, this cannot be conditioned as it is fails to comply with the 6 tests for conditions (unenforceable).
- 10.18. Officers note that parking on the road is already a problem, however, given the point above, the proposal does not require the need to provide customer/visitor parking. It is anticipated that an additional space will be required for one extra vehicle given the limited levels of activity at the site. However, there is ample, notably by the outbuilding, for parking provided to the rear of Pasture View Barn to provide parking for an additional vehicle. The proposal therefore would not result in the need or any on street parking.
- 10.19. Whether the dogs are bought to and from the site by the operator of the site, or in a vehicle of the dog owner, the anticipated increased use of the access road would relate to one vehicle at any given time. This not considered to be such an increase where it can be considered material harm regarding highway safety can arise. On a simplistic level, the owners of Pasture View Barn can enter and exit their home via the road whenever they wish, and as they would be operating the site, with the conditions listed in point 10.10, the proposal cannot be considered to materially increase the volume of traffic.
- 10.20. For the reasons above, the proposal is considered to accord with policies LP21 and LP22 of the KLP regarding highway safety, access, and parking.

Ecology

- 10.21. The field is currently grassed. It does not have a watercourse running through it or have any obvious habitat. It is also bound by existing boundary treatment on all sides and is not part of a habitat network or corridor. Given this, there are not considered to be any ecological impacts.

Representations

- 10.22. The application was advertised my neighbour notification letters. Final publicity expired on 7th April 2021. 14 comments were received, all of which were against the proposal. The matters raised in representations received have been summarised below:
- 10.23. Residential Amenity:
- The proposed use will cause harm on neighbouring dwelling due to noise of dogs barking and the trainer shouting commands.
 - Cause a loss or privacy for neighbours.
 - The proposal will cause odour issues detrimental to the amenity of neighbouring dwellings
- Response:** All these matters have been considered and addressed in points 10.8 - 10.15.

10.24. Highways Issues:

- The proposal will further exacerbate existing parking issues.
- The proposal would increase number of vehicles and pedestrians on the highway causing safety concerns.

Response: All these matters have been considered and addressed in points 10.16 - 10.20

10.25. Visual Amenity Issues:

- The proposal will see hedges and bushes removed to the detriment of visual amenity of the area.

Response: All these matters have been considered and addressed in points 10.5 – 10.7

10.26. Green Belt issues:

- The proposed use is inappropriate in the Green Belt.

Response: All these matters have been considered and addressed in points 10.1 – 10.4

10.27. Other Matters:

- The use does not integrate well as it would be adjacent to another small holding used for horses and chickens due to safety and animal wellbeing.

Response: This point has been noted.

- Dog waste will cause polluting issues to the land.

Response: This point has been addressed in point 10.12.

- The existing use is not domestic curtilage.

Response: This point has been noted.

- Impact on local wildlife.

- **Response:** This point has been addressed in point 10.21.

11.0 CONCLUSION

11.1. To conclude, it is considered that the proposed variations to the application previously approved are acceptable regarding all material considerations. The proposed roof lights and additional windows are acceptable visually in comparison to the architectural standard of the barn.

11.2. The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.

11.3. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Standard timeframe for commencement of development - 3 years
2. In accordance with the approved plans.
3. Operations between 10:00-17:00 Monday to Saturday with no activities on Sundays or Bank Holidays.
4. A maximum of two dogs at any one time at the training facility.
5. The occupant of Pasture View Barn, 8, West View must operate the facility.
6. Removal of Permitted Development rights for 28-day temporary events.

Background Papers:

Certificate of Ownership – Certificate A signed: 25/02/2021

[Link to application details:](#)

[Planning application details | Kirklees Council](#)

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Jun-2021

Subject: Planning Application 2021/90090 Variation condition 2 (plans) on previous permission 2017/91596 for change of use of barn to 2 dwellings, erection of rear extension to existing cottage, demolition of existing cattle shed, erection of tractor and hay store and alterations to layout Egypt Farm, Cliffe Lane, Gomersal, BD19 4EU

APPLICANT

Andrew Ratcliffe, Knight
Key Ltd

DATE VALID

30-Jan-2021

TARGET DATE

27-Mar-2021

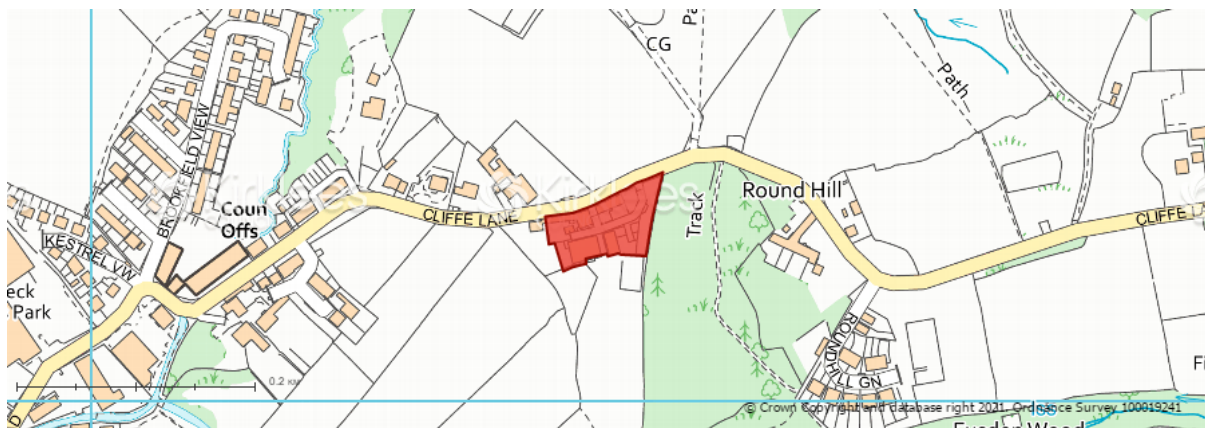
EXTENSION EXPIRY DATE

11-Jun-2021

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<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: Cleckheaton Ward
(Adjacent to Liversedge and Gomersal Ward)**

Ward Councillors consulted: Yes (referred to in the report)

Public or private: PUBLIC

RECOMMENDATION:

APPROVE

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

1.1.1 INTRODUCTION

- 1.2 The application has been called to the Heavy Woollen Sub Committee by Ward Councillor Kath Pinnock. Cllr Kath Pinnock has requested that this application be determined at committee based upon the site history (previous refusals at the site), the proposed development may represent over development, the intensification of the site and the impact on the visual amenity of the wider area.
- 1.3 The Chair agreed to this application being brought to Sub-Committee for determination confirming Cllr Pinnock's reason for making this request is valid having regard to the Councillors' Protocol for Planning Sub-Committees.

2.0 SITE AND SURROUNDING

- 2.1 The application relates to a site at Egypt Farm, Cliffe Lane, Lane, Cleckheaton; the site covers an area of just over 0.4ha and comprises several dwellings and farm buildings. Most of the buildings are sited close to the north boundary which borders onto Cliffe Lane; to the west of the site is the current farmhouse and to the east is what appears to be the original farmhouse which is also a Grade II listed building. Attached to this building is a small single storey cottage of a later period.
- 2.2 The farm buildings include a two-storey brick-built barn which is positioned centrally along the northern boundary of the site. The barn is the building to which this application relates. The rear of the barn is adjacent to the highway. The front of the barn faces south. The barn has been converted to form two dwellings which benefit from gardens to the south as well as the use of some of the farm courtyard. The Grade II listed building known as Ye Closes (no.64) is set 16m to the east from the barn with a dwelling set in between.

3.0 PROPOSAL

- 3.1 The application is seeking permission for the variation condition 2 (plans) on previous permission 2017/91596 for change of use of barn to 2 dwellings, erection of rear extension to existing cottage, demolition of existing cattle shed, erection of tractor and hay store and alterations to layout.

- 3.2 The variation relates to the change of use of the barn to 2 dwellings, and the erection of tractor and hay store. The application is retrospective.
- 3.3 The proposed variations to the barn from the 2017/91596 permission are as follows:
- The provision of nine roof lights – four to the front and five to the rear with each dwelling benefit from two rooflights on each roof plane. These rooflights provide light to a study and bedroom within the roof space of each dwelling.
 - Reconfiguration of internal layout to mean each dwelling would have four bedrooms, instead of three bedrooms as previously approved.
 - The provision of two obscurely glazed windows in the western side elevation.
 - The provision of a larger window on the front elevation.
 - The reopening and re-use of a door on the east side elevation. A false door was included in this position on the parent application.
 - The provision of a window on the east side elevation at the top of the gable to serve an en-suite
 - Repositioning of the bat box.
 - Alterations to the parking arrangement.
 - The agricultural building will no longer be proposed.
 - The provision of a pressed metal gutter to the principal elevation.
- Full details on the variations can be seen on plans (20843)10_Proposed dwellings Rev C received on 20/05/2021
- 3.4 The application is not seeking any changes to the rear extension of an existing cottage or the demolition of a cattle shed (already demolished).
- 3.5 It should be noted that a wall outside the parameters of permitted development, however this is outside the red line boundary and is not to be considered under this application.

4.0 HISTORY OF NEGOTIATIONS

- 4.1 There have been various amendments made to this scheme:
- The amendment of the red line boundary to accord with the originally approved application.
 - Three rooflights have been removed from the proposed plans to create a more balanced finish. The remaining proposed roof lights will contain a conservation style 'bar' in the interests of visual amenity and the historic environment.
 - The obscurely glazing of the two windows in the west side elevation, in the interests of residential amenity.
 - A proposed garage, where the previously approved agricultural building was approved, has been removed at Officer's request given it is inappropriate development in the Green Belt setting.
 - A window on the east side elevation has been removed in the interests of residential amenity for neighbouring dwellings.
 - The showing of designated parking on plan.

5.0 RELEVANT PLANNING HISTORY

2006/91976 change of use, alterations, and extension to farm buildings to form 7 dwellings – withdrawn.

2006/95312 change of use, alterations, and extension to farm buildings to form 6 dwellings – Approved.

2006/95313 change of use, alterations, and extension to farm buildings to form 6 dwellings - Approved.

2008/91298 re-use and adaptation of barn to form 4 apartments – Refused due to effect on character of building- cramped accommodation.

2007/95399. change of use and alterations to convert barn to 3 dwellings - Approved.

2016/20265. Pre-application enquiry for residential development.

2017/91597 Listed Building consent for the change of use of barn to 2 dwellings, erection of rear extension to cottage and alterations to layout – Approved.

2017/91596 Change of use of barn to 2 dwellings, erection of rear extension to existing cottage, demolition of existing cattle shed, erection of tractor and hay store and alterations to layout – Approved (PD right removed for classes A, B, C, D and E as well as additional windows).

6.0 PLANNING POLICY

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

6.2 The site is set within Green Belt land as allocated on the Kirklees Local Plan (2019) and in the curtilage of a Grade II listed building.

6.3 Kirklees Local Plan (KLP):

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP21 – Highway Safety

LP22 – Parking Provision

LP24 – Design

LP28 – Drainage

LP30 – Biodiversity and geodiversity

LP35 – Historic Environment

LP52 – Protection and improvement of environmental quality

LP57 – The extension, alterations, or replacement of existing buildings

LP60 – The re-use and conversion of buildings

- 6.4 National Planning Policy Framework (NPPF):
Chapter 2 – Achieving sustainable development.
Chapter 12 – Achieving well designed places.
Chapter 13 – Protecting Green Belt land.
Chapter 15 – Conserving and enhancing the natural environment.
Chapter 16 – Protecting and enhancing the historic environment.

7.0 PUBLIC/LOCAL RESPONSE

7.1 6 representations were received on this application. 15 representations were received on the associated listed building consent application. All of the representations received across both applications were against the proposal. For the sake of clarity and transparency, all 15 representations from 11 individuals were received across both applications (excluding duplicates) will be summarised below. Please note that these comments were received before the latest set of plans were received.

7.2 Visual Amenity and Heritage

- The barn conversion by style, materials and design is out of character with the farm site and wider area (not a traditional design).
- The proposal would detriment the setting of a listed building and does not preserve or enhance it.
- The roof lights detriment the visual amenity and heritage importance of the barn and wider landscape as they do not respect the character of the host building or listed building. This comment references the inspectors report for application 2008/62/91298/E1 as being a reason for refusal of a previous application at the barn. This point is still applicable despite the reduction in the number of proposed rooflights from 11 to 9.
- The UPVC gutters and dry verges installed to the barn are not in keeping with the age and character of a barn nearly 170 years old.
- The formation of accommodation in the roof space takes away the character and doesn't allow the original space or atmosphere of the barn to be appreciated. The removal of the beams is a harmful to the heritage of the barn.

7.3 Residential Amenity

- The window set high up in the gable of the east side elevation overlooks neighbouring dwellings, including the listed building.
- The door in the east side elevation could cause an obstruction to people and vehicles, including agricultural machinery
- The proposed window at the ground floor level on the eastern elevation will overlook the amenity space of neighbouring dwellings.
- The two proposed windows in the west side elevation overlook neighbouring dwellings.

7.4 Highway Matters

- Insufficient parking provided for the dwellings of the proposed size.
- Emergency vehicles would have difficulties accessing the site.
- A passing place is required so vehicles can enter and exit the site in a forward gear.

7.5 Other Matters

- The proposal is directly contrary to previous refusals on the site.
- The proposal does not provide adequate provisions for bats.
- The developer has installed numerous plastic meter boxes which are not shown on the submitted drawings. This is an affront to the architectural dignity of this building.
- Gas flue positioned on the west elevation producing toxic emissions into the adjoining stable.
- No bin storage area has been provided.
- Two electric vehicle recharging point should have been installed to serve the new dwellings in a position that is accessible to electric vehicles. This has not been done.
- The application needs to be considered as if it is not retrospective.
- Several points related to the garage that has been constructed, however this is no longer a part of the proposed application and is not to be considered.
- It should be noted that a wall has been constructed which has been subject to representations, however this is outside the red line boundary and is not to be considered under this application.

8.0 CONSULTATIONS

8.1 Below are the summaries of the responses provided by statutory and non-statutory consultees. The consultation response will be discussed in more detail where relevant in assessment below.

8.2 Statutory

None

8.3 Non-Statutory

KC Conservation and Design – No objection in terms of the impact on the heritage assets as the proposals would accord with Local Plan LP35. Requested more information on the roof light details however they stated what is required to ensure the roof lights are not detrimentally harmful.

KC Ecology – No objections and no requested conditions.

KC Environmental Health – Information currently provided is insufficient in regard to ensuring the site is safe for end use as information required via condition under the original application has not be submitted to date.

KC Highways Development Management – No objections.

9.0 MAIN ISSUES

- Principle of Development
- Visual Amenity
- Residential Amenity
- Highways Issues
- Other Matters
- Representations

10.0 ASSESSMENT

Principle of Development in the Green Belt and on the Listed Building

- 1.01 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan. This policy stipulates that proposals that accord with policies in the Kirklees Local Plan would be approved without delay unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability.
- 1.02 The application property is situated in the allocated Green Belt in the KLP. Careful consideration should be given to avoid harm to the openness and character of the Green Belt. The principle of development for the conversion of the barn was demonstrated under the parent application 2017/91596 to which this application is to vary. Given that this proposed variation does not see any additional built form (such as extensions) as to what was previously approved, the principle of development in the Green Belt is still considered to be acceptable. In this instance, the proposal is considered to accord with Policies LP57 and LP60 of the KLP as well as the purpose of Chapter 13 of the NPPF regarding the principle of development in the Green Belt.
- 1.03 The site is located within the curtilage of a grade II listed building; National policy in the NPPF chapter 16 is appropriate and states that in assessing an application consideration needs to be given to the impact of the proposals on the Heritage Asset; Policy LP35 of the KLP is also applicable. During the 2017 application it was determined that the proposed works to the barn, as well as the extension to the dwelling between the barn and listed building, would not materially harm the listed building itself or its setting. KC Conservation and Design were consulted regarding the impact of the proposed variation on the listed building. Their findings relating to the listed building are as follows:
- 1.04 'The proposed alterations will further alter the former agricultural buildings which are ancillary buildings within the setting of the grade-II listed farmhouse which dates from the early C18th and is the principal grade-II listed building. The key heritage impact test should, therefore, be the potential impact on the character and appearance of the principal listed building, as well as the impact on the character of the subject buildings. The proposed works will have no physical impact on the principal listed building while the most significant affect will be the alterations to the roof form of the prominent, much-altered barn to accommodate additional floor-space. The roof of the barn will be altered by the insertion of several roof-lights. These will have an adverse physical and visual impact on the otherwise unaltered roofscape of the prominent barn but will not significantly impact the experience or appreciation of the principal listed building.'

- 1.05 Alongside this, officers also state that as the farm has been development and become more domesticated through the provision of five new dwellings and the erection of a red brick agricultural building have contributed to some heritage character being lost. Furthermore, the form of the farm means the proposed development (notable the roof lights) and the listed building cannot be seen predominantly in the same viewpoint as they are 16m apart with a dwelling in between. It is noted that you can see the barn and listed building in the same view from surrounding fields, when you are this distance away, the roof lights which cumulatively take up 6% of each roof plane, are not considered prominent enough to materially harm the setting of the listed building.
- 1.06 With regard to the provision of living space in the roof and internal floor arrangement; These works likely do not constitute development and would not require planning permission, however even if these works required planning permission or listed building consent given the building is in the curtilage of a listed building, the test would be as to whether it materially impacts the principal listed building. The reconfiguration of the internal layout, including the removal of beams and rooms in the roof space cannot be considered to impact the principal listed building in any way whatsoever and therefore accords with LP35 of the KLP. This point is agreed with by the Conservation and Design Officer.
- 1.07 Therefore, given the conservation and design officer's comments along with the reasons set out above by the case officer, the proposal is not considered to materially harm the listed building itself or the setting of it. The principal of development is therefore considered to accord with LP35 of the KLP and Chapter 16 of the NPPF regarding heritage and the listed building.

Visual Amenity

- 1.08 Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area.
- 1.09 *Roof Lights*
- 1.10 KC Conservation and Design gave their opinion on how the proposed variations, notably the roof lights, will impact on the existing barn. The consultee stated:
- 1.11 'The roof of the barn will be altered by the insertion of a number of numbers of roof-lights. These will have an adverse physical and visual impact on the otherwise unaltered roofscape of the prominent barn but will not significantly impact the experience or appreciation of the principal listed building. It is important that the roof-lights are fitted to be flush with the roofline to reduce the visual impact on the roofscape and maintain the character of the former agricultural building. Consequently, full details of the rooflights should be provided to confirm that the windows will be 'Conservation Rooflights' which lie flush with the roof covering and do project above the tiles which would have a disproportionate and adverse visual impact on the barn.'

- 1.12 Given that the application is retrospective, officers saw the window details on site and do not believe additional details regarding the roof lights are in need of a determination. However, if the committee felt necessary, additional roof light information could be sought via a condition with three months of an approval decision being issued, then to be fitted in accordance with the approved window details within another three months.
- 1.13 The case officer agrees with the opinion of the Conservation and Design Officer. The case officer has had the benefit of conducting a site visit. The roof lights have been fitted and therefore the case officer could accurately assess their impact on the barn. The roof lights sit relatively flush with the roof tiles. Officers do not believe they can be considered to materially project above the roof plane. Furthermore, following amendments, the roof lights proposed now feature a conservation style 'bar'. The proposed 9 roof lights would cumulatively cover 6% of the roof plane with each roof light measuring at 0.6m². The roof lights would be set in reasonably balanced positions across the roof. The roof lights would contain conservation details such as the bar and sit relatively low on the roof plane (almost flush). Therefore, whilst officers accept there would be some adverse impact on the barn given the roof is undeveloped, this impact is not considered to cause disproportionate adverse visual impact above and beyond the overall improvement of bringing the barn back in to use. Furthermore, adverse impact could be used to describe any additions to any dwelling as all development has some impact. However, the roof lights, given the position and standard of the barn as a whole, do not appear out of place or character with the host dwelling.
- 1.14 The development has improved the architectural value of the barn by the revealing of barn portholes as well as removing a very poor-quality lean-to extension. Furthermore, the barn is not a high-quality example of a barn of this age. As this is a variation of plans application, Officers consider the proposed variation against the visual amenity benefits that have come through the development of the barn in its entirety. Given this, while in isolation roof lights are not typical with a barn conversion, in this instance, considering the wider benefits of the conversion and architectural quality of the barn itself, the proposed roof lights are considered acceptable regarding visual amenity. The roof lights do, in conjunction with the elements of the development that is not being varied ensure the form, scale, layout and details the development respects enhances the visual amenity of the site as per LP24.

Windows in the Western and Eastern Side Elevations

- 10.15 The proposed variation sees the formation of a windows each on the ground and first floor in the western side elevations and one window on the second floor (roof space) in the eastern side elevations. These windows are all to be obscurely glazed and would be finished with sills and lintels. These windows are modest in scale. Given this, alike the reasons set out in support of the roof lights, the impact of these windows is not considered to cause disproportionate adverse visual impact above and beyond the overall improvement of bringing the barn back in to use. In terms of style and size they respect the barns character, and whilst openings should be limited where possible on barns, given that the barn is not a particularly high-quality

example, these windows are not considered to detrimentally impact on the visual amenity of the site. A door is also proposed in the eastern side elevation. A false door was proposed in this position on the original approval which visually is no different to a working door which is being proposed. Therefore, the windows and door on the side elevations are considered to accord with policy LP24 of the KLP.

Other works

- 10.16 The proposed window to the front is slightly larger than previously approved, but it has a more traditional design, given the use of a mullion. Given this the window is not materially any more harmful than the window already approved in this position, and further respects the character of the host dwelling. This window accords with LP24 in respect to visual amenity.
- 10.17 The provision of a metal pressed gutter to the principal elevation is considered to accord with LP24 of the KLP regarding visual amenity.
- 10.18 The repositioning of the bat box has not material impact on the visual amenity of the site.

Previous Refusals and Summary

- 10.19 Officers do note that windows have been a contentious issue throughout the planning history of the site however they have never been a standalone reason for refusal on any application. The reason for the refusal for the formation of 4no. flats in 2008 was as follows:

'The proposed barn conversion does not retain the spaciousness and open character of the barns interior due to the disposition, size and compact arrangement of the internal layout. Also, the arrangement of existing and proposed window openings would detract from the original character of this traditional barn and would therefore be contrary to PPG15.'

Whilst windows are referenced within this reason for refusal, these cumulatively contributed with other key parts to the development which leads to the application refused. The windows alone were not considered to justify an additional reason for refusal.

- 10.20 The recommendation of the report, which is a balanced assessment continues the thread set out by the 2008 decision that in isolation, the provision of additional windows is not ideal to a barn. However, the barn, which is referred to by this term given its previous agricultural use, as opposed to exception architectural, is not determined to carry such significance where the provision of the modest sized, and relatively, evenly spread windows alone detriment the visual amenity of the application site and wider area. Even as a singular element, the windows do not detract from the visual amenity of the barn. When considering the variation in relation to the original approval, which is an acceptable position to take, these windows do not cause disproportionate adverse visual impact above and beyond the overall improvement of bringing the barn back in to use and therefore the proposal is considered to accord with LP24 of the KLP regarding visual amenity.

Impact on Residential Amenity

- 10.21 LP24 of the KLP seeks to ensure all development maintain a good standard of amenity for neighbours as well as future occupiers. Chapter 12 of the NPPF reiterates this.
- 10.22 Given the nature of the proposed variations, the only elements which can be considered to have the potential to materially impact on the amenity neighbour dwellings and future occupiers of the site itself are the windows to the side. However, all three of the windows proposed to the side are obscurely glazed. These windows serve an en-suite, a bathroom and a hallway. With a condition and for the glass to be obscurely glazed, with the windows to be fitted with restrictors allowing for a maximum of a 5cm opening, the windows on the side elevations cannot be considered to material impact on the residential amenity of any neighbouring dwellings or future occupiers.
- 10.23 Officers note that there is a flue facing towards the stables associated with no.58 Cliffe Lane. However, a flue can be installed under Schedule 2, Part 1, Class G of the General Permitted Development Order (2015). Given that the flue does not require planning permission, it is considered acceptable for the purposes of this assessment. Even if listed building consent was required, this would just assess the impact on the listed building, which is the other side of the dwelling and therefore would be approved.
- 10.24 For the reasons above, the proposal is considered to accord with LP24 of the KLP and Chapter 12 of the NPPF regarding residential amenity.

Impact on Highway Safety

- 10.25 Kirklees Council has not set local parking standards for residential development, however as an initial point of reference for new developments, 3 off street parking spaces should be provided for each new 4+ bedroom dwelling.
- 10.26 As per plan (20843)10_Proposed dwellings Rev C received on 20/05/2021, one dwelling will benefit from 3 parking spaces and the other from 4 parking spaces. Therefore, the off-street parking provided is considered acceptable. The removal of the agricultural building supports this provision.
- 10.27 Given the 'T' shaped nature of the access to the parking, vehicles can enter and exit the site in a forward gear.
- 10.28 The proposed parking will not materially impact on the parking of any neighbouring dwellings, notably as there is space for turning in the courtyard area of the site amongst other places.
- 10.29 Given this, the proposal is considered to accord with LP21 and LP22 of the KLP regarding Highway Safety.

Other Matters

Electric Vehicle Charging Points / Carbon Budget

- 10.30 As the application is for a variation of plans for two new dwellings, the previous condition relating to the provision of electric vehicle charging points is applicable 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. It is unclear whether these being provided however one dwelling is currently occupied and the proposed parking provisions have change under this application. Parking is proposed where the previous agricultural building would have stood and is still partially standing.
- 10.31 To accord with the fore mentions guidance and policy LP52 of the KLP, the applicant will be requested by condition to provide a vehicle charging point for each dwelling within three months of an approval being issued if that is the outcome of the case.

Kirklees Housing Land Supply

- 10.32 As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared with the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021).
- 10.33 As the Kirklees Local Plan was adopted within the last five years the five-year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

Ecology

- 10.34 A bat survey was undertaken to support the previous application in 2017 (2017/91596) for the change of use of the barn. Although this survey concluded that the buildings on site had negligible potential for roosting bat, mitigation and enhancement measures were detailed in the report. The condition imposed to secure these measures (Condition 12) was discharged in 2019 (2019/91911), following the receipt of a Method Statement for Minimising the Residual Risk to Roosting Bat and Inclusion of Bat Roost Features to the Existing Structure. The report specified that an integral wood-stone bat box would be fixed within the east gable of the barn.
- 10.35 The current proposals are retrospective and according to the design & access statement include several variations on the original planning approval in

relation to the barn and garage/store. Based on the photographs included within the Design & Access statement and direct from the agent, the proposed bat box has been installed on the east gable as approved. Therefore, the current proposals have no ecological implications and I have no objections on this basis.

End User Safety (Gas Protection)

10.36 Officers have received a letter entitled Development at Egypt Farm by Haigh Huddleston & Associates dated 18th February 2020 (Ref: E19/7349/MH/004). The letter details an inspection of the gas membrane. This letter was deemed to provide insufficient information. An amended version of the same document was received on 26/05/2021 and is being considered by KC Environmental Health.

10.37 This matter, as with the original approval, is recommended to be conditioned so as to ensure that the proposal provides a safe development for the end users, in accordance with the aims of chapter 15 of the NPPF.

Representations

10.38 Representations were received on this application. 15 representations were received on the associated listed building consent application. All the representations received across both applications were against the proposal. For the sake of clarity and transparency, all 15 representations from 11 individuals were received across both applications (excluding duplicates) will be summarised below. Please note that these comments were received before the latest set of plans were received.

10.39 Visual Amenity and Heritage

- The barn conversion by style, materials and design is out of character with the farm site and wider area (not a traditional design).
- The proposal would detriment the setting of a listed building and does not preserve or enhance it.
- The roof lights detriment the visual amenity and heritage importance of the barn and wider landscape as they do not respect the character of the host building or listed building. This comment references the inspectors report for application 2008/62/91298/E1 as being a reason for refusal of a previous application at the barn. This point is still applicable despite the reduction in the number of proposed rooflights from 11 to 9.
- The UPVC gutters and dry verges installed to the barn are not in keeping with the age and character of a barn nearly 170 years old.
- The formation of accommodation in the roof space takes away the character and doesn't allow the original space or atmosphere of the barn to be appreciated. The removal of the beams is a harmful to the heritage of the barn.

RESPONSE: all these matters have been addressed between points 10.08 and 10.20 above.

10.40 Residential Amenity

- The window set high up in the gable of the east side elevation overlooking neighbouring dwellings, including the listed building.
- The door in the east side elevation could cause an obstruction to people and vehicles, including agricultural machinery

- The proposed window at the ground floor level on the eastern elevation will overlook the amenity space of neighbouring dwellings.
 - The two proposed windows in the west side elevation overlook neighbouring dwellings.
- RESPONSE: all these matters have been addressed between points 10.21 and 10.24 above.**

Highway Matters

- Insufficient parking provided for the dwellings of the proposed size.
 - Emergency vehicles would have difficulties accessing the site.
 - A passing place is required so vehicles can enter and exit the site in a forward gear.
- REPOSE: all these matters have been addressed between points 10.25 and 10.29 above.**

Other Matters

- The proposal is directly contrary to previous refusals on the site.
RESPONSE: This has been addressed in points 10.19 and 10.20 above.
- The proposal does not provide adequate provisions for bats.
RESPONSE: This has been addressed in points 10.34 and 10.35 above.
- The developer has installed numerous plastic meter boxes which are not shown on the submitted drawings. This is an affront to the architectural dignity of this building.
RESPONSE: This has been noted but is not classed as development.
- Gas flue positioned on the west elevation producing toxic emissions into the adjoining stable.
RESPONSE: This has been addressed in point 10.23 above.
- No bin storage area has been provided.
RESPONSE: This has been noted but officers determine that bins can be kept adequately in the amenity space associated with the dwellings.
- Two electric vehicle recharging point should have been installed to serve the new dwellings in a position that is accessible to electric vehicles. This has not been done.
RESPONSE: This has been addressed in point 10.30 and 10.31 above.
- The application needs to be considered as if it is not retrospective.
RESPONSE: Noted. The application has been assessed in accordance with relevant national and local planning policy, taking all relevant material planning considerations into account.

11.0 CONCLUSION

- 11.1 To conclude, it is considered that the proposed variations to the application previous approved are acceptable regarding all material considerations. The proposed roof lights and additional windows rare acceptable visually in comparison to the architectural standard of the barn.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. In accordance with plans.
2. Vehicle charging points provided within 3 months of decision.
3. Parking provided within 6 months of decision. (Due to demolition of building required).
4. Obscurely glazed windows with restrictors to allow for window to only open 5cm to be fitted within 3 months of the decision.
5. Unapproved roof lights to be removed within 3 months.
6. Permitted Development rights removed for classes A, B, C, D, and E as well as additional windows.
7. New hard surfacing for parking to be surfaced and drained.
8. Provision of pressed metal guttering in accordance with plans within 3 months.
9. Notwithstanding plans hereby approved, provision of pressed metal downpipes in accordance with plans within 3 months.
10. Information regarding gas protection measures to be submitted to the Local Planning Authority within 1 month of the decision notice being issued. This is to be approved in writing by the Local Planning Authority.

Background Papers

Application and history files

Link to 2017/91596 :- <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/91596>

Link to 2017/91597:- <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/91597>

Link to 2008/91298:- <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008/91298>

Link to 2008/91752:- <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008/91752>

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Jun-2021

Subject: Planning Application 2021/90212 Variation condition 2 (plans) on previous permission 2017/91597 for Listed Building Consent for alterations to barn to 2 dwellings, erection of side and rear extensions to existing cottage Egypt Farm, Cliffe Lane, Gomersal, BD19 4EU

APPLICANT

Andrew Ratcliffe, Knight
Key Ltd

DATE VALID

30-Jan-2021

TARGET DATE

27-Mar-2021

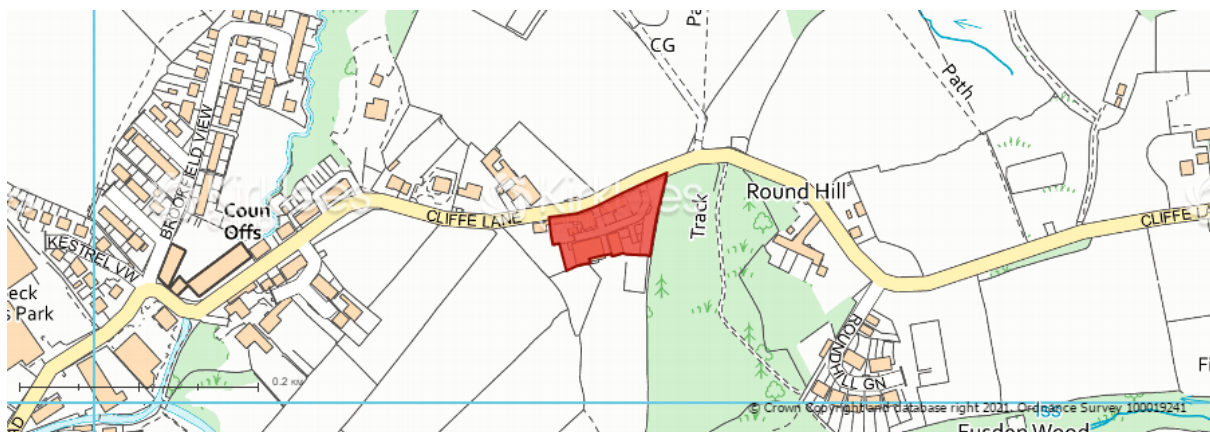
EXTENSION EXPIRY DATE

11-Jun-2021

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: Cleckheaton Ward
(Adjacent Liversedge and Gomersal Ward)**

Ward Councillors consulted: YES (referred to in report)

Public or private: PUBLIC

RECOMMENDATION:

APPROVE

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

1.0 INTRODUCTION

- 1.1 The application has been called to the Heavy Woollen Sub Committee by Ward Councillor Kath Pinnock. Cllr Kath Pinnock wishes for this application to be determined at committee based upon the previous refusals at the site, that the proposed development may represent over development, the intensification of the site and the impact on the visual amenity of the wider area.
- 1.2 The Chair agreed to this application being brought to Sub-Committee for determination confirming Cllr Pinnock's reason for making this request is valid having regard to the Councillors' Protocol for Planning Sub-Committees.

2.0 SITE AND SURROUNDING

- 2.1 The application relates to a site at Egypt Farm, Cliffe Lane, Lane, Cleckheaton; the site covers an area of just over 0.4ha and comprises several dwellings and farm buildings. Most of the buildings are sited close to the north boundary which borders onto Cliffe Lane; to the west of the site is the current farmhouse and to the east is what appears to be the original farmhouse which is also a Grade II listed building. Attached to this building is a small single storey cottage of a later period.
- 2.2 The farm buildings include a two-storey brick built barn which is positioned centrally along the northern boundary of the site. The barn is the building to which this application relates. The rear of the barn is adjacent to the highway. The front of the barn faces south. The barn has been converted to form two dwellings which benefit from gardens to the south as well as the use of some of the farm courtyard. The Grade II listed building known as Ye Closes (no.64) is set 16m to the east from the barn with a dwelling set in between.

3.0 PROPOSAL

- 3.1 The application is seeking permission for the variation condition 2 (plans) on previous permission 2017/91597 for Listed Building Consent for alterations to barn to 2 dwellings, erection of side and rear extensions to existing cottage.

- 3.2 The proposed variations to the barn from the 2017/91597 permission are as follows (note: this is a retrospective application):
- The provision of nine roof lights – four to the front and five to the rear with each dwelling benefit from two rooflights on each roof plane. These rooflights provide light to a study and bedroom within the roof space of each dwelling.
 - Reconfiguration of internal layout to mean each dwelling would have four bedrooms, instead of three bedrooms as previously approved.
 - The provision of two obscurely glazed windows in the western side elevation.
 - The provision of a larger window on the front elevation.
 - The reopening and re-use of a door on the east side elevation. A false door was included in this position on the parent application.
 - The provision of a window on the east side elevation at the top of the gable to serve an en-suite
 - Repositioning of the bat box.
 - The agricultural building will no longer be proposed.
 - The provision of a pressed metal gutter to the principal elevation.
- Full details on the variations can be seen on plans (20843)10_Proposed dwellings Rev C received on 20/05/2021

3.4 The application is not seeking any changes to the rear extension to an existing cottage, or the demolition of a cattle shed (already demolished).

3.5 It should be noted that a wall outside the parameters of permitted development, however this is outside the red line boundary and is not to be considered under this application.

4.0 HISTORY OF NEGOTIATIONS

- 4.1 There have been various amendments made to this scheme:
- The amendment of the red line boundary to accord with the parent application.
 - Three rooflights have been removed from the proposed plans in order to create a more balanced finish. The remaining proposed roof lights will contain a conservation style 'bar' in the interests of visual amenity and the historic environment.
 - The obscurely glazing of the two windows in the west side elevation, in the interests of residential amenity.
 - A proposed garage, where the previously approved agricultural building was approved, has been removed on Officer's recommendation given it is inappropriate in the Green Belt setting.
 - A window on the east side elevation has been removed in the interests of residential amenity for neighbouring dwellings.
 - The showing of designated parking on plan.

5.0 RELEVANT PLANNING HISTORY

2006/91976 change of use, alterations, and extension to farm buildings to form 7 dwellings – withdrawn.

2006/95312 change of use, alterations, and extension to farm buildings to form 6 dwellings – Approved.

2006/95313 change of use, alterations, and extension to farm buildings to form 6 dwellings - Approved.

2008/91298 re-use and adaptation of barn to form 4 apartments – Refused due to effect on character of building- cramped accommodation.

2007/95399. change of use and alterations to convert barn to 3 dwellings - Approved.

2016/20265. Pre-application enquiry for residential development.

2017/91597 Listed Building consent for the change of use of barn to 2 dwellings, erection of rear extension to cottage and alterations to layout – Approved.

2017/91596 Change of use of barn to 2 dwellings, erection of rear extension to existing cottage, demolition of existing cattle shed, erection of tractor and hay store and alterations to layout – Approved (Permitted Development rights removed for classes A, B, C, D and E as well as additional windows).

6.0 PLANNING POLICY

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

6.2 The site is set within Green Belt land as allocated on the Kirklees Local Plan (2019).

6.3 The application site is set within the curtilage of a grade II Listed Building known as Ye Closes (no.64). Listing Date 11-Feb-1993. Its listing description is as follows:

6.4 'House, now divided. C.17 or early C.18. Hammer dressed stone with large quoins Rendered to rear and gables. Stone slate roof with chamfered gable copings on moulded kneelers. Two storeys with continuous string over ground floor openings. Near central door with arched lintel and chamfered reveals. All windows are double-chamfered and most mullions removed. One 5-light window to left with 4-light over. 3-light window over door. 4-light window to right both floors. To extreme left is a later doorway to No. 64. Outshoot to rear of similar date with one 2-light and one altered 5-light window.'

6.5 Kirklees Local Plan (KLP):
LP35 – Historic Environment

6.6 National Planning Policy Framework (NPPF):
Chapter 16 – Protecting and enhancing the historic environment.

7.0 PUBLIC/LOCAL RESPONSE

7.1 15 representations were received on this listed building consent application whilst 6 representations were received on the association planning application. All the representations received across both applications were against the proposal. For the sake of clarity and transparency, all matters relating to the material considerations for a listed building consent application from all 15 representations from 11 individuals were received across both applications (excluding duplicates) will be summarised below. Please note that these comments were received before the latest set of plans were received. Please also note that all points raised that are not directly relevant to the material considerations of an application for listed building consent, have been summarised and addressed within the report for the associated planning application (2021/90090).

7.2 Representation regarding the impact on the Listed Building:

- The proposal would detriment the setting of a listed building and does not preserve or enhance it.
- The roof lights detriment the visual amenity and heritage importance of the barn and wider landscape as they do not respect the character of the host building or listed building.
- The UPVC gutters and dry verges installed to the barn are not in keeping with the age and character of a barn nearly 170 years old and the listed building setting.
- The removal of the beams is a harmful to the heritage of the barn and wider site.

8.0 CONSULTATIONS

8.1 Below are the summaries of the responses provided by statutory and non-statutory consultees. The consultation response will be discussed in more detail where relevant in assessment below.

8.2 **KC Conservation and Design** – No objections regarding the impact on the setting of the listed building.

9.0 MAIN ISSUES

- Principle of Development
- Impact on Character and Significance of Listed Building Residential Amenity
- Representations

10.0 ASSESSMENT

Principle of Development

10.1 As the application is for Listed Building Consent, the only issues that fall to be considered are the impact the development would have on the character and significance of the Listed Building. Under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Planning Authorities must, in considering whether to grant listed building consent for any works have special regard to the desirability of preserving the building or its setting or any

features of special architectural or historic interest which it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 16 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. If harm would result this should not be allowed without a proportionate justification. This approach is supported by policy LP35 of the Local Plan.

Impact on Character and Significance of Listed Building

- 10.2 The application relates to proposed works to a barn within the curtilage of a listed building. It is important to note that the barn itself does not benefit from any listing. Therefore, the test is to whether the impact the development would have on the character and significance of the Listed Building of Ye Closes (no.64) and not to the character of the barn itself.
- 10.3 KC Conservation and Design were consulted in regard to the impact the proposed variation would have on the character and significance of the listed building. Their findings relating to the listed building are as follows:
- 10.4 'The proposed alterations will further alter the former agricultural buildings which are ancillary buildings within the setting of the grade-II listed farmhouse which dates from the early C18th and is the principal grade-II listed building. The key heritage impact test should, therefore, be the potential impact on the character and appearance of the principal listed building, as well as the impact on the character of the subject buildings. The proposed works will have no physical impact on the principal listed building while the most significant affect will be the alterations to the roof form of the prominent, much-altered barn to accommodate additional floor-space. The roof of the barn will be altered by the insertion of several roof-lights. These will have an adverse physical and visual impact on the otherwise unaltered roofscape of the prominent barn but will not significantly impact the experience or appreciation of the principal listed building.'
- 10.5 The case officer agrees with the consultation response provided by KC Conservation and Design. The proposed roof lights cover a minimal amount of the roof planes and are only visible in conjunction with the listed building when viewing from a very significant distance away. The internal works to such as the removal of beams and provision of accommodation in the roof space does cannot in any way be interpreted to affect the principal listed building. The pressed metal guttering is considered acceptable in this setting. Therefore, it is not considered that the proposed development would materially impact on the setting of the listed building, and therefore the proposal complies with policy LP35 of the KLP and Chapter 16 of the NPPF.

Representations

- 10.6 Representation regarding the impact on the Listed Building:
- The proposal would detriment the setting of a listed building and does not preserve or enhance it.
 - The roof lights detriment the visual amenity and heritage importance of the barn and wider landscape as they do not respect the character of the host building or listed building.

- The UPVC gutters installed to the barn are not in keeping with the age and character of a barn nearly 170 years old and the listed building setting.
- The removal of the beams is a harmful to the heritage of the barn and wider site.

10.7 The representation summarised above have been addressed in points 10.1 to 10.5 of the assessment above. All matters not summarised are not applicable to the purposes of a listed building consent application and have been assessed in the report for the variation of condition planning application (2021/90090).

11.0 CONCLUSION

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

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

1. In accordance with plans.
2. Provision of pressed metal guttering in accordance with plans within 6 months.
3. Pressed metal downpipes to be erected.

Background Papers:

Application and history files

Certificate of Ownership – Certificate B signed and noticed served.

Link to 2017/91596 :- <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/91596>

Link to 2017/91597:- <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/91597>

Link to 2008/91298:- <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008/91298>

Link to 2008/91752:- <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008/91752>

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Jun-2021

Subject: Planning Application 2021/90706 Removal of condition 23. on previous permission no. 2013/93186 for demolition of a building and formation of additional coach and bus parking/storage area, with screen planting and amended vehicular access arrangements Arriva Lodge Garage, Whitehall Road West, Hunsworth, Cleckheaton, BD19 4BJ

APPLICANT

ARRIVA Bus and Coach
Ltd

DATE VALID

16-Mar-2021

TARGET DATE

11-May-2021

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: Cleckheaton

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 to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION

- 1.1 The application seeks to remove a condition imposed on a previous planning permission. The previous planning permission, referenced 2013/93186, approved the demolition of a building and formation of additional coach and bus parking/storage area, with screen planting and amended vehicular access arrangements. This was subject to a personal permission condition (condition 23), authorising the development specific to the applicant and not to ensure for the benefit of the land. This was because the site is within the Green Belt and the development being inappropriate, but Very Special Circumstances being demonstrated which were specific to the applicant. This is the condition sought to be removed.
- 1.2 This application is brought to the Planning Sub-Committee on the request of local ward Councillor Andrew Pinnock. Cllr Pinnock's reason for this is that the condition was originally imposed as a personal permission, due to specific Very Special Circumstances, which justified the development in the Green Belt.
- 1.3 The Chair of Sub-Committee confirmed that Cllr Pinnock's reason for making this request is valid, having regard to the Councillors' Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is in commercial use. The west of the site hosts industrial buildings that are one or two storeys in height and faced in red brick. These are predominately commercial garage space, with ancillary office. Along the frontage and central within the site is parking for cars. To the east is a large, surfaced area used for the parking for coaches. This coach parking area is the specific subject of the application.

- 2.2 A landscaped boundary surrounding the site to the east, south and west. Along the north runs Whitehall Road West. The site is within the Green Belt. Beyond the boundary is open agricultural land, although there is a terrace row to the north-east adjacent to the coach parking area. The M62 motorway is located further to the east and north, with the site being circa 1.5km from junction 26.

3.0 PROPOSAL

- 3.1 Permission is sought to remove condition 23 from 2013/93186, which approved:

Demolition of a building and formation of additional coach and bus parking/storage area, with screen planting and amended vehicular access arrangements

Condition 23 is as follows:

23. This permission shall be personal to the applicant only and shall not enure for the benefit of the land.

Reason: The proposal is inappropriate development in the Green Belt and is only acceptable due to the very special personal circumstances demonstrated by the applicant which are required to be retained.

- 3.2 The reason for seeking the removal of the condition is that the former applicant and landowner (Arriva Bus and Coach Ltd) is looking to leave and sell the premises. Another company (Two Way Holdings Ltd) is wanting to occupy the land, with the coach parking area as constructed.

- 3.3 The applicant contends that the condition no longer complies with the six tests of planning conditions, following updates to government guidance on the use of conditions (within Planning Practise Guidance). Therefore, it is requested that the condition be removed.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

96/93095: Formation of coach park and access road with associated landscaping – Refused

2013/93186: Demolition of a building and formation of additional coach and bus parking/storage area, with screen planting and amended vehicular access arrangements – Conditional Full Permission

2014/92874: Discharge of condition 5 (Site Investigation Report), 11(drainage scheme), 12 (water related infrastructure), 15 (parking areas), 18 (right turn lane), 19 (bat mitigation) and 20 (storage of retained soils) on previous planning permission 2013/93186 for demolition of a building and formation of additional coach and bus parking/storage area, with screen planting and amended vehicular access arrangements – Discharge of Conditions Approved

4.2 Surrounding Area

Land at, Blue Hills Farm

2019/90527: Outline application for the erection of up to 127 dwellings, with details of access – Conditional Outline Permission

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

5.1 Officers initially objected to the proposal and requested more justification for why the condition should be removed. Discussions were held and the applicant provided further details over the intended new site occupier's business operation and consideration of planning policy. Based on this information, officers accepted the proposed removal of 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 \(2019\) and Supplementary Planning Guidance / Documents](#)

6.2 The application site is allocated Green Belt in the Local Plan.

6.3 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP7** – Efficient and effective use of land and buildings
- **LP21** – Highway safety and access
- **LP24** – Design
- **Chapter 19** – Green Belt and open spaces.

[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 4** – Decision-making
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 13** – Protecting Green Belt land
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change

Climate change

- 6.5 The Council approved Climate Emergency measures at its meeting of full Council on the 16th of January 2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.6 On the 12th of 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

7.0 PUBLIC/LOCAL RESPONSE

Public representation

- 7.1 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site. This is in line with the Council's adopted Statement of Community Involvement.
- 7.2 The final public representation period for the application expired on the 15th of April 2021. Three representations were received. The following is a summary of the comments made:
- The development was inappropriate in the Green Belt and remains so. It was only allowed due to the applicant's specific circumstances.
 - A new owner would carry out other forms of business operations.
 - The development was detrimental to the Green Belt, with more coaches parking than expected. This led to more manoeuvring, noise, and pollution.
 - Concerns over the future implications of the removal / amendment of the condition. No new lighting or buildings should be allowed.
 - The removal of the condition will increase the land value: this is the sole purpose of the application.

8.0 CONSULTATION RESPONSES

8.1 Statutory

K.C. Highways: No objection.

8.2 Non-statutory

K.C. Environmental Health: No objection.

9.0 MAIN ISSUES

- Removal of Condition 23
- Previous Conditions
- Representations

10.0 APPRAISAL

10.1 This application is made under S73 of the Town and Country Planning Act 1990, which allows for the '*Determination of applications to develop land without compliance with conditions previously attached*'. In addition to removing conditions, S73 enables the varying of a condition's wording. The effect of a granted S73 application is the issuing of a fresh planning permission. Therefore, all previously imposed conditions should be retained, if they remain relevant: this will be considered in paragraphs 10.13 – 10.18. Conversely, the time limit for development to commence cannot be extended through S73, however in this case the original development has been commenced and completed.

10.2 The starting point for a S73 application is the previously granted planning permission, which must carry significant material weight. However, consideration must first be given to whether any material changes in circumstances have taken place. This includes the policy and local context. In terms of policy 2013/93186 was assessed against the Unitary Development Plan and NPPF2012. Each has since been superseded, by the Kirklees Local Plan and NPPF 2019 respectively. The impact of these policy changes will be considered where relevant within this assessment.

10.3 The national Planning Practise Guidance, a repository of government planning guidance, goes through frequent revisions and updates, in response to various factors such as appeal decisions. Updates to this guidance and whether it impacts upon this application will be considered where relevant.

10.4 For local context, no development within the local area is considered to affect the proposal comparative to the previous application's assessment.

Removal of Condition 23

10.5 The condition makes the approved planning decision a 'personal permission' to the applicant, the company Arriva Bus and Coach Ltd. This was considered necessary as the time as the proposal was inappropriate development within the Green Belt, but Very Special Circumstances which clearly outweighed the harm to the Green Belt were identified that were unique to the Arriva business.

- 10.6 The applicant contends that the same, or comparable, Very Special Circumstances apply to Two Way Holdings Ltd. This includes that the site will continue to operate as existing under new ownership, and secure jobs at the site.
- 10.7 Notwithstanding the submitted details of Very Special Circumstances, the applicant has also submitted that government guidance, available within Planning Practise Guidance (PPG), does not support the use of personal permission conditions for business. The guidance outlines that planning permission should run with the land and it is seldom desirable to provide otherwise. The PPG states:
- A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.*
- 10.8 This guidance is noted by officers. Regarding the condition's reason, the need to protect the Green Belt, a separate condition was also imposed on 2013/93186 with a similar purpose:
- 22. In the event that the use of the site permitted by this planning permission ceases for a period in excess of 6 (six) months, all storage of vehicles and hard surfacing shall be removed from the site and the site shall be restored in accordance with a scheme which shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented within 2 months of such approval or within 6 months of the cessation of the permitted use, whichever is the later.*
- Reason:** *So as to ensure that the proposed development would have an acceptable impact upon the openness of the Green Belt and to accord with guidance contained within the NPPF – National Planning Policy Framework.*
- 10.9 Both conditions 22 and 23 serve the same function, albeit through different methods. The function is to ensure the development does not have an undue or lasting impact upon the Green Belt when it is no longer required by the applicant. Reflection on the interplay between these conditions, it is considered that the imposition of one makes the other superfluous, which in turn makes the other neither necessary nor reasonable.
- 10.10 Planning conditions must pass six tests: that they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 10.11 Through this S73 application, the LPA is being asked to re-examine the need and reasonableness of this condition. Considering the six tests for conditions and government guidance, and alongside the reassurance provided by the other condition 22 (to be retained), officers conclude that Condition 23 is no longer reasonable or necessary to impose and can also be removed without causing harm to the Green Belt.

- 10.12 Considering other material planning considerations, such as ecology, drainage and highways, the removal of condition 23 is not anticipated to have any detrimental impacts. For residential amenity, as noted above the site will operate similarly to as it has previously operated: it is proposed to retain the previous hours of use condition (no actives in the bus and coach parking area outside of 0800-2000, Monday to Friday, with no actives on Saturdays, Sundays, or Bank Holidays) and limitations on noise generation (when measured from 117 Whitehall Road East). K.C. Environmental Health have confirmed they've received no formal noise complaints about the site.

Previous Conditions

- 10.13 As this is an application under S73 of TCPA 1990 it will in effect be a new permission. The conditions from 2013/93186 should therefore be repeated unless they have already been discharged / fulfilled, in which case they will be re worded where relevant.
- 10.14 Application 2013/93186 was granted with 23 conditions:
1. Time limit to commence development
 2. Development to be done in accordance with approved plans
 3. Limiting activities in the coach parking area to 0800 – 2000, Monday to Friday
 4. Limitation on noise from coach parking area
 5. Submission of a phase 2 contaminated land report
 6. Submission of remediation strategy
 7. Implementation of remediation strategy
 8. Submission of validation report
 9. Surface water to pass through an oil interceptor
 10. Development to be done in accordance with Drainage Assessment
 11. Surface water strategy to be submitted
 12. Assessment of culvert under site
 13. Landscaping to be done in accordance with approved details
 14. Development to be done in accordance with Arboricultural Assessment and Method Statement
 15. Details of surfacing to be approved and implemented
 16. Sightlines to be provided and retained
 17. Details of surfacing to be approved and implemented
 18. Right turn lane to be detailed and provided
 19. Bat mitigation survey to be undertaken and submitted
 20. Details of retained soil to be provided and approved
 21. Soil to be retained on site, in accordance with details of condition 20.
 22. Site to be returned to previous state if not used for a period in excess of six months
 23. Permission for applicant only (sought to be varied)
- 10.15 Conditions 2, 3, 4, 9, 13, and 22 are to be retained as previous imposed as their requirements remain relevant. Conditions 11, 15, 16, and 21 are to be re-worded to reflect information submitted with discharge of condition applications approved after the original application 2013/93186.
- 10.16 The above list notably includes the same hours of use limitation and restriction the level of noise being re-imposed.

10.17 No new physical works are required as they have been undertaken. The following conditions are no longer required, as they initially required submission of details associated with construction which have since been submitted, approved, and implemented without ongoing requirements:

1, 5, 6, 7, 8, 10, 12, 14, 17, 18, 19, and 20.

For clarity and consistency, conditions are not to be re-numbered, therefore each of the removed conditions will include a note 'condition no longer required'.

10.18 Application 2013/93186 was not granted subject to a S106 agreement. Therefore, a S106 Deed of Variation is not required.

Representations

10.19 Three representations have been received to date. The following are matters not previously directly addressed.

- Concerns over the future implications of the removal / amendment of the condition. No new lighting or buildings should be allowed.

Response: Each application is assessed on its own merits. There is considered no intrinsic link between this application and the erection of new buildings or lighting.

- The removal of the condition will increase the land value: this is the sole purpose of the application.

Response: This does not form a material planning consideration.

11.0 CONCLUSION

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.

11.2 As a S73 application, the principal consideration is the planning implications of the removal of the condition. The condition is no longer considered to comply with the NPPF's six tests for conditions and its usage goes against government guidance. Furthermore, given the similarities between the existing and proposed site operators, and the retention of condition 22 (removal of the development after 6 months of inactivity), the removal is not considered detrimental to the Green Belt.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to the reimposition of conditions identified as remaining necessary.

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

1. *Condition no longer required*
2. Development to be done in accordance with approved plans
3. Limiting activities in the coach parking area to 0800 – 2000, Monday to Friday
4. Limitation on noise from coach parking area
5. *Condition no longer required*
6. *Condition no longer required*
7. *Condition no longer required*
8. *Condition no longer required*
9. Surface water to pass through an oil interceptor
10. *Condition no longer required*
11. Surface water strategy retained, in accordance with details previously approved.
12. *Condition no longer required*
13. Landscaping to be retained, in accordance with details previously approved.
14. *Condition no longer required*
15. Details of surfacing to retained, in accordance with details previously approved.
16. Sightlines to be provided and retained
17. *Condition no longer required*
18. *Condition no longer required*
19. *Condition no longer required*
20. *Condition no longer required*
21. Soil to be retained on site, in accordance with details previously approved.
22. Site to be returned to previous state if not used for a period in excess of six months

Background Papers

Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f90706>

Certificate of Ownership

Certificate A signed.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Jun-2021

Subject: Planning Application 2021/90708 Change of use of clothes shop to hot and cold food dessert cafe and take away 677, Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3LD

APPLICANT

N Hussain

DATE VALID

22-Mar-2021

TARGET DATE

17-May-2021

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: Dewsbury West

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application is brought to committee as the applicant is related to a Councillor. This is in accordance with the Council's Scheme of Delegation set out in the Constitution.

2.0 SITE AND SURROUNDINGS:

2.1 The application site, no.677 Huddersfield Road, Ravensthorpe is a mixed-use premises with a retail element on the ground floor to the roadside of the building and a residential use for the rest of the property. The building itself fronts both Huddersfield Road and Charles Street with a courtyard area to the rear accessed through a passageway on Charles Street. Within the courtyard, which is in the ownership of the applicant, there is a large outbuilding, and the area is paved between the main building and the outbuilding. The residential element has an existing two storey extension across part of the width of the dwelling with a balcony.

2.2 There are other business/retail premises on the opposite corner of Charles Street and on Huddersfield Road. The adjoining property to the side and on the other side of the passageway are residential properties. There are workshops to the rear of the courtyard on the other side of the outbuilding.

3.0 PROPOSAL:

3.1 The applicant is seeking permission to change the use of the premises from a shop to a hot and cold dessert café and take away.

3.2 The hours of opening proposed are 06:00 till 23:00, 7 days a week.e

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2016/93272 - erection of extension and balcony to rear - approved by committee 15/12/2016

4.2 2006/92233 – alterations to vacant public house to form shop and two storey extension to living quarters – approved by committee 10/08/2006

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

5.1 None

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2
- LP 01 – Achieving sustainable development
 - LP 02 – Place shaping
 - LP 13 – Town centre uses
 - LP 16 – Food and drink uses and the evening economy
 - LP 21 – Highway safety and access
 - LP 22 – Parking
 - LP 24 – Design
 - LP 52 – Protection and improvement of environment quality

Supplementary Planning Guidance / Documents:

6.3 None

National Planning Guidance:

6.4 Chapter 2 – Achieving sustainable development
Chapter 7 – Ensuring the vitality of town centres
Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised by letter giving till 30/04/2021 for comments. No responses received

8.0 CONSULTATION RESPONSES:

Below is a summary of the consultee responses. Where appropriate, these are expanded on as part of the appraisal at section 10.

8.1 Statutory:

K.C. Highways Development Management – support the proposal.

K.C. Environmental Health – support subject to conditions.

8.2 Non-statutory:

None

9.0 MAIN ISSUES

- Principle of development
- Town Centre use
- Visual amenity
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

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

Town Centre use

- 10.2 The property is currently a shop which falls within class E of the Use Classes Order (as amended 2020) and the applicant is seeking permission to alter the use to a hot and cold dessert café with take away which would fall into a sui generis use.
- 10.3 The NPPF identified that this use is a main town centre use and that, to avoid a sequential test, the use must be in an existing centre. The location of the property is within the defined centre of Ravensthorpe. As such, a sequential test is not required, and the location is considered appropriate for the use when assessed in relation to Chapter 7 of the NPPF.
- 10.4 Chapter 7 of the National Planning Policy Framework supports the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption. Local Plan Policy LP13 reiterates the national policy stance. This building has a well-established existing retail use, surrounded by other retail uses. The scale and type of use proposed would still form an acceptable use within the area and is considered acceptable in terms of town centre policy. It is considered that the proposed use would support the approach taken by both Local and National Planning Policy in terms of its contribution to the vitality of the town centre.

Visual Amenity

- 10.5 No external changes are proposed to the building as part of this proposal, with only internal layout changes required to facilitate the change of use. Furthermore, the new use would be compatible with the character of the local centre location. For these reasons, it is not considered that the proposal would have greater impact on the character of either the street scene or the wider area than existing.
- 10.6 Taking the above into consideration, the proposed development is considered to comply with Policy LP24 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

Residential Amenity

- 10.7 Policy LP24 of the Kirklees Local Plan sets out that consideration needs to be given to the impact of the proposal on neighbouring properties.
- 10.8 The properties within the surrounding area are of a mix of commercial and residential uses. The application site also includes a residential element to the rear and at first floor level.
- 10.9 In this instance, the built form of the building would not change as a result of the proposal and therefore there would be no overbearing or overshadowing impact as a result of the change of use. In addition, there would be no external alterations to the property which would prevent overlooking from the proposed use.
- 10.10 In terms of noise, K.C. Environmental Health have been consulted and raised no objection subject to a condition restricting hours of use. In line with the applicants proposed hours, 06:00 till 23:00 is considered acceptable given the location on the main road. This is in the interest of the residential amenity of the neighbouring residential uses and the provision of a noise report. Given the location of the site within an area which includes a number of commercial uses, it is not considered that the dessert shop would result in significant noise disturbance, over and above the existing uses in the area and would not conflict with the other uses which are located within close proximity to the site, subject to the suggested conditions.
- 10.11 The proposed development complies with Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

Highway issues

- 10.12 The impact on highway safety is acceptable. K.C. Highways Development Management have reviewed the planning application and have no objections to the proposed development.

- 10.13 The proposed development site was formerly a pub, and more recently a clothes shop. The site is in the recognised centre of Ravensthorpe and is set amongst a mix of business, residential and other take-away/restaurant premises. Whilst the parking provision is below standard, the site is considered in a sustainable location in a recognised centre with good public transport links, and on-street parking available.
- 10.14 The proposed development is considered to comply with policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

Representations

- 10.15 No representations have been received with regards to this proposal.

Other Matters

- 10.16 *Odours:* Environmental Health have been consulted and will support the proposals subject to a condition requiring details of the ventilation system have been submitted to and agreed. Subject to the appropriate condition, the proposal can be considered to comply with LP52 of the KLP.
- 10.17 *Drainage:* for the proposal to be acceptable, details will be required via condition in terms of the provision of a scheme to prevent fats, oils and grease entering the drainage network.
- 10.18 There are no other matters with respect to this application.

11.0 CONCLUSION

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

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

1. Time scale for the implementation of development (within 3 years)
2. In accordance with the approved details
3. Submission of a scheme of ventilation
4. Submission of a scheme for the removal of fats, oils and grease
5. Submission of a Noise report
6. Restriction of hours of operation: 06:00 till 23:00, 7 days a week

Background Papers:

Application and history files.

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Certificate of Ownership –Certificate A signed

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