

Public Document Pack



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

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The Democracy Service

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Wednesday 14 July 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 22 July 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 Steve Hall
Councillor Gwen Lowe
Councillor Fazila Loonat
Councillor Mussarat Pervaiz
Councillor Cathy Scott
Councillor Adam Gregg
Councillor Joshua Sheard
Councillor Melanie Stephen
Councillor Kath Taylor
Councillor John Lawson
Councillor Andrew Pinnock

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 10 June 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 and any person may ask no more than two questions.

Planning Applications

11 - 12

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

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Monday 19 July 2021.

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

You will be able to address the Committee virtually. 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.

Members of the public who wish to attend the meeting in person will be required to register by the same deadline outlined above. Measures will be in place to adhere to current COVID secure rules, including social distancing requirements. This will mean that places will be limited.

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

7: Planning Application - Application No: 2020/90411

13 - 40

Outline application for demolition of 2 dwellings and outbuildings and the erection of 21 dwellings 7 & 11, Church Lane, Gomersal, Cleckheaton.

Contact officer: Kate Mansell, Planning Services

Ward(s) affected: Liversedge and Gomersal

8: Planning Application - Application No: 2020/91747 41 - 60

Demolition of former dairy/snooker centre/storage and erection of 9 light industrial units Land Adjacent, 60, Northgate, Cleckheaton.

Contact Officer: Adam Walker, Planning Services.

Ward(s) affected: Cleckheaton

9: Planning Application - Application No: 2021/90706 61 - 74

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 officer: Nick Hirst, Planning Services.

Ward(s) affected: Cleckheaton

10: Planning Application - Application No: 2021/91354 75 - 96

Demolition of existing buildings, erection of 5 dwellings, formation of access and associated works land at, Old White Lee Colliery, Leeds Road, Heckmondwike.

Contact officer: Christopher Carroll, Planning Services.

Ward(s) affected: Birstall and Birkenshaw

11: Planning Application - Application No: 2021/91724 97 - 106

Erection of raised decking with balustrade, new door opening and 3 giant umbrellas to rear (Listed Building within a Conservation Area) Smiths Arms, 1, Town Gate, Highburton, Huddersfield.

Contact officer: Jennifer Booth, Planning Services.

Ward(s) affected: Kirkburton

12: Planning Application - Application No: 2021/91725 107 -
112

Listed Building Consent for erection of raised decking with balustrade, new door opening and 3 giant umbrellas to rear (within a Conservation Area) Smiths Arms, 1, Town Gate, Highburton, Huddersfield.

Contact officer: Jennifer Booth, Planning Services

Ward(s) affected: Kirkburton

13: Planning Application - Application No: 2021/91940 113 -
122

Erection of single and two storey extensions and formation of vehicular access 40, Beckett Crescent, Dewsbury Moor, Dewsbury.

Contact officer: Alice Downham, Planning Services.

Ward(s) affected: Dewsbury West

Planning Update

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

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 10th June 2021

Present: Councillor Mumtaz Hussain (Chair)
Councillor Nosheen Dad
Councillor Adam Gregg
Councillor David Hall
Councillor Steve Hall
Councillor John Lawson
Councillor Gwen Lowe
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Joshua Sheard
Councillor Mohan Sokhal
Councillor Melanie Stephen

Apologies: Councillor Cathy Scott

1 Membership of the Sub-Committee

Councillor Sokhal substituted for Councillor Loonat.

Councillor D Hall substituted for Councillor K Taylor.

Apologies for absence were received on behalf of Councillor Scott.

2 Minutes of Previous Meeting

RESOLVED – That the Minutes of the Meeting held on 14 April 2021 be approved as a correct record.

3 Declaration of Interests and Lobbying

Councillors Dad, Gregg, M Hussain, S Hall, Lawson, Pervaiz, A Pinnock, Sheard, Sokhal and Stephen advised that they had been lobbied on Application 2020/91215.

Councillors S Hall and Pervaiz advised that they had been lobbied on Application 2019/92515.

Councillor M Hussain advised that he had been lobbied on Application 2021/91400.

Councillors Dad and Pervaiz advised that they had been lobbied on Application 2021/90209.

Councillor A Pinnock advised that he had been lobbied on Application 2021/90807.

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Councillors S Hall and A Pinnock advised that they had been lobbied on Application 2021/90090.

Councillors S Hall and A Pinnock advised that they had been lobbied on Application 2021/90212.

Councillor A Pinnock advised they he had been lobbied on Application 2021/90706. Councillor Lawson declared an 'other' interest in this application on the grounds that his partner works for the parent company of Arriva.

Councillor M Hussain declared a disclosable pecuniary interest in Application 2021/90708 on the grounds that his wife was the applicant and would therefore leave the meeting for the consideration of this application.

The Sub-Committee resolved that Application 2021/90708 would be chaired by Councillor S Hall.

4 Admission of the Public

It was noted that there was no exempt information for consideration.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Planning Application - Application No: 2020/91215

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

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Mark Eastwood MP, Barry Brook, Mike Wood and James Martin (local residents), Paul Butler (applicant's agent) and Mike Whittaker (applicant's highways consultant).

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;

- standard outline condition (submission of reserved matters)
- standard outline condition (implementation of reserved matters)
- standard outline condition (reserved matters submission time limit)
- standard outline condition (reserved matters implementation time limit)
- development in accordance with plans and specifications
- flood risk and drainage – full scheme to be submitted
- separate systems of foul and surface water drainage to be provided
- details of access and internal adoptable roads

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- restricted access from Green Acres Close
 - section 278 works to public footpath
 - ecology and biodiversity net gain (including submission of an ecological design strategy)
 - tree protection measures to be implemented prior to commencement
 - restriction on timing of removal of hedgerows, trees and shrubs
 - landscaping – full details to be submitted
 - construction management plan to be submitted
 - electric vehicle charging points to be provided
 - contaminated land
 - coal mining legacy – details of intrusive site investigation to be submitted
 - details of ball strike risk mitigation to be submitted at reserved matters
 - details of management and maintenance of ball risk mitigation to be submitted pre-commencement
 - submission of details of crime prevention measures
 - submission of details of noise mitigation measures
- 2) That authority be delegated to the Head of Planning and Development to secure a S106 Agreement to cover (i) affordable housing – 20% of units, with a policy-compliant tenure and unit size mix, to be provided in perpetuity (ii) education – financial contribution to be calculated with reference to number of units proposed at reserved matters stage, unit sizes and projected pupil numbers (iii) 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, consultee responses and improvements to off-site public rights of way (iv) open space – financial contribution towards off-site provision, to be calculated with reference to details proposed at reserved matters stage (v) 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 (vi) 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) and (vii) traffic regulation order – funding of consultation on, and implementation of, (if deemed appropriate after consultation) a traffic regulation order to restrict parking at the Wentworth Drive/Beaumont Street junction.
- 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 mitigation and benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Dad, S Hall, Lawson, Pervaiz and Sokhal (5 votes)

Against: Councillors Gregg, D Hall, Sheard and Stephen (4 votes)

Abstained: Councillors M Hussain and A Pinnock

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

The Sub-Committee gave consideration to Application 2019/92515 – Partial demolition of existing building and erection of first floor and two storey rear extensions at Mohaddis E Azam Education Centre and Masjid E Madani, 225c Ravenshouse Road, Dewsbury Moor.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Mohammad Iqbal (in support of the application)

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;

- timescale for implementation
- development to be carried out in accordance with approved plans and specifications
- samples of external materials to be submitted
- call to prayer (control hours, length of time, sound level)
- electric vehicle charging points
- reporting of unexpected contamination
- intrusive site investigations (in relation to coal mining legacy)
- details of external artificial lighting

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

For: Councillors Dad, Gregg, D Hall, S Hall, M Hussain, Lawson, Pervaiz, A Pinnock, Sheard, Sokhal and Stephen (11 votes)

Against: (no votes)

9 **Planning Application - Application No: 2021/91400**

The Sub-Committee gave consideration to Application 2021/91400 – Erection of first floor side and rear extensions at 74-76 Pilgrim Crescent, Dewsbury Moor.

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

RESOLVED – That the application be refused on the grounds that (i) the proposed 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 and 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 (ii) the first floor 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 and to permit the proposed

Planning Sub-Committee (Heavy Woollen Area) - 10 June 2021

first floor side rear extension would be contrary to Policy LP24 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework and (iii) 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 and to permit the first floor extension would be contrary to Policy LP24 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.

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

For: Councillors Dad, Gregg, D Hall, S Hall, Lawson, A Pinnock, Sheard, Sokhal and Stephen (9 votes)

Against: (no votes)

Abstained: Councillors M Hussain and Pervaiz

10 **Planning Application - Application No: 2021/90209**

The Sub-Committee gave consideration to Application 2021/90209 – Erection of detached dwelling adjacent to 18 Wells Road, Thornhill, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Ken Calvert and Mohammad Zaman (local residents), Hamish Gledhill (applicant's agent) and Fiesal Iqbal (applicant).

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;

- timescales
- accordance with the plans
- external materials
- removal of permitted development rights for classes A – E
- parking area to be surfaced
- management plans for parking and appropriate safety audit
- details of the retaining walls/structures adjacent to highway
- details of bin storage
- provision of integral bat boxes
- electric vehicle parking points
- provision of phase 1 contaminated land report
- provision of phase 2 contaminated land report
- provision of a remediation strategy (in relation to contaminated land)
- validation report (in relation to contaminated land)

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

For: Councillors Gregg, D Hall, Lawson, A Pinnock, Sheard, Sokhal and Stephen (7 votes)

Against: (no votes)

Abstained: Councillors Dad, S Hall, M Hussain and Pervaiz

Planning Sub-Committee (Heavy Woollen Area) - 10 June 2021

11 **Planning Application - Application No: 2021/90807**

The Committee gave consideration to Application 2021/90807 – Use of land to rear for dog training and erection of a fence at Pasture Farm Barn, 8 West View, Scholes, Cleckheaton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Martin Binns and Paula Jagger (local residents).

RESOLVED – That, contrary to the Officer’s recommendation, the application be refused on the grounds that the proposed development would be detrimental to the amenity of local residents due to noise disturbance.

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

For: Councillors Dad, D Hall, S Hall, M Hussain, Lawson, Pervaiz, A Pinnock, Sheard, Sokhal and Stephen (10 votes)

Against: Councillor Gregg

12 **Planning Application - Application No: 2021/90090**

The Sub-Committee gave consideration to 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 at Egypt Farm, Cliffe Lane, Gomersal.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Nick Ward (local resident), Emma Winter (applicant’s agent) and Andrew Ratcliffe (applicant).

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;

- in accordance with plans
- vehicle charging points provided within three months of decision and retained
- parking provided including new hard surfacing for parking to be surfaced and drained and retained within 6 months of decision and retained (due to demolition of building required)
- obscurely glazed windows (as shown on plans) with restrictors to allow for window to only open 10cm to be fitted within three months of the decision and retained
- unauthorised roof lights to be removed within three months
- permitted development rights removed for classes A, B, C, D, E
- provision of black pressed metal guttering to barn and in accordance with plans within three months and retained
- existing windows and those hereby approved to be timber and retained as timber with a painted finish (except roof lights)
- roof lights hereby approved to have conservation style bar retained
- no new windows or doors other than those approved under this application unless submitted to in writing and approved by the LPA – any new windows

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or doors applied for shall be of timber with a painted finish with a minimum of 75mm from the face of the building

- any new facing brick used on the barn shall match the existing
- roof material match existing
- retention of bat box
- 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 – final wording of condition to be agreed with Environmental Health to secure any further works if necessary, to ensure end user safety

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

For: Councillors Dad, Gregg, D Hall, S Hall, M Hussain, Pervaiz, Sheard, Sokhal and Stephen (9 votes)

Against: (no votes)

Abstained: Councillors Lawson and Pinnock

13 **Planning Application - Application No: 2021/90212**

The Sub-Committee gave consideration to 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 garage at Egypt Farm, Cliffe Lane, Gomersal.

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;

- in accordance with plans
- unauthorised roof lights to be removed within three months
- provision of black pressed metal guttering to barn and in accordance with plans within three months and retained
- existing windows and those hereby approved to be timber and retained as timber with a painted finish (except roof lights)
- roof lights hereby approved to have a conservation style bar retained
- no new windows or doors other than those approved under this application unless submitted to in writing and approved by the local planning authority – any new windows or doors applied for shall be of timber with a painted finish with a minimum of 75mm from the face of the building
- any new facing brick used on the barn shall match the existing
- roof material match existing

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

For: Councillors Dad, Gregg, D Hall, S Hall, M Hussain, Pervaiz, Sheard, Sokhal and Stephen (9 votes)

Against: (no votes)

Abstained: Councillors Lawson and A Pinnock

Planning Sub-Committee (Heavy Woollen Area) - 10 June 2021

14 **Planning Application - Application No: 2021/90706**

The Sub-Committee gave consideration to Application 2021/90706 – Removal of condition 23, on previous 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 at Arriva Lodge Garage, Whitehall Road West, Hunsworth, Cleckheaton.

RESOLVED – That the consideration of the application be deferred in order to enable further information submitted from the new site owners regarding operations.

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

For: Councillors Dad, Gregg, D Hall, S Hall, M Hussain, Lawson, Pervaiz, A Pinnock, Sheard, Sokhal and Stephen (11 votes)

Against: (no votes)

15 **Planning Application - Application No: 2021/90708**

(Councillor S Hall in the Chair)

The Sub-Committee gave consideration to Application 2021/90708 – Change of use of clothes shop to hot and cold food dessert café and takeaway at 677 Huddersfield Road, Ravensthorpe, Dewsbury.

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;

- timescale for the implementation of development (3 years)
- in accordance with the approved plans
- submission of a scheme of ventilation
- submission of a scheme for the removal of fats, oils and grease
- submission of a noise report
- restriction of hours of operation – 06:00 to 23:00 7 days per week

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

For: Councillors Dad, Gregg, D Hall, S Hall, Lawson, Pervaiz, A Pinnock, Sheard, Sokhal, Stephen (10 votes)

Against: (no votes)

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

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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: 22-Jul-2021

Subject: Planning Application 2020/90411 Outline application for demolition of 2 dwellings and outbuildings and the erection of 21 dwellings 7 & 11, Church Lane, Gomersal, Cleckheaton, BD19 4QH

APPLICANT

Mr & Mrs Benson/Mrs
Pollard

DATE VALID

07-Feb-2020

TARGET DATE

08-May-2020

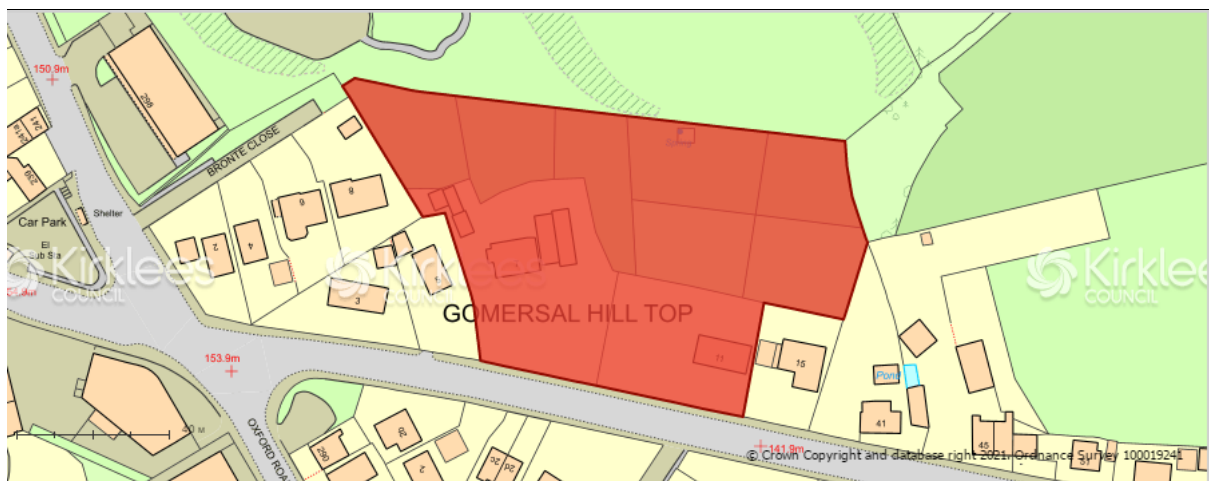
EXTENSION EXPIRY DATE

31-Jul-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: Liversedge and Gomersal

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 a 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 dwellings to be affordable with a split of 55% social or affordable rent to 45% intermediate housing;
- 2) Open space – contribution of £28,576.44 towards the improvement/enhancement of off-site open space within 720m of the site;
- 3) Education – contribution of £42,552 to be spent upon priority admission area schools within the geographical vicinity of this site;
- 4) Arrangements to secure the long-term maintenance and management of public open space and the applicant's surface water drainage proposals;
- 5) A contribution of £12,787.50 to support sustainable transport methods to fund the installation of a Real Time Information display at bus stop no. 14094, and to be put towards sustainable travel incentives to encourage the use of sustainable modes of transport.
- 6) A Bio-diversity Net Gain contribution to allow the off-site enhancement of Council owned land within the vicinity of the site in the event that an on-site net gain is demonstrated to be infeasible at Reserved Matters (Landscape) stage.

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 application seeks outline planning permission for the residential development of a site allocated for housing within the Kirklees Local Plan. The application is submitted with all matters except access and layout reserved. It proposes the demolition of 2 dwellings and outbuildings and the erection of 21 dwellings.

1.2 In accordance with the Council's Scheme of Delegation, it is brought to this Sub-Committee because it is a residential development of less than 61 units on a site larger than 0.5 hectares.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site lies to the north of Church Lane in Gomersal and extends to 0.73 hectares. It presently comprises the house and gardens associated with Nos. 7 and 11 Church Lane, as well as open fields that lie to the rear of these properties. The southern boundary of the site is defined by Church Lane. To the west, it adjoins the gardens of 5 Church Lane and 8 Bronte Close. To the east, it borders the side and rear perimeter of 15 Church Lane, part of the garden to 41 Church Lane and another field boundary. Further fields lie to the north, part of which is used as a playing field by Gomersal Primary School. There is a strong planted edge of trees/shrubs and hedgerow delineating the perimeter to the north and east.
- 2.2 The area surrounding the site is predominantly residential. It comprises a range of house types/scales including bungalows set within generous plots, to two-storey detached and semi-detached houses. Church Lane itself is fronted by properties of varying styles. There are, however, defining features that contribute to its character, including stone boundary walls along the frontage, mature planting to front gardens/edges to create an attractive street scene and front elevations facing the road, which incorporate a setback of varying depths.

3.0 PROPOSAL:

- 3.1 This application seeks outline planning permission for the residential development of the site. It proposes the demolition of 7 and 11 Church Lane and the construction of 21 dwellings comprising the following:
- 12 semi-detached dwellings (6 x 2 bedroom and 6 x 3 bedroom);
 - 9 detached dwellings (5 x 3 bedroom and 4 x 4 bedroom).
- 3.2 All matters except access and layout are reserved for future consideration.
- 3.3 The Town and Country Planning (Development Management Procedure) Order 2015 (Article 2) defines access as the following:
- 'Accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network'.*
- Layout is defined as:
- 'the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development'*
- 3.4 This application therefore seeks to consider the principle of residential development, the layout of buildings and open space within the site and the means of access. Matters of the appearance of the dwellings (and floor plans), their scale and landscaping (the Reserved Matters) are reserved for future consideration. Accordingly, they do not form part of the assessment of this application.
- 3.5 In terms of accessibility into the site, vehicular access for most of the houses would be taken via a new access from Church Lane. A 2 metre footway would continue a short distance into the site from this road and it would then become a shared surface arrangement. Two properties (Plots 20 and 21) would be provided with a direct driveway access onto Church Lane.

3.6 The layout would deliver a small residential estate that would be served from the main access road and a cul-de-sac at the eastern end of the site. Three of the dwellings would front Church Lane set behind a front garden and a stone boundary wall to reflect the existing arrangement. Within the site, each property would have a front and rear garden and at least two parking spaces. An area of public open space would be sited at the eastern edge, to the rear of 15 Church Lane. A pumping station would be located within this area with appropriate maintenance access.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 There are no recent planning applications on the site of relevance to this proposal.

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

5.1 The applicant initially applied for 25 dwellings, with all but one served from Church Lane. However, the layout was considered unacceptable for several reasons including:

- Failure to retain the mature planting and boundary treatment along the site frontage, which contributes to the character of the area;
- Failure to respond to the building line on Church Lane, with the majority of house set back from the road behind a mature front garden;
- Proximity to existing properties;
- No provision for on-site open space;
- Impact on trees along the boundary.

The scheme has evolved following discussions with Officers to the 21 dwellings now proposed.

5.2 In addition, there have been extensive negotiations with the Lead Local Flood Authority to resolve matters relating to drainage, which are detailed in the report below.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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) (KLP).

Kirklees Local Plan (2019)

6.2 With the exception of land and gardens associated with 11 Church Lane, the site is allocated for residential development in the Kirklees Local Plan (Site Allocation HS114). This indicates a gross site area of 0.67ha and refers to an indicative capacity of 22 dwellings based upon a density of 35 dwellings per hectare. The only identified constraint is that part/all of the site is within a High-Risk Coal Referral Area (it is in fact a very small segment at the front of the site).

6.3 The following policies are most relevant to the consideration of this application

- LP1** – Presumption in favour of sustainable development
- LP2** – Place shaping
- LP3** – Location of new development
- LP7** – Efficient and effective use of land and buildings
- LP11** – Housing mix and affordable housing
- LP20** – Sustainable travel
- LP21** – Highways and access
- LP22** – Parking
- 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
- LP49** – Educational and health care needs
- LP51** – Protection and improvement of local air quality
- LP52** – Protection and improvement of environmental quality
- LP63** – New open space
- LP65** – Housing allocations

Supplementary Planning Guidance / Documents:

6.4 The most relevant adopted SPG/SPD document is the following:

- Highways Design Guide SPD (2019)
- Kirklees Interim Affordable Housing Policy (2020)
- Providing for Education Needs Generated by New Housing (2012)
- Housebuilder Design Guide (2021).

6.5 The Council has also recently approved a Biodiversity Net Gain Technical Advice Note (June 2021). It provides guidance on how Biodiversity Net Gain should be achieved by development within Kirklees in the intervening period before the introduction of the Environment Bill.

National Planning Guidance:

6.6 The National Planning Policy Framework 2019 (NPPF) 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. The following sections of the NPPF are most relevant to the consideration of this application:

Chapter 7: Requiring good design

Chapter 9: Promoting sustainable transport

Chapter 11: Conserving and enhancing the natural environment

6.7 The following national guidance and documents are also relevant:

National Design Guide (2019) - The National Design Guide sets out the characteristics of well-designed places and demonstrates what good design means in practice. It will be more relevant at Reserved Matters stage having regard to layout, appearance, scale and landscaping.

Climate change

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 pre-dates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

7.0 PUBLIC/LOCAL RESPONSE

7.1 The application was originally advertised as a major development in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) by means of site notices and a press notice in the Dewsbury Reporter (27 February 2020). It was also advertised by means of direct neighbour notification letters that were sent on 17 February 2020. A total of 13 representations were received objecting to the development.

7.2 There is no statutory requirement under the DMPO to undertake any further consultation on revised proposals. Nonetheless, letters were sent to all interested parties following the submission of a revised layout plan in March 2021. A further 8 representations were received at that time.

7.3 In total, there have been 21 letters of objection to this proposal from 19 residents. The representations can be viewed in full on the Council’s website at <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90411>. A summary of the issues raised in the responses is set out below:

Highway and Transport Issues

- Bronte Close must not be used for vehicle or pedestrian access into or out of the development or for vehicle parking, for construction employees or any sub-contractor;
- Within the published plans, there is no physical barrier to stop access through Bronte Close from the development (in the area around property No. 4). At best there appears to be a proposed hedge;
- Residents of Bronte Close do not want their road to become a route for general access to and from the development;

- There is no evidence of any account being taken of the increased traffic along Craven Lane and Muffit Lane both of which have minimally effective traffic calming arrangements in place;
- Parked vehicles are problematic at the junction of Church Lane and Muffit Lane and at Craven Lane and Muffit Lane and most days there are near miss accidents as vehicles travelling from Church Lane along Muffit Lane are rounding the bend in the middle of the road;
- It is inevitable that this traffic will increase many-fold during the development of these dwellings whilst the unavoidable temporary traffic lights will be in place on Church Lane. Please consider a wider highways survey and comments from blue light services before any further formal consideration of this application;
- The traffic will be worse and it is too busy now;
- Cars are already queuing on Church Lane morning and evening from the recent growth in the area and the shops etc. are already extremely busy;
- The impact on the environment with standing traffic already will be increased. Hill Top has two supermarkets a petrol station and a school. To add to this with at least fifty more vehicles will not only increase pollution cause traffic gridlock and can be argued to be putting public safety at risk;
- Direct impact of increased traffic and disruption to traffic flows - Church Lane is already a highly congested area during peak times making parking and turning into driveways is extremely difficult;
- On a daily basis, traffic is regularly stationary from the traffic lights at Hill Top to the entrance to Craven Drive, and occasionally to the entrance to Muffit Lane in peak times. As well as this, cars already park on both sides of the pavement on Church Lane during school drop off making it dangerous and difficult to negotiate;
- An increase in traffic would mean Craven Lane would become more of a rat run that it already is, and Muffit Lane (B6122) would be more of a concern/danger especially at the pinch points as you travel towards White Lee (B6122). Current traffic calming measures do not work and it is currently a risk to local school children in particular those who are travelling to Gomersal Primary School;
- No reference to waste, service and maintenance vehicles contributing to trip generations in the Transport Assessment.

Living conditions of neighbouring occupiers

- The pumping station is too close to residential properties (on boundary lines) and a concern about noise from pumping;
- Extra houses will spoil the outlook;

- Church Lane often has parked cars on either side of the road throughout the day, five-fold at school start/lunch/finish times. This is for Gomersal Primary School. The cars currently parking on Church Lane to drop children off at the school, discharge car fumes, with a further 24 homes, with a potential 48 cars, suggests car emissions will only increase;
- The views would be changed from green fields and trees to a housing estate.

Drainage considerations

- Concerns about sewage backflow and leakage;
- The field has a history of flood issues;
- There is a water course just south of the proposed area, further down Church Lane;
- The land has become waterlogged and changing the land uphill from here from grassland fields to buildings, drives and road will mean run off will contribute even more to already waterlogged ground.

Other considerations

- Subsidence from underground work to be implemented (damage to foundations). Residents state that they already have cracks to the foundations of their bungalow.

Construction issues

- Lorries coming in and out;
- Concern about disruption whilst work is being carried out - the noise and the possibility of subsidence due to excavation of the land.

Ground issues

- Leachate of Contaminants.

Bio-diversity

- Impact on wildlife;
- Bats flying over the site;
- Loss of wildlife and birds habitat.

Infrastructure

- The 24 proposed houses, together with 39 proposed new houses on the old Nursing Home site, means that in less than a quarter of a mile, from the application number 2020/90411, totals 83 new properties, some of which are 5-bedroom properties. From this, within the said quarter of a mile, there will be, conservatively, another 186 cars, possibly 100 school age children. Are there extra school places at the 2 local schools?

- The schools and associated facilities for children in Gomersal are already deemed full or over-subscribed;
- The provision of health-related services is a concern, with local doctor and dental practices already struggling to meet demand. And the withdrawal of some services at Dewsbury Hospital is compounding this;
- Gomersal Primary, Gomersal St. Marys and Whitcliffe schools are already practically full and local residents are being forced to have to seek schools in different catchment areas, due to overcrowding issues.
- The doctor's surgery at Blackburn Road is struggling and it is normal to have to wait up to an hour for someone to answer the phone to make an appointment. This new development would put additional strain on an already stretched service (and local infrastructure and amenities in general), putting people at a higher risk.

7.4 Ward Members were advised that the application had been submitted by email sent 18th February 2020. No comments from Ward Members have been received.

8.0 CONSULTATION RESPONSES:

The following represents a summary of the consultation responses, which are addressed fully in the relevant section of the assessment below.

8.1 Statutory:

KC Highways: No objection subject to conditions and a Section 106 sustainable travel contribution.

Lead Local Flood Authority: The LLFA advises that it can support the application subject to the inclusion of appropriate planning conditions relating to the final details of the drainage scheme, details of overland flow routing, taking into account an allowance for climate change, exceedance events and blockage scenarios and construction phase drainage. In addition, a clause will be required within the Section 106 agreement to require the setting up of a management company to provide maintenance and management of surface water systems in order for the Local Planning Authority to fulfil its obligation to ensure adequate maintenance of SUDS under the NPPF.

8.2 Non-statutory:

KC Education: Section 106 education contributions are calculated upon priority admission area schools in accordance with the Kirklees policy. It is not always possible to expand the places of the specified schools to meet the impact of additional demand generated by the development for a number of reasons including but not limited to; the value of the contribution is too small to be practically used on its own to expand places, site specifics make expansion impractical at some schools and adding numbers of places outside sustainable school delivery models is also impractical (e.g. class size legislation). Contributions from more than one development may need to be joined together to provide effective mitigation of the impact of more than one development.

this reason, contributions are required to be used in the geographical vicinity of a development rather than specified to individual schools. For this site, based upon the provision of the 21 dwellings, an educational contribution of £42,552 would be required.

KC Strategic Housing: The site lies within the Batley and Spenningsdale Housing Market Area where there is a significant need for affordable 3-bedroom homes, along with lesser need for 1 and 2-bedroom properties. The council seeks to secure 20% of dwellings on sites with 11 or more dwellings, for affordable housing and on-site provision (housing) is preferred. This will be secured through the S106 Legal Agreement. In terms of affordable tenure split, across the district Kirklees works on a split of 55% social or affordable rent to 45% intermediate housing. 2 social or affordable rented dwellings and 2 intermediate dwellings would be suitable for the development.

KC Landscape: Based upon the on-site provision of 687m² of natural and semi-natural green space being provided on site, the scheme would be substandard regarding this typology (1020m² required) and all other open space typologies (amenity green space, parks and recreation and allotments/community growing). As a result, a contribution of £28,576.44 would be required towards off-site provision. There are several existing facilities in the vicinity, within the 720m of the site as per Policy LP63, of which Spennings Lane is a larger facility for community and public use, which would be accessible for these contributions.

KC Ecology: No objection in principle subject to a review of bio-diversity enhancement and net gain at Reserved Matters stage to be secured by condition.

KC Waste Strategy: Provided operational comments for waste collection and recommend the imposition of appropriate planning conditions.

KC Trees: No objection, subject to conditions.

KC Environmental Health: No objection, subject to conditions.

KC Crime Prevention: Provided advice in line with Crime Prevention through Environmental Design (CPTED) guidance.

Yorkshire Water: No objection, subject to conditions.

9.0 MAIN ISSUES

- Principle of development;
- Means of access – highway and transportation issues;
- Layout
- Reserved Matters – scale, appearance;
- Reserved Matters - landscape;
- Bio-diversity;
- Housing mix;
- Living conditions of existing and future occupiers;
- Flood Risk and drainage;
- Environmental health considerations;

- Ground conditions;
- Climate change;
- Response to representations;
- Other matters
- Planning obligation.

10.0 APPRAISAL

Principle of development

- 10.1 Paragraph 47 of the NPPF confirms that 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.
- 10.2 The development plan for Kirklees is the Kirklees Local Plan (KLP), adopted on 27 February 2019. Within the KLP, most of the site is allocated for housing (HS114) with an indicative capacity of 21 dwellings. The site allocation identifies a gross site area of 0.67ha.
- 10.3 Policy LP65 of the KLP, within the Site Allocations and Designations document, refers specifically to housing allocations listed within the Local Plan. It confirms that planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes, relevant development plan policies and as shown on the Policies Map.
- 10.4 Policy LP1 of the KLP reinforces guidance within the NPPF. It states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF. It clarifies that proposals that accord with the policies in the KLP will be approved without delay unless material considerations indicate otherwise. The supporting text to policy LP1 confirms that allocations in the Local Plan are made in accordance with the spatial development strategy.
- 10.5 Policy LP2 of the KLP refers to place making and advises that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the KLP. Furthermore, Policy LP3 advises, amongst other matters, that development proposals will be required to reflect the Spatial Development Strategy and development will be permitted where it supports the delivery of housing in a sustainable way, taking account of matters such as the delivery of the housing requirements set out in the KLP.
- 10.6 The KLP 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. The Authority Monitoring Report (AMR) shows that the current land supply position in Kirklees is 5.88 years supply. Nonetheless, Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to significantly boost the supply of housing. Housing applications should, therefore, be considered in the context of the presumption in favour of sustainable development. In this case, the application would deliver up to 36 new dwellings. It would, therefore, make a reasonable contribution to the housing delivery targets of the KLP and result in development that accords with the spatial development strategy.

- 10.7 It is recognised that the site is part Greenfield. This includes the garden to No.11, which sits outside the allocation but falls within the red line boundary. However, the allocation of this land and other Greenfield sites through the Local Plan process was based upon a rigorous borough-wide assessment of housing and other need, as well as an analysis of available land and its suitability for housing. It was found to be an appropriate basis for the planning of the Borough by the Inspector. Furthermore, whilst the KLP strongly encourages the use of Brownfield land, some development on Greenfield land was demonstrated to be necessary to meet development needs. Additionally, whilst the effective use of land by re-using brownfield sites is also encouraged within the NPPF, the development of Greenfield land is not precluded with the presumption in favour of sustainable development being the primary determinant.
- 10.8 The application site is in a sustainable location for housing. It would adjoin existing residential development to the south and west. 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. However, the development of this site for residential use is consistent with Policies LP1, LP2, LP3 and LP65 of the KLP. It is, therefore, acceptable in principle subject to an assessment against other relevant policies within the KLP, which is set out below.

Means of access – highway and transportation issues

- 10.9 Policy LP21 of the KLP advises that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users. To address this policy, the application includes the submission of a Transport Statement (TS).
- 10.10 Policy LP21 reflects guidance within the NPPF, which states at paragraph 108 that in assessing applications for development, it should be ensured that there are appropriate opportunities to promote sustainable transport modes, 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 can be viably and appropriately mitigated.
- 10.11 Paragraph 109 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 10.12 Access into the site for 19 of the 21 dwellings would be taken from Church Lane. Church Lane is a two-way single carriageway that is the subject of a 30-mph speed limit. The new access would be a priority junction with the road constructed to a minimum 6.0m width. There would also be a footway into the site from Church Lane. From the entrance, the road would become a shared surface. At each end of the site, a cul-de-sac arrangement would be provided to enable vehicles to turn. Subject to an appropriate visibility splay being demonstrated onto Church Lane, this point of access and the layout within the site is considered acceptable having regard to the Council's Highway Design Guide SPD and subject to a condition that full details of the design of the access road (including materials) be provided before any development commences.

- 10.13 Units 20 and 21 would be accessed from Church Lane. A single point of access onto the road would serve the two dwellings. Whilst opposite the access to 'The Orchards', this new entrance would serve only two houses. The level of traffic generated by these properties would, therefore, be small and not result in any undue conflict. Furthermore, there is an existing access from 11 Church Lane onto this road in close proximity, which would be closed.
- 10.14 The Council's Highway Design Guide SPD confirms that Kirklees Council has not set local parking standards for residential development. It does, however, as an initial point of reference, suggest that 2 to 3-bedroom dwellings should provide a minimum of two off-street parking spaces and 4+ bedroom dwellings should provide three off-street spaces. One visitor space per 4 dwellings is also considered appropriate.
- 10.15 In this case, each dwelling would be have a minimum of two parking spaces. Five of the properties would accommodate more than two off-road spaces, with each of these units also incorporating a garage and a long driveway. This would accord with the recommendations of the SPD. Regarding visitor parking, four spaces are shown. This would be one space short of the 5 spaces suggested by the SPD. However, the proposed estate is self-contained, and it is considered that the width of the road would be sufficient to accommodate short-term visitor parking where it could not be accommodated on the driveways themselves. The provision would, therefore, be acceptable in this instance.
- 10.16 Turning to traffic generation, the application is supported by a Transport Statement, which is based upon the original proposal of 25 dwellings. The assessment of traffic generation was undertaken on the basis of trips created from 23 new dwellings, given that there are currently two houses already on the site. Using TRICS (a national UK database for development trip rates), which utilises a trip rate of 0.468 per dwelling, the TS calculates that the peak hour traffic flows for a development of 23 dwellings would be as follows:

	Arrival	Departure	Two-way
AM Peak (0800-0900)	2.714	8.464	10.764
PM Peak (1700-1800)	7.452	3.956	11.408

- 10.17 Based on the TRICs data, the development would have the potential to generate between 11 and 12 trips on the network in peak periods.
- 10.18 The Council requested that a trip rate of 0.7 would be more realistic for the Kirklees area. This would generate peak time trip rates of between 16 - 17 trips during the network peak. The Transport Statement advises that this number of trips would not warrant a capacity assessment of any nearby junctions. Furthermore, the application has since been revised to 21 dwellings (19 new houses, given the two existing properties) and the number of trips would, therefore, be fewer. A rate of 16-17 trips would therefore represent the worst-case scenario arising from this proposal.
- 10.19 Based upon the original submission of up to 25 dwellings, the applicant was initially asked by the Urban Traffic Management Control section (UTC) to prepare a traffic model (Linsig) of the Church Lane/Spenn Lane junction, which lies some 50 or so metres to the north-west of the proposed site access, to assess the impact of the proposal. However, the applicant responded to advise that the development proposal at the network peaks would generate a

maximum of 17 additional trips during a 1-hour period. This would be a very low trip rate. It was also advised that not all vehicles would travel towards the signal-controlled junction. Even at an optimistic estimate of 70% turning right from the site entrance toward the signals, this would result in just 12 trips i.e. 1 trip every 5 minutes or so, on average, based upon the worst-case scenario, which would be unlikely to have any impact on the junction. This justification was accepted by Highways Development Management.

10.20 Furthermore, the applicant has provided details of road traffic accidents within the vicinity of the site. There have been none along the site frontage for the period up to 2019 (for when data is available). There have been three at the signal-controlled junction (two in 2014 and one in 2018), of which two appear to relate to driver error. This level of incident is considered typical of those to be expected at a signal-controlled junction and does not indicate a road safety problem or any trends of any significance. In the absence of any existing issues, given the level of traffic generation arising from this proposal, it is considered that it would not have an unacceptable impact on highway safety.

10.21 The site is also considered to be accessible to services and facilities by means other than the private car. There is a Co-Op food store and Sainsbury's food store, both on Oxford Road within approximately 200 metres of the site frontage. There are also takeaways, a hairdresser, a pharmacy, a doctor's surgery and primary schools (Gomersal Primary School) within close walking distance of the site. The nearest secondary school at Whitcliffe Mount is approximately 2.4 miles away. This still would fall within the Department for Education's (DfE) 'Home to School Travel and Transport' statutory guidance document, which suggests that the maximum walking distance to schools is 3 miles (4.8 kilometres) for children over the age of 8.

10.22 The development would also be accessible by bus. There are bus stops on each arms of the junction closest to the site at Oxford Road, Spen Lane and Church Lane, which are within the accepted 400 metre walking distance of the site. These stops are served by 3 bus services detailed below:

Service	From-To	Frequency (Mon-Sat)	Late evenings and Sundays
200	Heckmondwike – Cleckheaton – Birstall – Morley – White Rose shopping centre – Leeds	60 mins	60 mins
254	Dewsbury – Heckmondwike – Cleckheaton – Gomersal – Drighlington – Leeds	30 mins	60 mins Sunday daytime
255	Halifax – Wyke – Scholes – Cleckheaton – Gomersal – Birkenshaw – Drighlington - Leeds	30 mins	60 mins Not evenings

This is considered to provide a reasonable level of service to Leeds and other town centres that offer a range of services and facilities. They would also provide access to train stations at Dewsbury, Morley or Leeds for wider rail connections.

- 10.23 Turning to walking and cycling, there are continuous footways on both sides of Church Lane leading to the bus stops. The site would also be within a reasonable cycling distance (less than 2 miles) of Cleckheaton Town Centre.
- 10.24 Overall, it is considered that this development would generate a very modest level of traffic onto the highway network. The test within the NPPF for preventing or refusing a development on highway grounds is whether there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In this case, the site is suitably located for residential development. It would be adjacent to existing residential properties and within walking distance of local services and facilities. It would also be accessible to local services within surrounding towns by sustainable means. The level of traffic generated by this proposal would not be considered to have an unacceptable impact on highway safety nor a severe cumulative impact on the road network.
- 10.25 For all these reasons, the proposed access is acceptable and subject to the imposition of appropriate planning conditions, the proposal is considered to sufficiently accommodate sustainable modes of transport and it could be accessed effectively and safely by all users. It is, therefore, in accordance with Policy LP21 of the KLP and guidance within the NPPF.

Layout

- 10.26 Policy LP24 of the KLP advises that good design should be at the core of all proposals in the district. It sets out several key principles necessary to promote good design, including ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape, the risk of crime is minimised by enhanced security and the promotion of well-defined routes, overlooked streets and places. Policy LP7 of the KLP relates to the efficient and effective use of land and buildings. It states that housing density should ensure the efficient use of land, in keeping with the character of the area and the design of the scheme. It advises that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate.
- 10.27 Further guidance on layout has since been provided within the Council's Housebuilders Design Guide SPD (2021), adopted as part of the Quality Places agenda. Although this was adopted prior to the submission of this application, the design guide identifies several key factors that should influence the layout of a development, including:
- The relationship of the site to neighbouring buildings,
 - Density requirements;
 - House types that meet local need;
 - Alignment of buildings and set-back to form a coherent building line and designed to front on to the street
 - Avoiding frontages that are dominated by hard landscaping and car parking;
 - Maximise distances between dwellings.

- 10.28 In this case, the proposal was revised during consideration of the planning application, so that the layout would respond more positively to the site's context and deliver an appropriate relationship to existing dwellings. The number of houses was therefore reduced from 25 to 21. Whilst this would deliver a density of 29 dwelling per hectare, Policy LP7 states that lower densities will be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings.
- 10.29 In this case, it was considered necessary to revise the scheme so that an appropriate set back from Church Lane was secured. The proposed dwellings would, therefore, respect the building line of the properties closest to the site and would allow for the provision of a landscaped front garden, which is part of the character of the area. Furthermore, the layout had to be designed to accommodate sufficient distances between adjoining residential properties, secure the protection of trees along the boundary, allow for the provision of some open space within the site and provide a mix of house types/sizes. In addressing these parameters, it has resulted in a density of less than 35 dwellings per hectare, but it is considered to deliver a development layout that sufficiently respects the existing townscape and landscape.
- 10.30 For these reasons, the layout is considered to sufficiently promote good design and an acceptable density, given the site context. It would, therefore, comply with Policies LP7 and LP24 of the KLP.

Reserved Matters – scale and appearance

- 10.31 Matters of scale and appearance are not for consideration as part of this application. They are reserved for future consideration as part of a Reserved Matters application, should outline planning permission be approved. At that time, the scale and appearance will be assessed having due regard to Policy LP24.

Reserved Matters - landscape and open space

- 10.32 Policy LP47 of the KLP refers to healthy, active and safe lifestyles and recognises that these will be enabled by several criteria including (a) access to a range of high quality, well maintained and accessible open spaces and (b) increasing access to green spaces and green infrastructure to promote health and mental well-being. Policy LP63 advises that new housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, to be provided in accordance with the Council's local open space standards or national standards, where relevant. Finally, Policy LP33 of the KLP advises, amongst other matters, that proposals should normally retain any valuable or important trees, where they contribute to public amenity, the distinctiveness of a specific location or contribute to the environment. Where tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme.
- 10.33 The landscaping of the site is not for consideration as part of this application. It is reserved for assessment as part of a future Reserved Matters application, should outline planning permission be approved. The detailed landscaping proposals for the site will, therefore, be provided at that time.

- 10.34 The layout has been modified so that the larger trees that lie adjacent to the eastern boundary of the site would have no dwellings next to them. This would avoid any long-term conflicts. It is acknowledged that the rear boundary of Plots 4 to 14 would adjoin trees along the northern boundary of the site, which could have an impact on future occupants and lead to some pressure to remove them. They are also owned by a third party so it would not be within the applicant's remit to undertake any works to them. However, the Tree Officer has acknowledged that these trees are smaller and lower quality and do not meet the requirements to serve a Tree Preservation Order. Given their size, on balance, it is considered that they would not cause undue conflict with future occupiers. However, it is recommended that a detailed tree survey is undertaken at the Reserved Matters stage, as well as a condition requiring the provision of a detailed landscape scheme (and boundary treatments).
- 10.35 Regarding the provision of open space, an area of 687m² of natural and semi-natural green space would be provided within the site, the landscape details of which would be submitted at Reserved Matters stage. Whilst not centrally located, it is a reasonably small site and the open space in this location would ensure the protection of adjacent trees, as noted above.
- 10.36 Having regard to Policy LP63, the on-site provision would be sub-standard for this typology (1020m² required). The scheme would also be deficient in terms of all other open space typologies (amenity green space, parks and recreation and allotments/community growing). As a result, a contribution of £28,576.44 would be necessary towards off-site provision. It is relevant to note that a contribution towards outdoor sports facilities, which is a requirement of the recently adopted Open Space SPD, has not been sought on the basis that the application was submitted prior to the adoption of this SPD. It would not be reasonable to re-assess the open space contribution at such a late stage in its determination.
- 10.37 In summary, the provision of site open space is acceptable in principle and details of the landscaping of the site will form part of a future Reserved Matters application. Conditions are, therefore, recommended as part of this application to secure them. It is considered that a successful landscape scheme and the provision of open space can be established to ensure compliance with Policies LP33, LP47 and LP63 of the KLP.

Biodiversity

- 10.38 Regarding biodiversity, Policy LP30 of the KLP confirms that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees. As relevant to this site, it confirms that development proposals will be required to (i) result in no significant loss or harm to biodiversity in Kirklees through avoidance, adequate mitigation or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement and (ii) minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist as well as (iv) incorporate biodiversity enhancement measures to reflect the priority habitats and species identified for the relevant Kirklees Biodiversity Opportunity Zone.

- 10.39 The applicant submitted a Biodiversity Net Gain Statement with the application. It clarifies that the site presently comprises a range of habitats, being mainly modified grassland but including other neutral grassland, bramble/scrub, native hedgerow and vegetated garden. In the absence of a detailed landscape scheme, this exercise identifies that the current proposals are predicted to result in a small net gain for biodiversity of 0.39%. Although welcomed, this is not considered sufficient to provide a tangible net gain in accordance with LP30ii. If the current calculations are considered, then an additional 0.13 habitat units would be required in order to result in 10% net gain. It is noted that the metric calculations include the use of 'urban- suburban/mosaic of developed/natural surface habitat', which often results in a higher biodiversity value than would be expected from the individual components of this habitat i.e. sealed surface and vegetated garden. This habitat has also recently been removed from the newly updated Biodiversity Metric 3.0 and the metric calculation will need to update this element at Reserved Matters stage. It would also need to be factored into any BEMP or commuted sum to be provided at that time.
- 10.40 However, as this is an outline application with landscaping reserved, the Council's Ecologist is satisfied that a strategy could be devised to achieve a 10% biodiversity net gain post-development. This may be on-site, once landscaping details are decided, within a Biodiversity Enhancement Management Plan (BEMP) or, if on-site net gain is demonstrated to be infeasible, via a commuted sum payment to the Council to allow enhancement off-site on council owned land. A condition requiring submission of a BEMP to support the landscape Reserved Matters would therefore be required along with a clause in the S106 to procure an off-site contribution should that be required. On this basis, the proposal is considered acceptable in accordance with KLP Policy LP30.

Housing mix

- 10.41 Given the annual overall shortfall in affordable homes in the district, KLP Policy LP11 states that the Council will negotiate with developers for the inclusion of an element of affordable homes in planning applications for housing developments of more than 10 homes. It advises that the proportion of affordable homes should be 20% of the total units on market housing sites. This requirement will be secured by means of a Section 106 agreement, with details of the location of these units provided at that time.
- 10.42 The layout proposes a mixture of 2, 3 and 4-bedroom homes. This would provide an appropriate housing mix. Overall, the proposal would contribute to housing mix and 20% of the units would be affordable. This would comply fully with the requirements of Policy LP11.

Living conditions of existing and future occupiers

- 10.43 Policy LP24 of the KLP advises at (b) that proposals should provide a high standard of amenity for future and neighbouring occupiers. This reflects guidance at paragraph 127 of the NPPF, which advises at (f) that create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Further guidance is provided within the Council's Housebuilders Design Guide, which suggests that for two-storey houses, the following typical minimum separation distances are advised:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land and;
- For a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

10.44 Whilst this application was submitted prior to the adoption of the SPD, the layout has nonetheless been assessed to consider its impact on the living conditions of existing adjoining occupiers having regard to overlooking and loss of privacy. The closest relationships are between Plot 4 and 8 Bronte Close and Plot 2 and 5 Church Lane and the following is noted:

- The front elevation of Plot 4 achieves a distance more than 12 metres from the flank wall of 8 Bronte Close. It would also lie at an oblique angle, so that there would be no direct overlooking, nor would the new dwelling be overbearing.
- The rear elevation of Plot 2 would be more than 16 metres from the flank wall of 5 Church Lane. No. 5 also lies at an oblique angle, so the relationship would be satisfactory to ensure that there would be no undue overlooking, nor would the new dwelling be overbearing.
- Upon submission of the Reserved Matters for the appearance of the dwellings (to include floor plans), it can be ensured that there would be no flank windows in Plot 21, to protect the privacy of 15 Church Lane. There would be more than 10 metres between the two to ensure no overbearing impact.
- The distance to existing properties on the south side of Church Lane would be more than 28 metres, comfortably in excess of 21 metres.

Overall, based upon the above, it is considered that there would be a satisfactory separation distance between existing and proposed dwellings.

10.45 It is acknowledged that separation distances within the site would, in some circumstances, be less than those recommended within the Housebuilders Design Guide SPD. Notably, there would be approximately 15 metres between Plots 19-21 that front the site and Plots 15-18 that lie behind. However, on the basis that this application was submitted and devised prior to the adoption of the SPD, and the layout also balances the need to secure appropriate site density requirements, with a contextual response to the surrounding area, this matter alone is not considered to justify a refusal of the proposal. In any event, the Householder Design Guide also acknowledges that the internal layout of dwellings can be managed to maximise distances between habitable rooms, as well as consideration being given to appropriate screening and boundary treatments, such as planting, fences, walls, which would all be assessed at Reserved Matters stage. Overall, the layout of the scheme is considered to provide sufficient living conditions for future occupiers.

- 10.46 Finally, a concern has been raised by the occupier of No.15 Church Lane about the location of a pumping station and any noise arising from it. The Council are not aware of any noise issues arising from pumping stations elsewhere in the District but it is proposed to attach a condition requiring the submission of a noise assessment with specific regard to the pumping station and any mitigation measures that might be required in this instance.
- 10.47 For the reasons set out above, it is considered that the layout of the proposed development would ensure acceptable living conditions for existing and future occupiers in accordance with policy LP24.

Flood Risk and drainage

- 10.48 Guidance with the NPPF advises, at paragraph 163, that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Policy LP28 of the KLP relates to drainage and notes a presumption for Sustainable Drainage Systems (SuDs) and also, that development will only be permitted if it can be demonstrated that the water supply and waste-water infrastructure required is available, or can be co-ordinated, to meet the demand generated by the new development.
- 10.49 The site falls within Flood Zone 1, which means that it is at a low risk of flooding and a flood risk assessment is not required. Nevertheless, it has been subject to a full assessment of surface water management and subject to consultation with the Lead Local Flood Authority.
- 10.50 In accordance with policies LP27 and LP28, the applicant was required to demonstrate that the site considers any and all sources of flood risk and ensures that the site design is such that flood risk is not increased to users of this development or third parties. All surface water discharge options are also assessed using the hierarchy of preference set out within Planning Practice Guidance, being (i) into the ground (infiltration); (ii) to a surface water body; (iii) to a surface water sewer, highway drain, or another drainage system and (iv) to a combined sewer. In responding to the consultation, the applicant was also asked by the LLFA to provide information about a potential watercourse on site, which was identified through the public consultation process and of which the LLFA were not previously aware.
- 10.51 In response, the applicant undertook an investigation of the downstream watercourse and, also, a walkover of the site including a watercourse indicated on a 1955 historical plan. The assessment concluded that the adjacent land to the north is used by Gomersal Primary School, as a sports field. Some regrading works have been undertaken in the past to create a level playing field. This has left a steep banking from the applicant site and another further banking to the lower land. The banking areas are heavily overgrown, with no sign of any watercourse or piped system. A 100mm diameter old iron pipe was located further downstream. This had been buried with a brick section and no drainage was passing through the pipe (taking into account that the site visit was made after a prolonged period of heavy rain). Furthermore, no recognised ditch was observed below the covered pipe section and the masonry construction on the applicant site is fed by land drains and there is no overflow pipe. If excessive land drainage is collected, it is understood that water overflows the brickwork structure onto the banking below. At the time of the visit, the water level was 400mm below to the top of the bricks. These findings were accepted by the LLFA.

- 10.52 As a consequence of the above, the applicant concluded that there is no recognised outfall from the current site. It is likely that any historical land drainage has been disturbed/removed during the re-grading works for the school playing field. No further suitable pipe or ditch/watercourse is noted at a further distance from the site that would be acceptable to take surface water flows from the new development. For this reason, a surface water pumping station is the only option. It would be sited at the lowest point of the site and as there would be no existing housing below, no existing properties would be at risk should the pumping station fail.
- 10.53 The LLFA have confirmed that following a review of the drainage proposals and the additional information requested in the course of the planning application, it can support the application subject to the inclusion of appropriate conditions. The LLFA note that an investigation of a watercourse to the north east of the site has concluded that no appropriate outfall can be achieved. A pump station for surface water can be supported on this occasion, and without prejudice to future applications, given no obvious alternative is available and there is no housing or vulnerable use that could be affected by pump station failure. Discharge rates should, however, be kept to a minimum, which will be secured by condition. The LLFA also advise that the removal of housing from the north eastern area of the site boundary as part of the revised scheme allows the possibility of safe flood routing.
- 10.54 The site would, however, be subject to a strict management and maintenance strategy up to potential adoption by Yorkshire Water to maintain the system in the long term. This would need to be secured through the S106 agreement. Definitive details of the drainage scheme, as well as final details of flow routing would also be required by condition.
- 10.55 For the reasons set out above, and subject to the imposition of appropriate planning conditions, the proposal is considered acceptable with regard to flood risk and drainage in accordance with KLP Policies LP27 and LP28.

Environmental health considerations

- 10.56 Policy LP51 relates to the protection and improvement of local air quality and confirms that development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air pollution which would have an unacceptable impact on the natural and built environment or to people. Policy LP52 relates to the protection and improvement of environmental quality and states, amongst other matters, that proposals which have the potential to increase pollution must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.
- 10.57 The application site does not lie within or adjacent to an Air Quality Management Area and is below the threshold for an Air Quality Impact Assessment to be required. Nevertheless, it is advised that construction impacts should be minimised based on measures to be included in a Construction Management Plan, which would be a requirement of a pre-commencement condition.

- 10.58 Facilities for charging electric vehicles and other ultra-low emission vehicles would also be required by condition in accordance with the NPPF and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. The scheme would therefore have due regard to the objectives of Policies LP51 and LP52.

Ground conditions

- 10.59 The applicant has undertaken a Phase 1 Desk Top Geo-Environmental Report and a Coal Mining Risk Assessment. The former concludes that there has been minimal historical development beyond the current buildings on site. The adjacent uses have primarily been residential and educational developments, which are unlikely to cause contamination to the site. The primary sources of contamination are considered to be the storage of materials in the south-western portion of the development and the probable shallow mine workings to the north-east and south-west. A Phase 2 Ground Investigation is therefore recommended following demolition of the buildings on site.
- 10.60 In relation to the Coal Mining Risk Assessment (CMRA), a very small section of the site is within a High-Risk Coal Referral Area. The CMRA confirms that there are no recorded mine entries known to the Coal Authority within, or within 20 metres of the boundary of the property. It identifies a coal outcrop encroaching on the south-western corner of the development. In addition to this, probable shallow workings from an outcrop to the north-east of the site are shown to encroach on the north-eastern corner. It, therefore, concludes that there is the potential for shallow coal and possible coal workings to be present beneath the proposed development at shallow depths. Further borehole investigations should, therefore, be undertaken before any development is commenced. This would be secured by condition.
- 10.61 Contaminated land conditions are therefore required to seek a Phase 2 Site Investigation Report, a Remediation Strategy (as required) and a Validation Report following completion of any necessary remediation measures, as well as a condition requiring a further rotary borehole investigation prior to works commencing. Subject to the imposition of these conditions, the proposal is considered acceptable with regard to ground conditions.

Climate change

- 10.62 An assessment of the proposal's impact on climate change is limited at this stage, given that it is an outline application. It is appreciated that the construction of new buildings has a footprint in terms of CO₂ emissions. However, at this stage, no information in respect of the form of construction has been provided, as these are detailed matters that will be assessed as part of any future Reserved Matters submission. At that stage, consideration could be given to the lifecycle of building materials and whether it could be specified through the development contract that materials have a low embodied impact.
- 10.63 Energy efficiency would also be considered at the Reserved Matters stage. It is likely that as a minimum, a fabric-first approach would be adopted for the development. This would mean ensuring minimal heat loss through fabric, thermal-bridging and air infiltration. Other measures might include low energy lighting, water efficient fittings, such as flow restrictors and water efficient

appliances to minimise water consumption. Furthermore, measures to encourage future residents of the proposed development to use sustainable modes of transport could be secured. This would include adequate provision for cyclists (cycle storage for residents) and electric vehicle charging points.

- 10.64 In order to clarify these measures, a condition is, therefore, recommended to require details of measures to promote carbon reduction and enhance resilience to climate change.

Demolition of 7 and 11 Church Lane

- 10.65 This application would also include the demolition of Nos 7 and 11 Church Lane. Since April 2011, the demolition of a building constitutes development such that it forms part of the consideration of this application. No.7 is a red brick bungalow with a slate rear, to the rear of which are a number of outbuildings, typically of agricultural appearance as well as stables. No.11 is a dormer bungalow constructed in stone, render and brick. Each are set within generous landscaped gardens.
- 10.66 Whilst they are both attractive properties in good condition, they are not considered to be of any particular architectural merit; they are neither Listed nor within a Conservation Area to warrant consideration as an undesignated heritage asset. They are in close proximity to other existing residential properties such that their demolition would have to be carefully managed to protect the living conditions of adjoining residents, with particular regard to noise and dust. However, this would be secured through a Construction Environmental Management Plan. On this basis, there is no objection to their demolition, which would facilitate the development of the wider site and the delivery of a meaningful density across the site as a whole.

Response to representations

- 10.67 Most issues raised through the public consultation exercise have been considered in the report above. However, the following matters have not been specifically addressed in the assessment and are, therefore, considered below:

Bronte Close must not be used for vehicle or pedestrian access into or out of the development or for vehicle parking, for construction employees or any sub-contractor.

Response: The garden to Plot 4 would lie at the end of Bronte Close and no vehicular or pedestrian access into or out of the development is shown. For the construction phase, a Construction Management Plan would be secured by condition, which could ensure that no access for construction employees would be taken from Bronte Close. These measures would ensure that Bronte Close would not become a route for general access to and from the development.

There is no evidence of any account being taken of the increased traffic along Craven Lane and Muffit Lane, both of which have minimally effective traffic calming arrangements in place.

Response: As set out above, this development would generate 16-17 trips in the AM/PM Peaks as the worst-case scenario. Such a modest level of traffic generation can be accommodated on the network along Craven Lane and Muffit Lane.

No reference to waste, service and maintenance vehicles contributing to trip generations in the Transport Assessment.

Response: These vehicles are already on the network. They would not be additional trips generated by this proposal.

Extra houses will spoil the outlook

Response: It is clearly established within planning law that there is no right to a view.

Subsidence from underground work to be implemented (damage to foundations). Residents state that they already have cracks to the foundations of their bungalow.

Response: The application has been subject to a Phase 1 Risk Assessment and Coal Mining Risk Assessment, as detailed in the report. Any existing cracks to foundations can clearly not be attributed to the proposed development and any future concerns about damage to adjoining properties would be a civil matter between the applicant and any adjoining householder.

Construction issues

Response: Planning case law is clear that disturbance arising from a construction phase is not a material planning consideration. It would be temporary. Nevertheless, a Construction Management Plan would be sought by condition to mitigate potential impacts such as dust, working hours, construction traffic and contractor parking.

Biodiversity/impact on wildlife/bats flying over the site.

Response: The applicant has provided a bio-diversity net gain assessment which demonstrates that there would be no net loss of biodiversity. Furthermore, this matter will be re-assessed at Reserved Matters stage, for landscape details to secure a greater bio-diversity net gain and enhance the habitat for wildlife and birds, for which there would be an opportunity within the wider planting scheme for the site and within the gardens of the proposed dwellings.

Local doctor and dental practices already struggling to meet demand.

Response: The provision of health facilities falls within the remit of NHS England. The Local Plan, through site allocations, cannot allocate land specifically for health facilities because providers plan for their own operating needs and local demand. Existing practices determine for themselves (as independent businesses) whether to recruit additional clinicians in the event of their registered list growing. Practices can also consider other means to deal with increased patient numbers, including increasing surgery hours. Whilst the concern is understood, it is not a matter that can be addressed by the planning system.

11.0 PLANNING OBLIGATIONS.

- 11.1 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all the following: (i) Necessary to make the development acceptable in planning terms, (ii) Directly related to the development and (iii) Fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that it should be subject to a Section 106 agreement to cover the following:
- (i) Affordable housing – 20% of dwellings to be affordable with a split of 55% social or affordable rent to 45% intermediate housing;
 - (ii) Open space – contribution of £28,576.44 towards the improvement/enhancement of off-site open space within 720m of the site;
 - (iii) Education – contribution of £44,552 to be spent upon priority admission area schools within the geographical vicinity of the site;
 - (iv) Arrangements to secure the long-term maintenance and management of public open space and the applicant's surface water drainage proposals.
 - (v) A contribution to sustainable transport methods of £12,787.50.
- 11.2 The requirement for an obligation to retain the 20% affordable housing in perpetuity is set out in the report above.
- 11.3 The requirement in due course that a management scheme is in place for any open space is in accordance with guidance within the Council's Open Space SPD, which confirms that adequate management and maintenance of on-site open space would be necessary.
- 11.4 With regard to education, the contribution is determined in accordance with the Council's policy and guidance note on providing for education needs generated by new housing. This confirms that The Local Authority's (LA) Planning School Places Policy (PSPS) provides the framework within which decisions relating to the supply and demand for school places are made. Contributions are only sought where the new housing will generate a need which cannot be met by existing local facilities. The number of additional pupils generated from new housing developments is estimated on the basis of an additional 3 children per 100 family houses per year group for primary and pre-school numbers, (7 year groups) and an additional 2 children per 100 family houses per year group for secondary (5 year groups).
- 11.5 This scheme would generate a requirement for 2.52 surplus places at Gomersal Primary School and 2.52 at Gomersal St Mary's Primary School. However, both have surplus places now and going forward such that additional primary school funding is unlikely to be required. At secondary level, the scheme would generate a requirement for 2.4 additional places and Whitcliffe Mount would require additional capacity to accommodate this. Consequently, a contribution of £42,552 would be required to be secured through the S106 agreement. This mechanism provides a consistent approach to securing the education

contribution within the planning application process. It is also proposed that the S106 agreement be worded to allow for the funding to be spent upon priority admission area schools within the geographical vicinity of this site, should the specific school requirements change as the development is commenced. This would be reasonable, necessary and directly related to the development.

- 11.6 The heads of terms in relation to drainage will ensure that arrangements are in place to secure long-term maintenance and management of the surface water drainage proposal. Similarly, the contribution to sustainable transport methods is reasonable and necessary to ensure that travel needs can be met by forms of sustainable transport other than the private car, which are encouraged, as a consequence of new development.
- 11.7 Finally, the requirement for a contribution to bio-diversity net gain is reasonable and necessary having regard to the requirements of Policy LP30(i) with 10% considered to be achievable and reasonable given the nature and size of the site.
- 11.8 For these reasons, these contributions are 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 requirement for these obligations therefore conforms to guidance within the Framework.

12.0 CONCLUSION

- 12.1 This application seeks outline planning permission for the construction of 21 dwellings on a site allocated for housing within the Local Plan.
- 12.2 The site has constraints in the form of adjacent residential development (and the amenities of these properties), topography, drainage, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, will be addressed at Reserved Matters stage, or via conditions and the S106 Legal Agreement.
- 12.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would accord with the provisions of the development plan and it would constitute sustainable development. For this reason, it is therefore recommended for approval.

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

1. Details of the Reserved Matters of scale, appearance and landscaping.
2. Time limit for submission of Reserved Matters.
3. Time limit for commencement of development.
4. Submission of a Construction Management Plan to include means of access to the site for construction traffic.
5. Access and layout construction in accordance with approved plan.
6. A scheme detailing the proposed internal adoptable estate roads.
7. A scheme for the design and construction details for all new retaining walls.
8. Details for all new surface water attenuation tanks/pipes/manholes located in the highway.
9. Ecological Impact Assessment at Reserved Matters stage (landscaping) and development in accordance with the EiA recommendations.
10. Biodiversity Net Gain Plan at Reserved Matters stage (landscaping).
11. Detailing landscaping plan and details of boundary treatment.
12. Submission of Phase 2 Intrusive Site Investigation Report.
13. Submission of Remediation Strategy.
14. Implementation of Remediation Strategy.
15. Submission of Validation Report.
16. Procedures for dealing with unexpected contamination.
17. Borehole Investigations prior to commencement;
18. Details of final scheme detailing foul, surface water and land drainage.
19. Final details of overland flow routing.
20. Temporary drainage details.
21. Site to be developed by separate systems of drainage for foul and surface water on and off site.
22. No piped discharge of surface water from the development prior to the completion of surface water drainage works.
23. Elevation details of the pumping station (including materials)
24. Noise Assessment pursuant to the pumping station.
25. Provision of Electric Vehicle Charging Points.
26. Measures to promote carbon reduction and enhance resilience to climate change.

Background Papers:

Application and history files: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90411>

Application form and Certificates: Certificate A signed.

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jul-2021

Subject: Planning Application 2020/91747 Demolition of former dairy/snooker centre/storage and erection of 9 light industrial units Land Adjacent, 60, Northgate, Cleckheaton, BD19 3NB

APPLICANT

I Storer, D & M Middleton

DATE VALID

25-Jun-2020

TARGET DATE

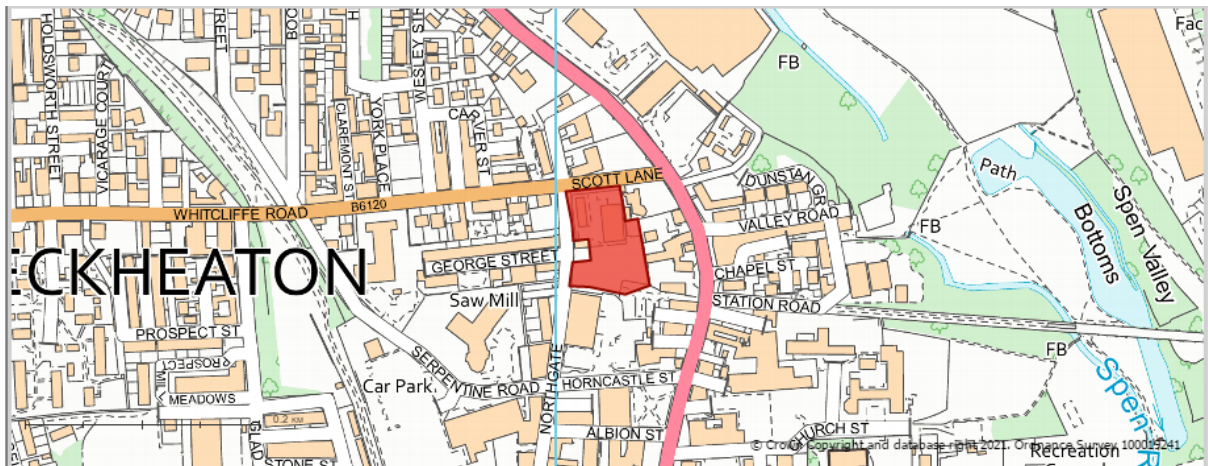
24-Sep-2020

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: 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 the main report, and to secure a Section 106 Agreement to cover the following matter:

1. Financial contribution to deliver offsite habitat improvements (£30,130)

1.0 INTRODUCTION:

- 1.1 The application was deferred at the Sub-Committee meeting on 14th April 2021. The reason for the deferral was so that members could undertake their own site visit.
- 1.2 The scheme has been amended slightly following the previous committee meeting. One of the units (unit I) has been redesigned to include some ancillary office space. This is discussed in more detail within this report. An additional representation, which is in support of the application, has been received since the application was deferred; this is summarised within the representations section of this report.
- 1.3 The application has been brought forward to the Heavy Woollen Sub-Committee at the request of Councillor Andrew Pinnock. Councillor Pinnock's reason for making the request is "the effect on the residential amenity of surrounding dwellings, and the effect on the local roads of an intensification of industrial (or business) uses."
- 1.4 The Chair of the committee has confirmed that Councillor Pinnock's reason is valid having regard to the Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an area of vacant land that is approximately 0.45 hectares in size. The site slopes down from Northgate towards the east.
- 2.2 The northern part of the site was historically used for a range of different uses, including a dairy, snooker hall and children's nursery. Derelict buildings relating to these former uses had existed on the site, but these have recently been demolished and the land cleared. This part of the site has an existing point of access from Scott Lane.

2.3 The southern part of the site formed an area of unkempt land covered largely with low lying vegetation, although this part of the site has recently been cleared as well. There is an existing point of access from Northgate that has been blocked off.

2.4 The site lies on the edge of Cleckheaton town centre. Immediately to the south is a Home Bargains store and to the eastern boundary is a dental practice, car dealership, car wash and other commercial uses. The site is bound to the north by Scott Lane with residential development beyond. Northgate runs parallel to the western boundary and towards the west are a mixture of dwellings, light industrial and office uses as well as a small domestic garage site. The site wraps around 60 Northgate, which forms a two-storey office/retail unit with a car park to one side.

3.0 PROPOSAL:

3.1 This is a full application for the demolition of the existing buildings on the site and the erection of 9 light industrial units. The application describes the proposals as starter units.

3.2 Six units are proposed in the northern part of the site (units A-F) and three in the southern part (units G-I).

3.3 Units A-C are formed on two levels with pedestrian access onto Northgate and the vehicular access to the rear being at a lower level. The remainder of the units are single storey, although unit I includes some office space on side of the unit that is two storeys.

3.4 The units would be constructed from composite colour coated panels, except units A-C, which would be faced in stone where they front onto Northgate.

3.5 There would be a one-way vehicular access system with vehicles entering from Scott Lane and exiting onto Northgate.

4.0 RELEVANT PLANNING HISTORY:

4.1 The application site formed part of a much larger site that was the subject on an approved outline application (ref 2001/92868) and subsequent reserved matters approval (ref 2005/91881) for a superstore.

4.2 Planning permission for six industrial unit/starter units on the southern part of the site was approved under application 91/04914 (decision notice dated 1st December 1997).

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

5.1 There was a formal pre-application enquiry submitted in 2020 for a mixed-use residential and light industrial scheme on the site. This proposed 15 dwellings in the northern part of the site and several light industrial units in the southern part of the site. The overall principle of development was considered acceptable although the Police Architectural Liaison Officer raised strong concerns with the location of the dwellings facing onto Scott Lane.

- 5.2 The planning application was amended by the applicant to reduce the number of units from twelve to nine, by omitting three units in the southern part of the site.
- 5.3 Additional information was provided to address highways, drainage and ecological matters. Site illustrations were also provided to assist with the assessment of the proposals.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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 unallocated in the Local Plan.

6.3 Kirklees Local Plan (2019):

LP1 – Presumption in favour of sustainable development

LP3 – Location of new development

LP7 – Efficient and effective use of land and buildings

LP21 – Highways and access

LP22 – Parking

LP24 – Design

LP27 – Flood Risk

LP28 – Drainage

LP30 – Biodiversity and geodiversity

LP51 – Protection and improvement of local air quality

LP52 – Protection and improvement of environmental quality

LP53 – Contaminated and unstable land

6.4 Supplementary Planning Guidance / Documents:

Highway Design Guide SPD

6.5 National Planning Guidance:

NPPF Section 2 – Achieving sustainable development

NPPF Section 6 – Building a strong, competitive economy

NPPF Section 8 – Promoting healthy and safe communities

NPPF Section 9 – Promoting sustainable transport

NPPF Section 11 – Making effective use of land

NPPF Section 12 – Achieving well-designed places

NPPF Section 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

NPPF Section 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notices, press advert and neighbour notification letters. Eleven objections have been received from nine different people. A summary of the concerns raised is provided below.

- Concerns with the amount and nature of traffic that would be generated, particularly HGVs.
 - Surrounding road network is unsuitable for HGVs; heavy goods vehicles do not currently use & never have used Scott Lane or Northgate.
 - HGVs and other large vehicles would pose a danger to children and elderly people.
 - Noise, vibration and air pollution from site traffic.
 - HGVs and other larger vehicles would cause obstructions for local residents.
 - Impact of HGVs on Northgate/Horncastle Street junction.
 - Impact of traffic on road surface.
- The parking provision on site does not reflect the actual volume and types of vehicular traffic that would be associated with the development because works and heavy goods vehicles have been excluded from the parking and transport assessment.
- Conflict between the site's egress onto Northgate and the entrance to George Street.
- Development may cause on-street parking problems.
- No proper provision for pedestrians.
- Concerns that the units would be used for more intensive uses than 'light industrial'. The drawings show heavy wagons and articulated lorries and full height industrial doors.
- Light pollution/glare from the units and vehicles exiting the site.
- Noise from the units affecting neighbouring properties. Proposed building materials will provide poor noise insulation.
- Detrimental impact on users of adjacent offices.
- Development is incompatible within a residential area.
- Appearance of the units would have a negative impact on the area.
- Detrimental impact on visual amenity; materials and scale of buildings inappropriate within the site's context.
- Poor landscaping of the development.
- Detrimental impact on property values.

- There is not a need for new industrial units in this location given the prevalence of other available sites in this area.
- No previous industrial use on this site, contrary to statements made within the application submission.
- Land should be used for affordable housing or as a playground.
- Land is better suited to residential use.
- Integrity/stability of 60 Northgate and the adjacent public highway may be undermined by the construction of the development given the topography of the site, which falls away from Northgate.
- The proposed layout does not provide sufficient space to maintain the gable end of 60 Northgate.
- Risk of accidental vehicle collision to 60 Northgate; no preventative measures have been incorporated into the design.
- No pre-application consultation carried out by the applicant, contrary to the submitted 'Statement of Community Involvement'.
- Land ownership – The submitted land ownership certificate is incomplete and misleading because notice should have been served on Kirklees Council because they own the freehold to a proportion of the site.
- The Council has a beneficial interest in this application because it owns the freehold to part of the site and has entered into an Agreement for Sale with the applicant.
- Site address in the application is misleading
- Inconsistencies within the application submission – the intrusive site investigation report includes an incorrect postcode and refers to residential development on the site
- Insufficient supporting information – there is insufficient information to properly assess the impact on 60 Northgate and no lighting assessment, noise impact assessment, or air quality statement have been provided.
- The Council has not enforced planning obligations relating to a historic planning permission on part of the site (planning permission 91/04914 issued 1st December 1997 for six industrial unit/starter units).
- The application site should have been allocated for housing in the Local Plan. The southern part of the application site formed part of a rejected housing option in the Local Plan; the land was rejected because a retail store had recently been erected on part of the land (the current Home Bargains store) and the remainder of the land did not meet the size threshold for a housing allocation. If the northern part of the current application site had been included, then the size threshold would have been met and the land could have been allocated for housing.

- Spen Valley Civic Society have stated that they have spent years trying to generate interest from Kirklees Council in respect of the site, which has lain derelict since the mid-1980's and has been an eyesore since that time. It is recognised that the applicant is trying to do something positive in his application however light industrial units are inappropriate in this location, which is on the edge of the town centre. The site should form part of a masterplan to develop an integrated scheme for the whole area, such as an integrated housing scheme. Industrial units should be built on land allocated for industry, not adjacent to town centres.

7.2 One letter of support has been received. This is from a local business which is wanting to occupy two of the proposed units. It states that the business has been located in Cleckheaton for almost 30 years and is being forced to relocate from their existing premises on the Spen Valley Industrial Park. The company needs to stay in the local area because all their staff are based in the Cleckheaton area and 30-40% of their customers are within a five-mile radius. The business has been searching for new premises for a considerable length of time but there is limited availability and nothing that is suitable for the business. The units which they are wanting to occupy would enable them to expand their business and employ additional people; they expect to increase their staff by an extra 15% over the next 18 months.

7.3 Ward Councillor Kath Pinnock has provided comments on the application and an officer response is been provided as follows:

1. *It is most unfortunate that an attempt hasn't been made for a general re-development of that area. Partial development of this nature will close down some of the options for the remainder of the wider site, including better access onto Bradford Road.*

Officer response: The Local Planning Authority has been asked to consider the scheme proposed within the application. Officers consider that the proposal is acceptable having regard to all material planning considerations.

2. *I am concerned that, given the proximity of the residents of George Street and Whitcliffe Road, that more attention hasn't been given to limiting noise nuisance from potential users. I understand that each unit will have noise limits but wonder how these are to be controlled, in practice.*

Officer response: The operators of the units would be required to adhere to the noise limits set out within the recommended condition. If an operator was found to be in breach of the condition, then it would be a matter for the Council's Planning Compliance team. Complaints could be readily investigated by Kirklees Environmental Services to establish whether noise limits were being exceeded.

3. *Highways concerns: I am surprised that Scott Lane is being considered as the route to exit onto Bradford Road. You may be aware that there is a major scheme of changes proposed to the A638 through Cleckheaton part of which involves a proposal to reduce the number of road junctions onto Bradford Road in order to ease traffic movements, buses in particular. Perhaps there needs to be a discussion with Highways colleagues before a decision is made.*

Officer response: Access to the development will be an 'in' only arrangement off Scott Lane with egress onto Northgate. It is considered that traffic heading towards Cleckheaton will do so Via Horncastle Street onto the A638 and traffic heading towards Chain Bar will turn left out of Scott Lane. Given that the proposed highway project to the A638 is at preliminary concept stage and has not reached public consultation yet, it is not considered to have implications for the proposed development. The Council's Major project team have been made aware of this application.

4. *Scott Lane: Are you able to verify the claim made in the applicant's traffic assessment that it is part of a bus route? Has an assessment been made as to the visibility onto Bradford Road at the Scott Lane junction? Has consideration been given to prevent larger commercial vehicles not using the adjacent Coach Lane? What consideration has been given to movement into Scott Lane from Bradford Road being blocked by a vehicle coming out of Scott Lane and the implications that will have for road safety and congestion?*

Officer response: Enquires have been made with Metro who have confirmed that bus services do travel down Whitcliffe Road however they turn off down Serpentine Road before this development and where Whitcliffe Road turns into Scott Lane, so buses do not emerge from Scott Lane onto the A638 Bradford Road.

Highways Development Management consider that Scot Lane is adequate to accommodate the traffic movements associated with the proposed development, without resulting in any significant adverse harm to highway safety.

5. *I draw your attention to this statement in the Committee Report:*

Impact of traffic on road surface

Officer response: The proposed development is not of a scale that would justify highway resurfacing works although a condition is recommended to ensure that damage to the road surface arising from the construction phase is remedied by the developer.

It seems to me that a further look at the appalling state of that section of Northgate should be considered before including this in the report. I have reported the state of Northgate on several occasions. Some of the worst potholes get filled and then more appear. It is well passed its useful life without adding construction vehicles and other HGVs onto the road.

Officer response: It has been confirmed that Northgate is due for resurfacing works in the 2021/2022 financial year. If this is completed prior to occupation of the proposed development, then any damage to the carriageway would be repaired at the expense of the developer.

6. *While development of the site is welcome, I do think more attention needs to be paid to the impact on current residents who live opposite the site and to the impact on highway safety, especially the use of the sub-standard width Scott Lane."*

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objection subject to conditions.

KC Lead Local Flood Authority – No objection subject to conditions.

The Coal Authority – No objection.

8.2 Non-statutory:

KC Environmental Services – No objection subject to conditions relating to contamination, noise, construction management plan and provision for electric vehicle recharging.

KC Ecology Unit – No objection in principle. It is necessary for the development to provide a biodiversity net gain, either through on-site measures or an off-site contribution.

Police Architectural Liaison Officer – No objections; advice provided in respect of security measures that should be incorporated into the development.

9.0 MAIN ISSUES

- Principle of development
- Employment considerations
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Ecology and trees
- Representations
- Other matters
- Climate change

10.0 APPRAISAL

Principle of development

10.1 The site is an unallocated brownfield site situated immediately on the edge of Cleckheaton town centre which has been vacant for a considerable period of time.

10.2 It is proposed to erect nine light industrial starter units on the site. The proposal therefore provides an opportunity boost the supply of employment land in this part of the District whilst making use of derelict land. Furthermore, the site is situated in a sustainable location, with very good connectivity to the town centre and the transport links and amenities that it provides.

- 10.3 The principle of the development is consistent with the aims of the National Planning Policy Framework (NPPF) in terms of promoting sustainable economic growth and making effective use of land. The principle of the development is therefore considered to be acceptable subject to consideration of all relevant material planning considerations, as set out in the remainder of this report.

Employment considerations

- 10.4 The application has largely been submitted on a speculative basis although the applicant has advised that there are three local companies who are lined up to occupy four of the proposed units. These are Westgate Glass (2 units), Mega Van Matts and Harrison Trim. Several other companies have also expressed an interest in the site. A representation in support of the application has been received from Westgate Glass, which is summarised as paragraph 7.2.
- 10.5 Given that all the potential end-users are unknown at this stage it is not possible to specify the exact number of jobs that the development would support, however the applicant estimates that there would be in the region of 50 people working at the site. The Homes and Communities Agency's Employment Density Guide (3rd edition, November 2015) suggests that a development of this size would be expected to support approximately 39 full-time members of staff. It is therefore considered that there would be somewhere in the region of this number of full-time equivalent jobs.
- 10.6 The provision of modern light industrial units would help to support employment opportunities and this weighs in favour of the proposed development.

Urban Design issues

- 10.7 The northern part of the site has been vacant since around the year 2000 when the snooker centre closed and up until recently contained some derelict structures relating to the former uses on the site. The southern part of the site has historically formed an area of unkempt, scrubby land but this area has also recently been cleared. The long-standing condition and appearance of the application site has detracted from the character of the surrounding area.
- 10.8 The site slopes down from Northgate towards the eastern boundary, with a fall of some 3 to 4 metres.
- 10.9 To the south of the site is a large, modern retail unit that is faced in a mixture of brick, white render and grey cladding. Natural stone is prevalent on the residential and office buildings immediately surrounding the site and brick is also found on a number of buildings within the wider vicinity. On the opposite side of Northgate is a joinery workshop/sawmill that sits at the corner of Northgate and George Street where it is faced in a mixture of stone and timber.
- 10.10 The site lies within an area that forms the transition between the town centre and the dense residential area to the north west beyond Whitcliffe Road. Whilst the make-up of the area immediately surrounding the site includes a large amount of residential development, it also includes several non-residential uses and historically the application site contributed to this mixed-use character with the nursery, snooker hall and dairy. In this context, it is considered that light industrial units would not be out of keeping with the established character of the area.

- 10.11 The proposed layout has three adjoining units facing directly onto Northgate (units A-C). These units would be two storeys in height where they face onto the roadside and would be faced in natural stone with contrasting, coloured panels. This elevation also includes pedestrian doors and a series of windows. As such, this prominent aspect of the development would provide an active street frontage that provides visual interest and harmonises with the character of surrounding development. The design of these three units therefore provides a positive interface with the street scene.
- 10.12 Units A-C would sit directly adjacent to 60 Northgate. The plans show that the height of these units would be slightly lower than the ridge height of this existing building which will help to assimilate the proposals into the street scene.
- 10.13 Units D-F are set within the site behind units A-C. Both blocks have a gable end facing towards Scott Lane, separated from the road by some tandem parking spaces and a boundary wall. The gable ends would be faced in grey cladding. These units follow the topography of the site by stepping down in height away from Northgate. The roof profile slopes downwards towards the eastern boundary which helps to limit the bulk of the buildings when viewed from the east.
- 10.14 Officers are satisfied that the appearance of the development from Scott Lane is acceptable, although it should be enhanced with a high-quality boundary treatment such as natural stone walling. Stone boundary walls are characteristic of the area and this would help to integrate the proposals within the street scene. The same applies to the proposed boundary wall to Northgate.
- 10.15 The three units in the southern part of the site units (G-I) are set towards the eastern boundary and would be viewed in the context of the commercial uses to the south and east that lie within the town centre. These units would be set back from, and would be at a lower level to, Northgate which helps to mitigate their prominence when viewed from the west. The roof profile of units G and H also slopes down towards the eastern boundary to mitigate their bulk and mass and similarly the roof of unit I slopes down towards the southern boundary.
- 10.16 There has been a small change to unit I since the application was considered by the Sub-Committee on 14th April 2021. This involves the addition of some ancillary office accommodation to the side of the unit and some minor changes to its position and general footprint. The proposed bin store has been relocated from the western side of unit I to the eastern side. The amendment brings the unit closer towards Northgate, but it remains set back from this road and the overall design is still acceptable.
- 10.17 In summary, the proposed development would improve the visual amenity of the area by regenerating what has historically been an untidy and derelict piece of land. This type of development would not be out of keeping with the surrounding area and the layout, scale and appearance of the development are such that the proposals would successfully integrate with surrounding development. Approval of samples of the proposed facing materials can be secured by condition. The application is considered to comply with Policy LP24 of the Local Plan and guidance in the NPPF.

Residential Amenity

- 10.18 The site is in a mixed-use area, with residential and commercial premises surrounding the site. The proposals are for light industrial units which would fall within Use Class E(g). These are uses which can be carried out in a residential area without detriment to its amenity, including industrial processes. The principle of light industrial use is therefore acceptable in a residential area.
- 10.19 The proposed development is situated near residential properties which may be negatively impacted by noise. As the future occupiers of all the units are currently unknown, undertaking a noise assessment at this stage would not effectively predict the future noise impact from the operations at the various units. It is therefore recommended that a condition restricting the level of noise from each of the individual units is necessary. This will ensure that the combined noise from the whole site is controlled effectively.
- 10.20 It is recognised that vehicular activity to and from the site also has the potential to give rise to noise disturbance. To ensure that this is limited as far as reasonably practical, a condition restricting the hours of operation of the units is recommended. This would help to prevent noise nuisance at unsociable hours, specifically during the night.
- 10.21 The siting and the scale of the proposed units are such that the development would not result in any overbearing effects or overlooking issues in relation to neighbouring houses. Some of the units are in close proximity to the rear elevation of an existing dental practice (57 Bradford Road) as well as some offices at 60 and 103 Northgate, however, it is not considered that the amenities of the users of these existing properties would be unduly prejudiced by the proposed buildings.
- 10.22 To mitigate the impact of the construction of the development, a condition is recommended for a Construction Environmental Management Plan (CEMP) to ensure that all reasonable steps are taken to minimise and mitigate adverse effects from construction noise to safeguard residential amenity.
- 10.23 A number of concerns have been raised by local residents regarding the proposed development's impact on residential amenity, such as from noise, air pollution (including vehicle exhaust emissions) and glare from stray light from the units and/or service yard and light pollution. As stated above, officers are satisfied that noise can be adequately controlled by conditions and a further condition requiring details of any external lighting can also be imposed to help address the concerns with glare/light pollution. The nature of the proposal (light industrial) means that any industrial processes must be compatible within a residential area and so should not give rise to any significant air quality issues. More intensive industrial processes ('general industrial') fall within a separate use class (B2) and would not be permitted under this proposal. It is to be noted as well that the number of units has been reduced from 12 to 9 since neighbour representations were submitted.
- 10.24 Kirklees Environmental Services have not raised any objections to the application and, subject to conditions, officers consider that the proposal complies with policies LP24 and LP52 of the Local Plan and guidance in the NPPF.

Highway issues

- 10.25 It is proposed that the development would have a one-way vehicular access system with vehicles entering from Scott Lane and exiting onto Northgate. This is welcomed by Highways Development Management because it would overcome potential visibility concerns onto Scott Lane.
- 10.26 A total of 48 parking spaces are proposed and this level of parking is considered acceptable for the development, particularly considering its accessible location on the edge of the town centre. The plans also show space for refuse storage. The location of the bin store is immediately adjoining one of the units which is a potential fire risk. A condition requiring details of measures to address the risk posed by fire through the construction of the bin store is recommended.
- 10.27 The nature of the units, which are relatively small starter units for light industrial purposes, means they are most likely be served by small to medium commercial vehicles. Vehicle tracking for a 7.5m panel van has been submitted, which would be typical for this type of development. It is however recognised that HGVs may need to access the site from time to time and the applicant has demonstrated that this size of vehicle can adequately manoeuvre within the site.
- 10.28 It is considered that the traffic associated with a development of this scale and type can be accommodated on the local highway network without giving rise to any significant adverse impacts.
- 10.29 In summary the proposal is considered acceptable from a highway safety perspective and the application accords with Policies LP20, LP21 and LP22 of the Local Plan and guidance in the NPPF.

Drainage issues

- 10.30 The application is supported by a drainage assessment which indicates that surface water would be attenuated on site within oversized pipes and discharge to the sewer network in Scott Lane at a restricted rate.
- 10.31 Kirklees Lead Local Flood Authority (LLFA) have assessed the application and raise no objections subject to conditions relating to the detailed surface water drainage design and measures to ensure suitable arrangements are in place for the future maintenance and management of the surface water infrastructure within the site. A condition is also recommended regarding temporary drainage during the construction phase.

Representations

- 10.32 Eleven objections have been received. The main grounds of objection are in relation to highway safety and residential amenity issues as well as the visual impact of the development. All these matters have been addressed earlier within this report. A response to those matters that have not already been addressed is provided below.

Development would cause obstruction on the surrounding roads

Officer response: The development would have different points of ingress and egress and provides sufficient turning and parking spaces within the site. There are also parking restrictions on the adjacent roads (double yellow lines on Scott Lane and single yellow lines on Northgate). These factors would help to prevent obstructions and parking issues for neighbouring properties.

Impact of traffic on road surface

Officer response: The proposed development is not of a scale that would justify highway resurfacing works although a condition is recommended to ensure that damage to the road surface arising from the construction phase is remedied by the developer.

Poor landscaping of the development

Officer response: There is limited scope for soft landscaping and a condition requiring details of the boundary treatment of the site is recommended. Officers consider that the boundary wall to Scott Lane and Northgate should be constructed from natural stone to harmonise with the surrounding area.

Detrimental impact on property values

Officer response: This is not a material planning consideration.

There is not a need for new industrial units in this location given the prevalence of other available sites in this area.

Officer response: The 'need' for the units is not a material planning consideration and is a commercial decision for the developer. The provision of additional employment floorspace (designed with reference to present-day commercial needs) is nevertheless considered to be a benefit in planning terms.

No previous industrial use on this site, contrary to statements made within the application submission

Officer response: Officers have considered the previous uses of the site when considering the application.

Land should be used for affordable housing or as a playground

Land is better suited to residential use

Officer response: The land is unallocated in the Local Plan. The Local Planning Authority is required to make a decision on the scheme that has been proposed under this application, having regard to all material planning considerations.

Integrity/stability of 60 Northgate and the adjacent public highway may be undermined by the construction of the development given the topography of the site, which falls away from Northgate.

Officer response: Risks arising from land instability is a material planning consideration although the NPPF clearly states that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner (paragraph 179). A condition requiring details of any highway retaining structures is recommended to address potential impacts on highway safety. With regards to the impact on 60 Northgate, the developer has a responsibility to ensure that adjoining private property is not prejudiced and issues with structural integrity would fall under Building Regulations legislation.

The proposed layout does not provide sufficient space to maintain the gable end of 60 Northgate

Officer response: The end of unit C is very close to the gable end of 60 Northgate although there is a gap between the buildings. The issue of maintenance is not a material planning consideration although it is considered that access to the side wall of 60 Northgate is physically achievable.

Risk of accidental vehicle collision to 60 Northgate; no preventative measures have been incorporated into the design.

Officer response: There is no requirement from a planning point of view for such measures to be incorporated.

No pre-application consultation carried out by the applicant, contrary to the submitted 'Statement of Community Involvement'.

Officer response: There is no formal requirement for an applicant to undertake consultation with neighbouring occupiers although it is accepted good practice.

Land ownership – The submitted land ownership certificate is incomplete and misleading because notice should have been served on Kirklees Council because they own the own the freehold to a proportion of the site.

The Council has a beneficial interest in this application because it owns the freehold to part of the site and has entered into an Agreement for Sale with the applicant.

Officer response: The Council owns the freehold to the northern part of the site and some small slithers of land within the southern part of the site. The applicant has served notice on the Council and submitted an amended Ownership Certificate and so land ownership issues are considered to have been addressed for the purposes of the planning application.

The applicant has confirmed that they have entered into a legal agreement with the Council to purchase this land, which is subject to planning permission being obtained. The planning application has been assessed solely on its planning merits and no regard has been paid to any financial gain to the Council that would result from the land transfer.

Site address in the application is misleading

Officer response: It is considered that the site location provided by the applicant adequately describes the site's location.

Inconsistencies within the application submission - the intrusive site investigation report includes an incorrect postcode and refers to residential development on the site

Officer response: Issues with the intrusive site investigation report were also identified by Kirklees Environmental Services, who have recommended that a condition be imposed requiring an updated site investigation report that fully reflects the proposed end use.

Insufficient supporting information – there is insufficient information to properly assess the impact on 60 Northgate and no lighting assessment, noise impact assessment, or air quality statement have been provided.

Officer response: Officers are satisfied that the level of information provided has enabled a proper assessment of the impact on 60 Northgate. For example, the submitted street scene drawings demonstrate the adjacent units (A-C) would be lower in height than 60 Northgate. Noise and lighting are proposed to be addressed through conditions. Air quality is addressed later in this report

The Council has not enforced planning obligations relating to a historic planning permission on part of the site (planning permission 91/04914 issued 1st December 1997 for six industrial unit/starter units).

Officer response: This planning permission was not carried out and therefore the associated planning obligations do not apply.

The application site should have been allocated for housing in the Local Plan. The southern part of the application site formed part of a rejected housing option in the Local Plan; the land was rejected because a retail store had recently been erected on part of the land (the current Home Bargains store) and the remainder of the land did not meet the size threshold for a housing allocation. If the northern part of the current application site had been included then the size threshold would have been met and the land could have been allocated for housing.

Officer response: The Local Plan was adopted in February 2019 and the application site comprises unallocated land within the Plan. The application has been assessed on this basis.

Light industrial units are inappropriate in this location, which is on the edge of the town centre. The site should form part of a masterplan to develop an integrated scheme for the whole area, such as an integrated housing scheme. Industrial units should be built on land allocated for industry, not adjacent to town centres.

Officer response: The site is in a mixed-use area and much of the site has historically been used for non-residential uses. For the reasons set out in this report, officers consider this to be an acceptable site for light industry - subject to controls to mitigate the impact on residential amenity. The Local Planning Authority is required to consider the acceptability of the proposed scheme, not any potential alternative proposals.

Ecology and trees

- 10.33 Policy LP30 of the KLP confirms that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees. As relevant to this site, it confirms that development proposals will be required to (i) result in no significant loss or harm to biodiversity in Kirklees through avoidance, adequate mitigation or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement and (ii) minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist. The Council seeks to achieve a net biodiversity gain of 10% on all sites.
- 10.34 Prior to its clearance, the site was considered to have relatively limited ecological value and the risk of significant ecological impacts due to the proposed development was low. A bat survey was submitted with the application which confirmed that the buildings/structures on the site had negligible potential for roosting bats. An active bird nest was recorded in one of the buildings at the time of the survey, although it is understood that the demolition of the building subsequently took place outside of the breeding season for nesting birds. Aside from the buildings, the site principally comprised of hard surfacing and scrubland.

- 10.35 Notwithstanding the relatively limited ecological value of the site, supporting information confirms that the development would result in a net biodiversity loss. Opportunities to provide meaningful ecological enhancement on this site are somewhat constrained and as such the applicant has proposed to deliver a biodiversity net gain of 10% through a financial contribution to facilitate habitat improvements in an offsite location. This would be within the District, at a location as close to the application site as possible. The Ecology Unit is satisfied with this approach. The contribution has been calculated as £26,200 plus a £3930 administration fee. This would need to be secured through a Section 106 Agreement. On this basis the application is considered to comply with Policy LP30 of the Kirklees Local Plan and guidance in the National Planning Policy.
- 10.36 In addition to the above, a condition requiring an Ecological Design Strategy is considered necessary. This should include bat/bird box provisions within the new buildings and appropriate planting within the areas of the site that are shown to provide soft landscaping. The amendment to unit I to include some ancillary office space slightly reduces the extent of the soft landscaping in this part of the site although the overall impact of this change on biodiversity is insignificant.
- 10.37 There are no trees on the site there are worthy of preservation.

Other Matters

- 10.38 The site falls within The Coal Authority's Development High Risk Area. Relevant information relating to the legacy of coal mining and the potential impact on the development has been submitted. The Coal Authority is satisfied that this demonstrates that the application site is safe and stable for the proposed development.
- 10.39 A condition requiring an updated intrusive site investigation report is recommended to address land contamination issues, along with conditions relating to site remediation and validation.
- 10.40 The Police Architectural Liaison Officer raises no objection to the application, subject to suitable crime prevention measures being incorporated into the development. These include boundary treatments, gates to the vehicular accesses when the site is not in use, secure cycle parking and lockable bin store. Advice has also been provided in relation to other security measures such as building construction, external lighting and CCTV. It is considered that a condition requiring full details of the proposed security measures for the development is necessary. Security considerations relating to boundary treatments and external lighting will need to be balanced alongside visual and residential amenity considerations.
- 10.41 A condition requiring details of a scheme for the provision of electric vehicle recharging points is recommended. This will help to mitigate the impact of development on air quality.

Climate change

- 10.42 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.43 The proposal involves the reuse of previously developed (brownfield) land and in this regard the development represents an efficient use of land and resources.
- 10.44 Energy efficiency within the new buildings can help to limit the impact on climate change. For example, the adoption of a fabric-first approach to ensure minimal heat loss as well as other measures such as low energy lighting and water efficient fittings and appliances. A condition requiring details of energy efficiency measures to be incorporated into the construction of the units and internal fit-out is recommended.
- 10.44 The site is also in a sustainable location on the edge of Cleckheaton town centre and so this will encourage the use of public transport by the occupiers of the units. Electric vehicle recharging points would also be provided as part of the development, which would further help to mitigate the impact of this development on climate change.

11.0 CONCLUSION

- 11.1 The proposal would provide nine light industrial units that would boost the provision of modern commercial floor space in this area whilst bringing a vacant piece of land back into productive use.
- 11.2 The development would not result in any significant harm to residential amenity, subject to conditions to control noise and stray light. The development would not prejudice highway safety or result in any undue ecological or drainage/flood risk impacts.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.
- 11.4 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 limit (3 years)
2. Development in accordance with the approved plans
3. Approval of samples of facing materials
4. Details of boundary treatments
5. Construction management plans for highway safety and residential amenity
6. Temporary drainage scheme for construction phase
7. Detailed drainage design and arrangements for the future maintenance and management of surface water infrastructure within the site
8. Restrictions on the noise from each unit:
The combined noise from any vehicle movements, work activity, fixed mechanical services and external plant and equipment from each individual unit shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed 10dBA below the background sound level at any time. "Rating level" and "background sound level" are as defined in BS 4142:2014+A1:2019.
9. Restriction on hours of operation to avoid night-time working
10. Details of external lighting to mitigate the impact on residential amenity
11. Updated intrusive site investigation report for land contamination
12. Site remediation and validation reports as necessary (informed by the updated intrusive site investigation report)
13. Scheme for electric vehicle recharging points
14. Pre and post development road condition survey with defects caused by the construction of the development to be remedied
15. Surfacing of the parking and turning areas within the site
16. Proposed points of ingress and egress to be signed accordingly (IN/OUT)
17. Details of the proposed waste storage arrangements to mitigate potential fire risk
18. Details of any highway retaining structures
19. Ecological Design Strategy
20. Scheme for security measures to be incorporated into the development
21. Scheme of energy efficiency measures to be incorporated into the construction of the units to mitigate the impact on climate change

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91747>

Certificate of Ownership: Certificate B signed - Notice served on Mr W Rushton and Kirklees Council

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jul-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

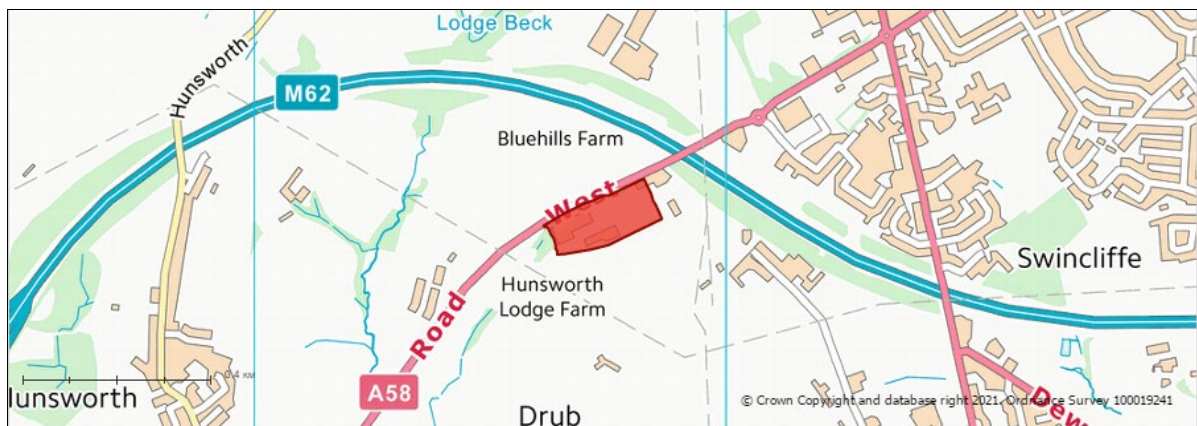
11-May-2021

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 was originally 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 application was previously presented to the Heavy Woollen Planning Sub-Committee on the 10th of June 2021. At that committee members resolved to defer the application to allow more information to be provided regarding the proposed new operator's (Two Way Holdings Ltd) operations and comparisons with those of the previous occupier (Arriva Bus and Coach Ltd). This is set out in the appraisal section of this report.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is a commercial facility. 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, has ended operations on the site and seeks to 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.

5.2 Since the committee resolution to defer the application on the 10th of June 2021 correspondence has continued between officers and the agent, on the matters raised by members. This is reported on within this assessment.

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

Below is a summary of the consultation responses received in relation to this application. Where appropriate, they have been expanded on further in the main appraisal section of this report.

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.

Considering similarities between Arriva Bus and Coach Ltd and Two Way Holdings Ltd, and other matters raised by members

10.5 The application was deferred by the committee held on the 10th of June 2021. This was to allow for more information to be provided regarding the new operator's (Two Way Holdings Ltd) operations and for greater detail of the comparisons with the previous occupier (Arriva Bus and Coach Ltd).

10.6 The previously identified Very Special Circumstances which applied to Arriva can be summarised as:

- The site is considered highly valuable, for its strategic location on the motorway network and the site has built up a wide network of local suppliers. Furthermore, given the level of specialist equipment on site, moving would be impractical. There were considered no suitable or comparable high quality alternative sites within the district. This was evidenced through a sequential approach to site consideration.
- Because of this, re-locating would likely have been outside of the local area and Kirklees. This would have threatened the job of local staff (circa 50) and indirectly the economy of the established supply network.
- Limitation of harm to openness through good design (landscape buffer): this was considered a minor point comparative to the others but aided to 'tilt the balance'.

10.7 It was concluded during 2013/93186 that the above could be considered Very Special Circumstances which clearly outweighed the then identified harm to the Green Belt. However, at that time, it was deemed prudent to impose a personal condition limiting the permission to Arriva, as any new user may have a different set of circumstances. This was to protect the openness of the Green Belt.

10.8 Arriva Bus and Coach Ltd has principally used the site as a primary coach / bus management and maintenance hub for its UK operation. They also included a coach sales element, but this was an ancillary office function. Two Way Holdings Ltd differs from Arriva in that it is a regional private coach hire business, as opposed to Arriva being an international public transport business. However, this site did not include any public element and public service did not form part of the aforementioned previous Very Special Circumstances.

10.9 Two Way Holdings Ltd would continue to operate the site as a management and maintenance hub for their own, currently smaller, fleet of buses / coaches. They would take the site on 'as is', retaining much of the equipment and supplies. On Two Way Holdings Ltd, the agent has stated:

Two Way Holdings Limited is the parent company of two significant and very well-known Bus and Coach businesses - Fourway Coaches Ltd and W Cropper Ltd. The business operates a wide number of buses and coaches for hire, sales and service. The owners also have other interests in bus and coach businesses across the Yorkshire area. They have been trading for around 20 years and have a solid track history of building business platforms involving Public Transport operations.

Operational details for the site would be exactly the same as at present, enabling the prospective owners to be able to retail, maintain and generally operate their day-to-day business.

The site is purpose-built for the prospective owner's business, specifically for passenger transport vehicles, with the correct depth of workshop facilities, general maintenance facilities and, critically, ample external storage.

- 10.10 For site location, officers accept that the previous benefits which Arriva sought apply to Two-Way Holdings Ltd: this site is ideally located on the transport network, being close to a M62 motorway junction. Most the specialist equipment on-site would be retained and transferred, preventing the need to move in replacement bulky and expensive equipment, allowing for a quick and efficient change in operation. Officers did query whether any alternative locations had been considered by Two Way Holdings Ltd, including newly available Local Plan Employment Allocations. The agent stated:

The Local Plan site Allocations are exciting in terms of their prospects, but way out of reach financially. In order to recreate the facilities available at the ARRIVA site would cost several millions of pounds. This would mean borrowings on a vast scale – and would include all of the plant and equipment required.

In terms of funds available to a low-profit margin public transport operator, such borrowing is not possible. With such firms, the vast majority of the capital and borrowings must be employed in coach / bus purchase. (The average luxury coach costs about £1/3 Million). Banks will not lend on this scale. The proposal for Fourways works solely because ARRIVA is prepared to do what amounts to a ‘firesale’.

- 10.11 Regarding staff, under Arriva the site hosted circa 70 employees. As Arriva has left the site, those previously employed have been made redundant. Two Way Holdings Ltd is in talks with circa 40 former staff to re-hire for work at this site, dependant on the outcome of this planning application. These first employees would be part of the ‘establishment phase’, after which the intention is to hire up to the same level of Arriva. The applicant considers this element to be time sensitive, to ensure maximum staff retention.
- 10.12 Given the benefits of the site retention, and to ensure the site remains as an active employment site, officers are satisfied that the Very Special Circumstances which applied to Arriva also apply to Two Way Holdings Ltd. In terms of the landscaping, which has been done and therefore can be directly judged, officers consider it an effective screen which does minimise the proposal’s visual harm within the Green Belt.
- 10.13 Turning to other comparisons, regarding traffic movements exact vehicle movements of Arriva cannot be provided, as they have left the site, and Two-Way Holdings Ltd are not in situ. Using standard TRICS (Trip Rate Information Computer System) data, because the use class would remain the same, the existing and proposed operators are assessed as having the same traffic movements. However, it should be noted that Arriva’s use of the site was in the context of a major international business, where the Coaches arriving and leaving were travelling vast distances, both within the UK and overseas. The agent states:

ARRIVA’s levels of traffic were, by common consent, very high, as it was their UK centre for coach operations. The levels of parking were also higher than we anticipated.

The intensity of use of the site is effectively controlled by the parking and circulation layout, which sets the ‘maximum’. As is evident from aerial photos, because of the pandemic, Arriva needed to park a significant number of its

vehicles at the site, filling it to complete capacity. The agent states that the new operator's traffic movements will initially be much less than Arriva, as a smaller business, but as they grow over time their use will become closer to Arriva's typical operation. Their operation is however unlikely to reach the site's maximum, as Arriva did over the pandemic.

- 10.14 Members queried whether the new site occupier could hold discussions with the neighbouring resident, as is understood to have previously taken place. The agent has confirmed that they intend to meet neighbours, once the new occupier is installed. This is welcomed. However, for the avoidance of doubt, officers do not believe any such meeting could be imposed via a planning condition, as it is not considered to pass the relevant tests required to impose a condition. It is however confirmed that all previous restrictions imposed via condition; hours of use and noise levels, are to be retained.
- 10.15 The previous application included the re-routing of a culvert on the site, to minimise risk to the site and adjacent properties. Specific details of the works were secured via condition, which was subsequently discharged and the approved scheme implemented. Members queried the ongoing management of the culvert under the new owner. Discussions have taken place with the Lead Local Flood Authority (LLFA). They confirmed that they were involved when the works were undertaken. Post competition, the culvert is under riparian ownership, which imposes responsibility of the land owner. This includes the requirement to maintain the watercourse and to keep it clear of any obstructions (natural or otherwise) which would impede the normal water flow and manage flooding. The LLFA commented that the culvert works installed as part of the original permission are 'self-cleaning' and have a low maintenance requirement and confirmed they have been notified of no issues since the works were undertaken. They raise no concern or objection to the current proposal.
- 10.16 Two Way Holdings Ltd are a smaller, local business, compared to the international Arriva Bus and Coach Ltd. Based on their smaller nature, their initial operation of the site would be less intensive in terms of operation and traffic movements, than when Arriva operated the site. Overtime, Two Way Holdings Ltd will presumably grow into the site as a whole, to a level similar to Arriva. As Arriva has, at times, operated the site to its maximum, Two Way Holdings Ltd are highly unlikely to be able to exceed the intensity of the previous owner. Hours of use and noise would be controlled via the same conditions applied upon Arriva. In light of this assessment and the information provided by the applicant, officers are satisfied that under the new proposed occupier, the site will operate in either a material similar, or less intensive way, than under Arriva.

Removal of Condition 23

- 10.17 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.

10.18 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.

10.19 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.

10.20 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.*

10.21 Both conditions 22 and 23 serve the same reason and function, albeit through different methods. This is to ensure the development does not have an undue or lasting impact upon the Green Belt when the development 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.

10.22 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.

10.23 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.

- 10.24 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

- 10.25 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.
- 10.26 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)
- 10.27 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.
- 10.28 The above list notably includes the same hours of use limitation and restriction the level of noise being re-imposed.

10.29 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'.

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

Representations

10.31 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 condition's 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.

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jul-2021

Subject: Planning Application 2021/91354 Demolition of existing buildings, erection of 5 dwellings, formation of access and associated works land at, Old White Lee Colliery, Leeds Road, Heckmondwike, WF16 9BH

APPLICANT

Beaufort Land and
Developments Ltd

DATE VALID

31-Mar-2021

TARGET DATE

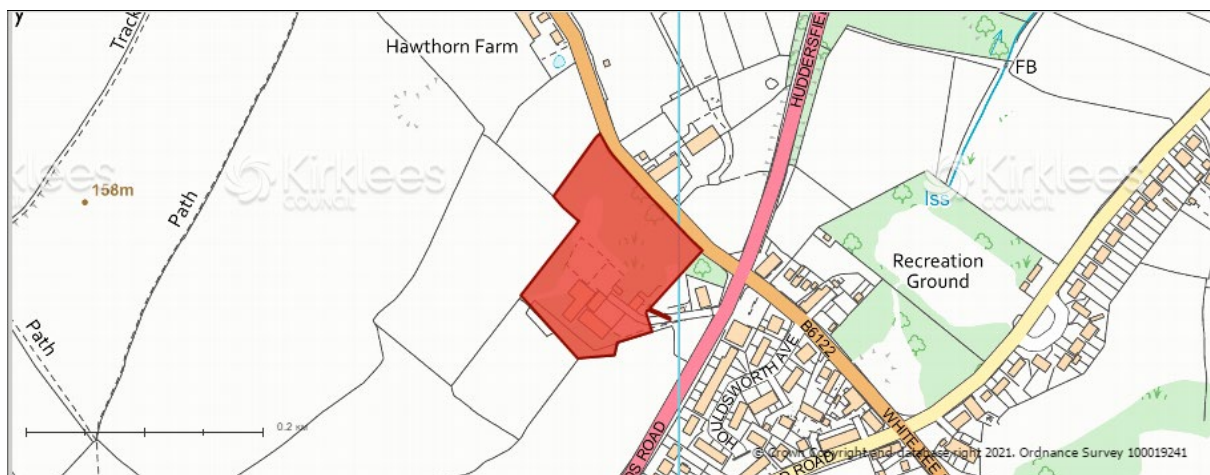
30-Jun-2021

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: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

Refuse planning permission for the following reasons:

1) By virtue of the proposed design, scale, layout and encroachment of development and the enclosure of land into gardens would result in a greater impact on openness than the existing development. This would materially detract from the Green Belt setting and represent inappropriate development, with no very special circumstances demonstrated. To permit such development would be contrary to Policies LP24, LP32 and LP59 of the Kirklees Local Plan, as well as Chapters 12 and 13 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This is a full planning application for the demolition of existing buildings and erection of 5 dwellings, formation of access and associated works. The application has been submitted by Addison Planning on behalf of Beaufort Land and Developments Ltd.
- 1.2 The application is presented to the Heavy Woollen Sub-Committee as the site is larger than 0.5 hectares in size and is for residential development. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site measures 1.78 hectares in size and is known as the 'Old White Lee Colliery.' It can be found to the north of Leeds Road and the west of Muffit Lane. The site slopes in a general west to east direction with some undulations throughout, from approximately 133m AOD in the east to approximately 124m AOD in the west at Leeds Road.
- 2.2 The south- western portion of the site is characterised by a cluster of brick and metal clad industrial units as well as an hardstanding area that formerly used as a specialist metal works company, formerly Metallizers Ltd. Mature trees and overgrown vegetation can be found around the industrial units, particularly along the site's south-western boundary. Access to the industrial units can be found to the east at Leeds Road, which also serves an existing residential bungalow property at 93 Leeds Road, who has an interest in the site.
- 2.3 The north-eastern portion of the site is characterised by scattered mature trees and a large area of semi-improved grassland. A boundary stone wall delineates the site from Muffit Lane. An overgrown, historic access road that connected with Muffit Lane may have been present in this location. However, this access road is not clearly highlighted on historic maps.

2.4 Beyond the site boundaries are agricultural fields, particularly to the north and west. A cluster of vernacular stone residential properties can be found at Muffit Lane to the east. To the south there is an Indian restaurant and residential properties, which form part of the settlements of Batley and Heckmondwike.

3.0 PROPOSAL:

3.1 The proposal would include the demolition of the existing industrial structures and amendments to the existing access road so that it only provided pedestrian access to the proposal from/to Leeds Road. 93 Leeds Road would still have vehicular access with Leeds Road.

3.2 The proposal would result in the erection of 5 detached 2-storey dwelling houses with single storey elements including car ports and gardens in the western portion of the site. The dwelling houses are set around a cul-de-sac courtyard arrangement that connects with Muffit Lane to the north east. The proposal includes three 4-bed dwelling houses and two 3-bed dwelling houses. All the dwelling houses have been designed in accordance with the Technical housing standards – nationally described space standard.

3.3 Open space in the form of soft landscaping is proposed around the dwelling houses and between the proposed dwelling houses and Muffit Lane in the eastern portion of the site.

3.4 All of the dwelling houses are two storeys and are characterised by dual gable-built forms. Features that define the dwelling houses include either/or chimney stacks, parapet coping stones, large barn style glazed archway entrances. The materials are proposed to be a combination of stone, reconstituted stone and grey roof tiles

3.5 Parking provision for each dwelling house is either in the form of private driveways, courtyard parking space allocation or within car ports.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2020/91643 - Demolition of existing buildings and erection of 15 dwellings, formation of new access and associated works – Refused (11/11/2020), for the following reasons:

1) By virtue of the proposed design, scale, layout and encroachment of development and the enclosure of land into gardens would result in a greater impact on openness than the existing development. This would materially detract from the Green Belt setting and represent inappropriate development, with no very special circumstances demonstrated. To permit such development would be contrary to Policies LP24, LP32 and LP59 of the Kirklees Local Plan, as well as Chapters 12 and 13 of the National Planning Policy Framework.

2) It has not been demonstrated that an appropriate and safe access road can be achieved in line with the guidance set out in the Highways Design Guide Supplementary Planning Document. Therefore, the development would create unacceptable risks to highway safety. This is contrary to Policies LP21 and LP24 Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework.

3) The submitted information fails to demonstrate that the proposal would not result in a significant loss or harm to biodiversity and that the necessary mitigation can be employed to minimise biodiversity impacts. Furthermore, no information has been provided to demonstrate that the proposal would result in a biodiversity net gain. As such, the proposal would be contrary to Policies LP24 and LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

4) It has not been demonstrated that the site is safe, stable and suitable for the proposed residential development in an area with a coal mining legacy. To permit such development would be contrary to Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

5) The submitted information fails to demonstrate that the proposal would not acceptably remove, harm or undermine the archaeological significance of the site's coal mining legacy of the late 19th and early 20th century, without the necessary mitigation. This is contrary to Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

6) It has not been demonstrated that the development can take place on the site, which is designated as a Minerals Safeguard Area for Surface Coal Resource Surface Coal Resource with Sandstone and/or Clay and Shale. This is contrary to Policy LP38 of the Kirklees Local Plan and Chapter 17 of the National Planning Policy Framework.

7) In the absence of a completed Section 106 agreement the development fails to provide for affordable housing, public open space, landscape maintenance and management, sustainable travel, flood risk and drainage management and maintenance, and biodiversity net gain. Without such contribution, the proposal would fail to accord with Policies LP4, LP11, LP20, LP21, LP30, LP32 and LP63 of the Kirklees Local Plan as well as Chapters 4, 5, 9, 14 and 15 of the National Planning Policy Framework.

4.2 The site planning history also includes:

90/62/00311/A1 - Erection of replacement dwelling – Refused (22/1/1990)

92/62/02058/A1 - Erection of Industrial Unit - Conditional Full Permission (29/6/1992)

96/90818 - Erection of Extension To Workshop And Alterations To Existing Workshop – Conditional Full Permission (9/5/21996)

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

5.1 A formal pre-application enquiry (Reference: 2018/20474) was submitted in November 2018 for 33 dwelling houses. In response to discussions with officers, the scale of the proposal was reduced to 15 dwelling houses.

5.2 Officers concluded that the principle for a residential development could be considered acceptable as part of the site is recognised as being a brownfield site in the Green Belt. In terms of the detail, a reduced level of development was welcomed, when compared with the previous enquiry submission. However, an appropriate layout and design should be sought, that was not considered suburban in character as what was proposed. Instead, a unique residential development that considers its rural context, with no greater impact

on the openness of the Green Belt should be achieved. Further consultation with the Coal Authority, LLFA, Highways was considered necessary to address the issues raised before a planning application was submitted.

5.3 As outlined above, an application (Reference: 2020/91643) was submitted and refused for the demolition of the existing structures and develop 15 dwelling houses. During the application concerns were raised regarding:

- The proposal would result in encroachment into the Green Belt and a greater impact on openness.
- The proposed footprint of the built form is greater than the existing buildings they are replacing.
- The proposal is suburban in character with standard house types with the use of detached garages.
- Particular concern regarding the height and scale of the proposed houses with steep roof pitches.
- Greater spread of the built form with the introduction of buildings along the northern boundary when there are currently none there.
- Subdivision of the plot resulting in enclosed domestic gardens with standard garden boundary treatments.
- The proposed open space adjacent to Muffit Lane should not be a 'parkland' and should appear as a natural as possible

5.4 Also, during consideration of this application, officers also made the applicant aware of the concerns raised by other consultees, regarding the design of the proposed highway, as well as the proposed refuse storage and collection. Also, consultees had requested additional information regarding drainage, coal mining features, bats and biodiversity net gain.

5.5 The applicant has subsequently submitted an application in response to the reasons for refusal (Reference: 2020/91643).

5.6 During the course of the planning application, officers made the applicant aware that they would be unable to support the planning application, primarily due to the adverse impact the proposal would have on the Green Belt, with access from Muffit Lane. The applicant submitted a draft drawing showing a potential alternative new access taken from Leeds Road. However, officers still considered this design option would still not resolve the concerns regarding Green Belt.

5.7 The applicant has submitted additional information in response to concerns from KC Lead Local Flood Authority, KC Highways Development Management and KC Ecology.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

6.2 The site is within land designated as Green Belt in the Local Plan.

6.3 Relevant policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP7 – Efficient and effective use of land and buildings
- LP8 – Safeguarding employment land and premises
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highway safety and access
- LP22 – Parking
- 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
- LP38 – Minerals safeguarding
- LP47 – Healthy, active and safe lifestyles
- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP59 – Infilling and redevelopment of brownfield sites (Green Belt)

Supplementary Planning Guidance / Documents:

6.4 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- 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 Supplementary Planning Document (2019)
- Waste Management Design Guide for New Developments (2020, updated 2021) Green Street Principles (2017)
- Kirklees Interim Affordable Housing Policy (2020)
- Viability Guidance Note (2020)
- Housebuilders Design Guide Supplementary Planning Document (2021)

- Open Space Supplementary Planning Document Supplementary Planning Document (2021)
- Planning Applications Climate Change Guidance (2021)
- Biodiversity Net Gain Technical Advice (2021)

Climate change:

- 6.5 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 pre-dates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

National Planning Policy and Guidance:

- 6.6 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 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of materials.

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

- 6.8 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)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application had been advertised via four site notices, a press notice and neighbour notification letters. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 26th May 2021.

7.2 At the time of writing this report, one neighbour representation was received, which stated:

“When the land near Muffit Lane was cleared they chopped down lots of trees. We would like them to plant more trees back in line with the climate change. We try and plant lots of trees on our farm and was really upset when they chopped the trees down.”

7.3 Councillors were also invited to comment on the application. Cllr S Hall provided the following comments:

“As the applicant has not taken anything on board from the last refusal, I would not want it to come back to committee. I noticed reason 6 which is a section about minerals, would this be enough on its own to refuse the application. I have also noticed the land has been cleared of quite a lot of trees. Finally, this last winter I noticed a lot more surface water running off this land, out onto the road (Muffit lane) drainage is a big problem on this land. The farm next to this have a small lake which seems to work.”

7.4 Responses to these comments are set out later in this report.

8.0 CONSULTATION RESPONSES:

8.1 The following is a brief summary of consultee advice. More details are contained in Section 10 of this report, where appropriate.

8.2 Statutory:

KC Highways: No objection subject to the imposition of conditions regarding the proposed site access and highway safety.

KC Lead Local Flood Authority: No objection subject to the relevant planning conditions regarding drainage details, overland flow routing, construction phase surface water risk and pollution prevention plan

The Coal Authority: No objection subject to the imposition of planning conditions to secure the necessary intrusive site investigations and appropriate remedial and mitigatory measures.

8.2 Non-statutory:

Northern Gas: No objection.

KC Building Control: No objection. A building regulations application is required, due to the proximity of the past coal mine a ground investigation report is required, and the site should be drilled to test for voids.

KC Conservation and Design: Objection due to the necessary design refinements required to fully address the requirements of Local Plan LP24.

KC Ecology: No objection, subject to the imposition of planning conditions to secure the future management of these habitats will be required, in addition to a sensitive lighting scheme and timing restrictions on the removal of vegetation and buildings to avoid impacts to nesting birds.

KC Environmental Health: No objection, subject to the imposition of planning conditions regarding land contamination, noise and electric vehicle charging points.

KC Landscape: No objection, subject to the relevant planning conditions being imposed to secure a landscape scheme which corresponds with the other site layout plans and provides further details regarding the management and maintenance of the proposed soft and hard landscaped areas.

KC Policy: Objection due to the development being considered as inappropriate development within the Green Belt contrary to NPPF paragraph 145 and Local Plan policy LP59.

KC Trees: No objection subject to the provision of a landscape management plan with regards to long term management and maintenance of the landscaping and open space, which could be secured via condition.

KC Waste Strategy: No objection. Concerns expressed with regards to the proposed drag distance of over the recommended 25 metres. The proposed private road would not be acceptable for access by a standard large Refuse Collection Vehicle and therefore collections would be made from Muffit Lane, or by reversing into the first part of the access road from Muffit Lane. The proposed bin store/presentation point with its enclosed design and set back from the access road at the widened passing place section, makes collections possible. These design features, (which have now been included in the revised design) would be vital to our ability to service the site efficiently using a large Refuse Collection Vehicles.

WY Archaeology: No objection and consider the Heritage Appraisal satisfactory.

WY Police Designing Out Crime: No objection to the principle of development. Further information requested regarding artificial lighting for the site and access road. Concerns raised regarding the proposed use of car ports as they are considered to leave vehicles more vulnerable to attack.

Yorkshire Water: The submitted percolation test is acceptable however, further information is required to prove the existing rate of surface water discharge from the site.

Yorkshire Wildlife Trust: No objection with the proposals provided in this documentation. The recommendations made within the report and commitments to Biodiversity Net Gain should be secured by a suitably worded condition, including for long term management and monitoring.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 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.
- 10.2 The NPPF states that the purpose of the planning system “*is to contribute to the achievement of sustainable development.*” The NPPF explains how achieving sustainable development means that the planning system has three overarching objectives, which are economic, social and environmental. These objectives are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The NPPF stresses the presumption in favour of sustainable development.
- 10.3 The site is not allocated or designated as a Primary Employment Area within the Local Plan, but the proposal would mean the loss of a former general industrial and employment site (Class B2). Officers accept that the red line boundary contains land that is considered as previously developed land (brownfield land) as defined in the Glossary of the Local Plan and Annex 2 of the NPPF.
- 10.4 The proposal would mean the redevelopment of previously developed land on the edge of a settlement with access to shops and services. In addition, the proposal could be considered as a windfall site and the provision of 5 dwelling houses would provide a modest contribution to the Council’s housing land supply. As such, the proposal would accord with Local Plan policies LP1 and LP3 in terms of a housing development being located within a sustainable location.
- 10.5 The site is within the Green Belt. NPPF paragraph 133 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 134 explains how the Green Belt serves five purposes, which is to check unrestricted sprawl, to prevent neighbouring towns merging, to assist in safeguarding the countryside from encroachment, to preserve the setting and special character of historic towns and to assist in urban regeneration.

10.6 NPPF paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. NPPF paragraph 143 explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 145 does, however, list the types of development (involving the construction of new buildings) as exceptions that can be regarded as appropriate, including:

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
- *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

10.7 Local Plan policy LP59 and supporting text endorses NPPF paragraph 145 criteria g. It states that normally the existing footprint should not be exceeded, but that it may be possible to redistribute the footprint around the site if there would be no greater impact on openness.

10.8 A cluster of former industrial buildings on the site means that the current built form is confined in the main to the centre/back (west) of the site with access to/from Leeds Road. There is no built form on the area of hardstanding to the east of the buildings and to the north, west and south is undeveloped land. Since the refusal of planning application reference: 2020/91643 an area of land appears to have been cleared of vegetation and large concrete blocks have been replaced with a new gate at Muffit Lane. The Planning Statement explains how the site will now be served from the location of this access point and that this access point was once the historic access point from Muffit Lane. The character of Muffit Lane in this location is unmanaged countryside, with minimal activity. It is considered that the creation of a suitable access road and bin store as well as managed landscaped area to serve a residential development would significantly impact on the openness of the Green Belt and the character of this part of Muffit Lane.

10.9 The proposed scale of development has significantly been reduced when compared with the submission for planning application reference: 2020/91643. However, it is considered that the proposal would still result in a new residential development being spread out over a greater area than that occupied by the existing buildings, closer to both Leeds Road and Muffit Lane, as well as further north, south and west. The redistribution of the building footprints, main access and garden curtilages would result in a greater impact on the openness of the Green Belt by spreading development to areas where none currently exists and by making the development more visible as well as increasing activity over a wider area.

10.10 It is considered that the proposal would also still result in a suburban development with the unnecessary car port features. Additionally, the proposal would introduce a very significant degree of fragmentation and enclosure of land into private gardens. The enclosure of land inside private gardens with all the resultant change in character, increase in activity and domestic paraphernalia that would result, would significantly intensify the use of a large proportion of the site over and above its current character and function.

- 10.11 This application is therefore considered to constitute inappropriate development in the Green Belt. Substantial weight should be given to any harm caused to the Green Belt by reason of inappropriateness and any other harm, and very special circumstances will not exist unless the harm so caused is outweighed by other considerations. For these reasons, the principle cannot be supported.

Urban design

- 10.12 Local Plan policy LP59 states that regard should be had to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting. The relevant policies in this case are Local Plan policies LP24 and LP32. Local Plan policy LP24 states that the form, scale, layout and details of all development should respect and enhance the character of the townscape, heritage assets and the landscape. Local Plan policy LP32 states that proposals should be designed to take into account and seek to enhance the landscape character of the area, in particular the setting of settlements and buildings within the landscape. Further guidance on these matters is provided within the Housebuilders Design Guide SPD and the National Design Guide.
- 10.13 Understanding different landscape characters helps to ensure that development is sensitive to its location and contributes to environmental, social and economic objectives set out in the Local Plan. The existing character of this site is of an isolated cluster of functional industrial brick and metal clad buildings. Some of the industrial buildings have large footprints and of varying orientations and roof heights, partly screened by tree cover to the west and with some of the roofs visible when viewed from Muffit Lane.
- 10.14 Officers acknowledge that the proposal is an improvement when compared with the previous submission for planning application reference: 2020/91643. However, officers believe that the proposal still does not properly address the Local Plan policy considerations LP24, LP32 and LP59. Furthermore, it is considered that the applicant has chosen to dismiss the design advice given by officers in paragraph 10.14 of the planning committee report for planning application reference: 2020/91643.
- 10.15 Officers are still of the opinion that any residential development should utilise the existing access arrangements from Leeds Road. This is an existing tarmacked access road with Leeds Road, which has a more 'urban character and appearance' when compared to Muffit Lane. This would avoid the need to formalise and use a recently created 'mud track,' with Muffit Lane, i.e. avoiding the need to create a suitable access road for residential development with the necessary widths for refuse vehicles, surface treatments, and bin storage facilities, etc. It would also enable all of the undeveloped land between Muffit Lane and the cluster of former industrial buildings to be returned to its original state or a more appropriate use for the countryside rather than a managed space.

- 10.16 The proposed dwellings would have a poor relationship with the Green Belt. Additionally, garden curtilages would still spread into areas which are currently undeveloped, outside the current hardstanding footprint and would be visible, particularly from Leeds Road. Thus, the visible subdivision of land together with associated domestic paraphernalia, would mean that the development would have a greater impact on the openness of the Green Belt. Officers consider that a better relationship could be achieved and that the spread of development could be avoided if car ports were discounted from the design and if some of the dwelling garden curtilages were repositioned within the courtyard area.
- 10.17 Furthermore, KC Conservation and Design have also raised a number of design concerns.

“The design objective appears to present a collection of faux stone barns. However, the simplicity of the ‘barn-like’ structures and the overall composition of the group are rather compromised by the scale, solidity and uniformity of the dwellings, as well as the inclusion of domestic characteristics on the buildings. (i.e. Include the uniform window design and alignment, roof lights, chimneys, car ports) Consequently, the building group simply has the appearance of large estate dwellings. The ‘agricultural form’ is not at all convincing and appears to present a rather jarring and prominent intrusion into the relative open landscape, with gardens potentially sprawling domestic features into the wider landscape.”

- 10.18 KC Conservation and Design have suggested that for a more appropriate development within the Green Belt, further consideration needs to be given to the detailed design form. Suggestions include the use of a greater variety of agricultural building characteristics and appropriate agricultural building materials; further simplification of the roofscape (avoiding chimney stacks) and redesigning of the courtyard area. It is considered that these design considerations would create a more convincing ‘agricultural group’ which responds to the character of the landscape in accordance with Local Plan Policy LP24.
- 10.19 Therefore, for the above reasons, the proposal does not accord with Local Plan policy considerations LP24, LP32 and LP59, guidance set out in the Housebuilders Design Guide SPD as well as the National Design Guide.

Housing mix and density

- 10.20 The proposal includes three 4-bed dwelling houses and two 3-bed dwelling houses. No affordable housing is required given the proposal is less than the threshold for 10 dwelling houses. It is considered that the proposed housing mix is acceptable in relation to Local Plan policy LP11.
- 10.21 Local Plan policy LP7 developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. Officers acknowledge that a lower net density would be acceptable on this site to ensure the development is compatible with its Green Belt setting and takes into consideration site constraints.

Residential amenity and quality

- 10.22 Local Plan policy LP24 and NPPF Chapter 12 both seek developments that have a high standard of amenity for existing and future users.
- 10.23 The proposal would not have an adverse impact on existing neighbouring residential amenity in terms of outlook, privacy and natural light as there is sufficient separation distance between the proposed dwelling houses and the nearest existing dwelling houses at Leeds Road and Muffit Lane.
- 10.24 The sizes of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate space at home. 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.
- 10.25 The proposal includes three 4-bed dwelling houses and two 3-bed dwelling houses. Floor plans also shows how all of the dwelling houses would have 1st floor office space. The following table shows that all of the dwelling houses would far exceed the Technical housing standards – nationally described space standard.

Plot	Description	Sqm	NDSS Sqm (2-storey, 4-bed, 8 persons)
1	2-storey, 4-bed dwelling house	240.76	102 (6 persons)
2	2-storey, 3-bed dwelling house	222.70	102 (6 persons)
3	2-storey, 3-bed dwelling house	176.46	102 (6 persons)
4	2-storey, 4-bed dwelling house	211.13	124 (8 persons)
5	2-storey, 4-bed dwelling house	220	124 (8 persons)

- 10.26 The development is within proximity to the A62 Leeds Road, a busy A route road. Environmental Health have raised concerns that road traffic noise may negatively affect future occupiers. No documents have been received that detail noise mitigation measures for the proposed development. The applicant must demonstrate that acceptable sound levels can be achieved indoors and in outdoor amenity areas, therefore, noise conditions would be considered necessary with any approval.
- 10.27 In terms of the potential amenity impacts of construction work at this site, including dust management could be controlled by planning condition requiring the submission and approval of a Construction Management Plan.
- 10.28 Subject to the necessary planning conditions, there are no reasons why new dwellings at the application site could not be provided without having an adverse impact on residential amenity.

Highway issues

- 10.29 The Planning Statement explains that when compared to the previous planning application reference: 2020/91643, the proposed access is now in a position of an existing access that serves the site from Muffit Lane. Development Management are not persuaded that this access point was used by the former industrial development and no evidence has been provided to demonstrate if and/or when it was last time in use by this use. As outlined above, since the determination of the previous planning application, gates have now been installed where there were once concrete blocks and there has been vegetation clearance to develop a mud/field track.
- 10.30 Nevertheless, plans show that there would be improvements to the access on Muffit Lane. During consideration of the planning application Highways Development Management requested amendments to the proposed access road to accord with the Highways Design Guide SPD. As such, amended proposals have been received.
- 10.31 The proposal shows the removal of the dropped kerb crossing and the creation of a 6m radius kerb with the access track widened to 5.5m for a distance of 20m and surfaced with a Stone Mastic Asphalt finish. This would allow two cars to pass and would remove the need for a vehicle to wait on the adopted highway to allow an existing vehicle to clear the access. Plans also show visibility splays of 2.4m x 70m are achievable which would be suitable for the speeds recorded on Muffit Lane. Highways Development Management have explained that the visibility splay to the right cuts across a vegetated area behind the boundary wall and this would need to be kept maintained to below 1m in height to maintain the visibility splay. Thus, a condition is recommended for grounds maintenance management plan to resolve this matter.
- 10.32 The existing vehicular access with Leeds Road would be redesigned so that it only provided pedestrian access to the residential development. This access would still serve the existing dwelling house (93 Leeds Road) and neighbouring farm field. Highways Development Management have explained that they would like to see this access enhanced to accommodate cyclists as well as pedestrians. The access is currently gated, and they would like to see details of how pedestrian and cyclist access will be maintained at all times. Ideally this will be with a 2m wide paved footway, without a gate, and accessing the

adopted footway on the north side of Leeds Road. Given the extents of the red line boundary, this would not be achievable. Although, this adds negative weight to the proposal, it is not considered to warrant a reason for refusal.

- 10.33 Highways Development Management have not raised concerns regarding the proposed access arrangement onto Muffit Lane. However, to not impact on the openness of the Green Belt, officers would prefer the continued use of the existing access arrangement at Leeds Road rather than a new access arrangement at Muffit Lane.
- 10.34 Swept path analysis show that the proposed private access road can accommodate a large twin rear axle truck. The location and width of the passing place is considered acceptable providing that visibility is maintained from the widened access point and the turning/courtyard area adjacent to the proposed dwellings. Again, a condition is recommended for grounds maintenance management plan to resolve this matter.
- 10.35 Although, the planning application form states that only 10 car parking spaces would be provided, plans appear to show 18 car parking spaces either in the form of courtyard space allocation or car ports or driveways. Highways Development Management have raised no concerns regarding these matters. In accordance with paragraph 5.4 of the Highways Design Guide each dwelling unit should provide at least one cycle space, which can be secured by planning condition.
- 10.36 Highways Development Management and Waste Strategy consider that the size of the refuse/recycling bin storage facility is acceptable. It is noted that the proposed 'drag distances' from the dwellings is above that recommended in guidance (25m). However, if the bin storage area is used as a bin store and not a presentation point, the bins would not need to be carried this distance, just bags of waste, which occurs on many existing housing sites with long driveways and so is not considered to be a concern.
- 10.37 With regards to trip generations, the Transport Statement explains how the site used to generate a level of traffic from its former industrial use. The industry standard TRICS database was interrogated to derive industrial and residential trip rates to ascertain the net increase in traffic due to the proposed development. It is estimated that there would be a total of 4 vehicular movements for the morning peak hour (07:00-08:00) and 4 vehicular movements for the evening peak hour (16:00-17:00). When compared with the existing industrial use movements there would be a total difference of -4 vehicular movements for the morning peak hour and -2 vehicular movements for the evening peak hour. Highways Development Management have raised no concerns with regards to the proposed trip rates.
- 10.38 In terms of road traffic accidents in the local vicinity, there has been one slight accident at the Muffit Lane / Leeds Road junction within the last five years. There are some slight accidents along Leeds Road as well as along White Leeds Road. There has been one serious accident at Muffit Lane and one serious accident at Huddersfield Road. However, Highways Development Management have not raised any objections to the proposal in relation to there being any existing highway accident patterns or problems in the vicinity of the site.

- 10.39 It is considered that subject to the necessary planning conditions, that the proposal would be in accordance with Local Plan policies LP21, LP22 and the Highway Design Guide SPD.

Flood risk and drainage

- 10.40 NPPF paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.41 The submitted Flood Risk Assessment (FRA) considers the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water. No objection has been raised by the Lead Local Flood Authority (LLFA) to the assessment of flood risk and conclusions presented.
- 10.42 Currently the surface water from the site discharges into the existing combined sewer in Leeds Road. The applicant has submitted a Percolation Testing Report which shows that infiltration features (soakaways) will not be feasible on site. As such, it is proposed that surface water would be discharged to a combined sewer at Leeds Road and that the necessary attenuation would be provided by cellular storage.
- 10.43 During the course of the application the LLFA requested further information and advice with regards to the existing and proposed discharge arrangements of surface water into the public sewer; drainage of the proposed access road; surface water manhole sizes; attenuation storage tank calculations and design considerations; and flood routing. The re-submitted documents now include access road drainage and flood routing. In addition, satisfactory evidence that the existing site drains to the sewer network has been given.
- 10.44 However, the information does not resolve all the LLFA's queries, with regards to manhole sizes, construction phase drainage and storage tank. The LLFA does not object to the planning application but has requested planning conditions to obtain this information. Additionally, Yorkshire Water have explained they require to see existing and proposed drainage layouts with pipe sizes, gradients, gullies, downpipes and connection points, measured impermeable areas of the present and proposed use of the site, along with the calculations that show the existing and proposed discharge rate from the site to the public sewer. The allowable surface water discharge rate of 14.5 l/s (equivalent to a 30% improvement on the existing surface flows from the site) from the proposed site is acceptable provided the developer supplies adequate proof that the existing site currently drains surface water to the Yorkshire Water sewer network. If this proof cannot be provided, the allowable discharge rate will be reduced to the equivalent greenfield run-off rate of 5 l/s per ha.
- 10.45 The proposed Drainage Strategy also shows how foul water drainage would be discharged into an existing combined sewer in Leeds Road.

- 10.46 There are now no objections by the LLFA subject to the imposition of the necessary planning conditions. Although Yorkshire Water have requested additional information, officers are mindful of their comments for planning application reference: 2020/91643 which acknowledged that such information could be sought by planning conditions. Thus, the proposals could be considered acceptable in relation to Local Plan policies LP27, LP28 and LP34 and NPPF chapter 14.

Trees, landscape and biodiversity

- 10.47 An Arboricultural Impact Assessment (AIA) has been provided with the application. It concludes that the site contained one tree that was categorised as moderate quality. Four trees, twelve groups and one hedge were categorised as low quality. Whilst seven trees, and four groups were classed as unsuitable for long term retention due to relatively short projected remaining life expectancies and/or projected conflict with built structures. The AIA goes on to explain how the construction of the proposed development would require the removal of three low quality trees, five low quality groups, parts of two further low-quality groups, and one group that is considered unsuitable for long term retention. The Council's Tree officer has reviewed the application and has stated that there is no objection providing there is a landscape long term management and maintenance plan, which could be secured via condition.
- 10.48 A Landscape Visual Assessment (LVA) supports the planning application and officers acknowledge the assessment's findings in relation to assessing the impact of a proposal on the openness of the Green Belt. However, officers are of the opinion that, in and of itself, this does not justify inappropriate development in the Green Belt and that this can only be done with a redesign of the proposal.
- 10.49 A Landscape Layout Plan supports the planning application, which was revised to address the ecologist's concerns regarding achieving a biodiversity net gain. However, the Landscape Layout Plan does not correspond with the site layout and access plans in terms of the design of the proposed access road. The Plan shows a large area of green space to the north of the residential development. The Design and Access Statement has stated that this area provides the 'potential for enhanced natural landscape.' Areas of green space are also shown around the periphery of the proposed location of dwelling houses.
- 10.50 The Design and Access Statement explains that there would be a combination of clearing and maintenance of the existing overgrown vegetation, along with the retention of the stone wall running along Muffit Lane, and several mature trees and vegetation at key locations. A native hedge species is proposed to run alongside the retained wall and at key locations along the boundary. Additional woodland mix planting is also proposed to break up the large area of Public Open Space. These elements will soften the landscape between Muffit Lane and the development, providing a large landscape buffer. Private garden amenity is designed to sit within the existing developed areas footprint so as not to disturb the existing landscape of the site.

- 10.51 Concerns have been raised that the proposed landscape scheme could significantly change the character, appearance and understanding of the site, particularly from Muffit Lane. The proposed landscape scheme could potentially result in a landscape setting appropriate for a residential development rather than for the Green Belt's predominate rural setting. It is unclear as to who would take ownership of these large, landscaped areas. Furthermore, it is unclear as to whether, or not, these large, landscaped areas would be 'Public Open Spaces,' which may result in an increased activity due to its 'public' use with the access road dissecting the larger space that is currently private, not maintained, nor managed.
- 10.52 An Ecological Impact Assessment has been provided with the application. This document subsequently was revised to address the Council's Ecologist comments to clarify the level of potential impacts to great crested newts with respect to the ponds located close to the site; to provide the full Biodiversity Metric Calculations as an excel sheet and to consider measures to increase the biodiversity net gain post-development to 10%. The Council's Ecologist has no objections subject to the imposition of planning conditions to secure the future management of these habitats, a sensitive lighting scheme and timing restrictions on the removal of vegetation and buildings to avoid impacts to nesting birds. Therefore, subject to conditions the planning application would accord with Local Plan policy LP30 and NPPF chapter 15.

Ground conditions

- 10.53 The application site is a former colliery site and falls within the defined Development High Risk Area. Therefore, within the application 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.
- 10.54 The Coal Authority records indicate the site is within an area of probable shallow coal mining and thick coal seams outcropping within the site and surrounding area that could also have been subject to shallow workings by illicit means. In addition, there are two on-site recorded mine entries of which the exact location is currently unknown, and the Coal Authority has, in the past, been called upon to deal with 2no. surface hazards within the site. Mapping also shows associated infrastructure such as tramways and buildings on site.
- 10.55 A Coal Mining Risk Assessment has been submitted and reviewed by the Coal Authority. The Coal Authority concurs with the conclusion / recommendations of the Coal Mining Risk Assessment and considers that there is currently a medium to high risk to the proposed development from former coal mining activity. Planning conditions are recommended to mitigate the risk and confirm the exact ground conditions present beneath / within this site, as well as to inform the extent of remedial / mitigatory measures that may be required to ensure that the development is safe and stable (NPPF paragraphs 178 and 179), intrusive site investigations should be undertaken prior to commencement of development. Therefore, given the Coal Authority have raised no objections subject to the necessary planning conditions, it is considered that the application would accord with Local Plan policy LP53 and NPPF chapter 15.

- 10.56 The planning application is accompanied by a Phase 1 Environmental Desk Study Report, which has been reviewed by Environmental Health. There are significant source-receptor pathways on-site for various contaminants such as asbestos, metals, hydrocarbons which have been identified and officers generally agree with the report's findings. However, Environmental Health consider that the proposals for gas monitoring (associated with the site's coal mining legacy) is inadequate. As such, Environmental Health have raised no objections but have requested the necessary contaminated land planning conditions.

Representations

- 10.57 The majority of concerns raised in representations are addressed earlier in this report. Other matters raised are addressed as follows:

"When the land near Muffit Lane was cleared they chopped down lots of trees. We would like them to plant more trees back in line with the climate change. We try and plant lots of trees on our farm and was really upset when they chopped the trees down."

Officer response: Noted and it is regrettable that several on-site trees have been lost. The planning application is supported by a Landscape Layout Plan and Arboricultural Impact Assessment, which shows the protection of existing vegetation, tree, shrub and hedge planting as well as a landscape buffer. Although, there are no details regarding replacement planting, the tree officer has raised no objections subject to a condition securing the long-term management and maintenance of the landscaping and open space.

- 10.58 Councillors were also invited to comment on the application. Cllr S Hall provided the following comments:

"As the applicant has not taken anything on board from the last refusal, I would not want it to come back to committee. I noticed reason 6 which is a section about minerals, would this be enough on its own to refuse the application. I have also noticed the land has been cleared of quite a lot of trees. Finally, this last winter I noticed a lot more surface water running off this land, out onto the road (Muffit lane) drainage is a big problem on this land. The farm next to this have a small lake which seems to work."

Officer response: Noted. The planning application must be taken to planning committee in accordance with the scheme of delegation. The application is accompanied with a supporting letter, written by a Geo-environmental Engineer who has explained the reasons as to why the extraction of minerals at this site is unviable and thus would address Local Plan Policy LP38 of the Kirklees Local Plan and Chapter 17 of the National Planning Policy Framework. The LLFA have been consulted regarding the matters raised and they have explained that the proposed surface water drainage from the development does not discharge to Muffit Lane and therefore is not likely to increase flooding. In addition, surface water flows are being restricted to at least 70% of the original flows and are being discharged to Leeds Road. Also, Kirklees Council records do not show any reported flooding incidents in the area – either Muffit Lane or Leeds Road.

Planning obligations

- 10.59 The proposed scale of development is under many of the thresholds for affordable housing, public open space and sustainable travel requirement. Thus, no planning obligations would be sought as part of this planning application.

Other Matters

- 10.60 No information has been provided as to how the proposal would address the Council's climate change agenda. However, it is acknowledged that the proposed drainage strategy would take into consideration flood risk events associated with climate change, in accordance with Local Plan policies LP27 and LP28, as well as NPPF chapter 14.
- 10.61 Coal mining is recorded at White Lee from the 17th century and many small mine entries are shown in the vicinity on the Ordnance Survey First Edition six-inch to the mile map (surveyed 1847 – 51, published 1852). However, White Lee Colliery operated between 1888 and 1941. At present it is not known if the industrial buildings on the site relate to this final phase of mining or to the site's later engineering use. A heritage appraisal accompanies the application and has been reviewed by the Conservation and Design officer and West Yorkshire Archaeology Advisory Service (WYAAS). The Conservation and Design officer has acknowledged that the demolition of the buildings would not present any loss of significant historic fabric. The officer has requested a desk top survey and photographic record fabric should be completed, in accordance with Historic England's Level 2 Descriptive record, comprising a compilation of the drawn records, photography evidence and a written record. However, WYAAS have not requested such a condition and consider the information submitted to be satisfactory and do not consider any further archaeological works are necessary. The reason being is that although a small fragment of an engine or boiler house survives the present building are convincingly shown to relate to later industrial uses of the site after the closure of the mine and remodelling of the site to suit this. The significance of this complex is considered local and the report prepared is sufficient record of their form. Therefore, Development Management consider the proposal to accord with Local Plan policy LP35 and NPPF chapter 16, without the need for conditions.
- 10.62 The site falls within a Minerals Safeguarding Area for Surface Coal Resource with Sandstone and/or Clay and Shale. The application is accompanied with a supporting letter, written by a Geo-environmental Engineer which has demonstrated the mineral extraction would not be viable in accordance with Local Plan policy LP38 criterion a. The letter explains that with regards to coal and ironstone, the site is anticipated to be underlain by shallow coal and ironstone reserves. However, most of the coal and ironstone reserves below the site are already recorded to be sterilised. The letter goes on to explain that mineral extraction at this site could not be undertaken for the following reasons:
- a) *The development site is situated next to an occupied residential housing district and the Joan Coal is anticipated to be close surface. Therefore, open cast mining of the Joan Coal could not be reasonably undertaken without causing an environmental nuisance to neighbouring properties, to the south. This is likely to constitute an unacceptable level of environmental harm.*

- b) The extraction of coal would also result in a significant increase in traffic movements, within the local residential area.*
- c) Furthermore, insistence on extracting the coal reserves beneath the site would prejudice the timing and hence viability of the proposed development.*

10.63 During the course of the planning application, the applicant provided a 'Secure by Design' statement in response to comments made by the West Yorkshire Police Designing Out Crime officer with regards to home security, front to rear access paths, security, lighting, car ports/garages, and boundary treatments. To accord with Local Plan policy LP24 criterion e, the officer has requested the necessary planning conditions to ensure that the proposed site and access road as well as footpath is adequately lit and that the car ports are substituted by garages. However, it should be noted that such requests would conflict with Green Belt policy with regards to impacting on the openness of the site. Development Management consider that these matters would be resolved if the dwelling houses were accessed from the existing main vehicle access with Leeds Road and if the car ports were discounted from the design.

11.0 CONCLUSION

11.1 The application site is designated as Green Belt and, as described in NPPF paragraph 133, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Officers consider that this proposal would represent encroachment due to the proposed design, scale and spread of development as well as the enclosure of land into gardens. The proposal would have a greater impact on openness than the existing former industrial premises, representing inappropriate development with no very special circumstances demonstrated, contrary to Green Belt policy.

12.0 The application is recommended for refusal for the reasons set out at beginning of this report.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91354>

Certificate of Ownership – Certificate B signed: Notice served on 93 Huddersfield Road, Heckmondwike and 25 Kenmore Road, Cleckheaton.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jul-2021

Subject: Planning Application 2021/91724 Erection of raised decking with balustrade, new door opening and 3 giant umbrellas to rear (Listed Building within a Conservation Area) Smiths Arms, 1, Town Gate, Highburton, Huddersfield, HD8 0QP

APPLICANT

Tony Reynolds, Loca
Shading Designs Ltd.

DATE VALID

26-Apr-2021

TARGET DATE

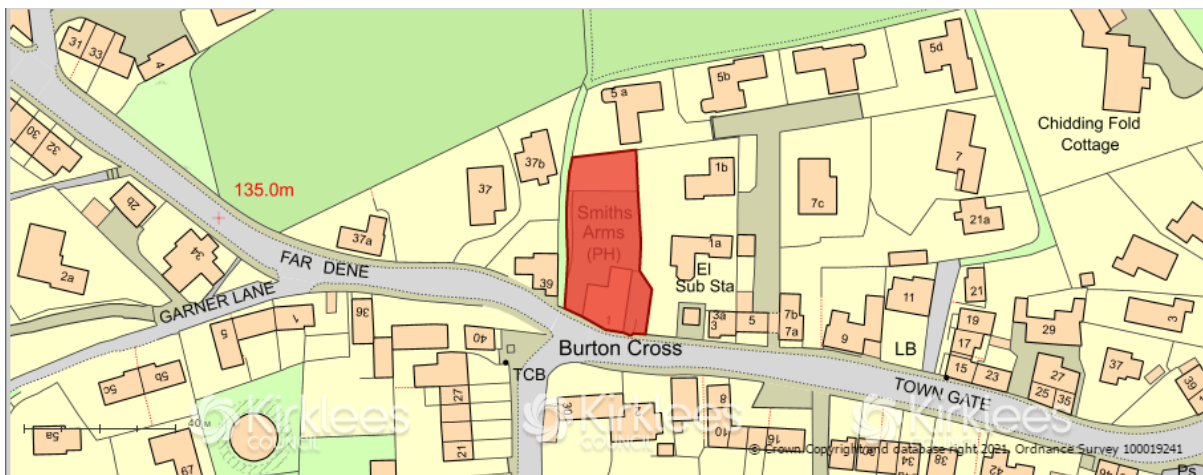
21-Jun-2021

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: Kirkburton

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 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 Bill Armer for members to consider the proposal in terms of the following:
- 1.2 Amenity: 1) the application has the joint effect of reducing the onsite car parking whilst being designed to increase the numbers of customers attending. On-street car parking in the area is severely restricted, and has in recent weeks led to inappropriate parking on Hall Lane and Towngate: 2) increased outdoor drinking is likely to lead to more noise nuisance: 3) the use of loudspeakers to facilitate events such as weekly quiz nights gives rise to unacceptable noise pollution; 4) recent experience of outdoor drinking here has led to public disorder with fighting and swearing in the street; 5) the visual impact of the proposed development would be out of character with the Grade II listed building; 6) the visual impact would be of keeping with the area.
- 1.3 Planning policy: the applicant seeks to reduce the number of parking spaces at the commercial premises, which is contrary to policy.
- 1.4 Highways: the reduction in capacity of the existing car park, alongside the intention to increase visitor numbers, will lead to increased traffic congestion and will exacerbate parking problems in the vicinity.
- 1.5 The chair of the Sub-Committee has confirmed that Cllr Armer'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 Smiths Arms, 1 Town Gate, Highburton, which is currently used as a public house, is listed Grade II, dates from the mid-17th Century and is within the Highburton Conservation Area. To the rear of the main building is a 19th century extension. The former stable and coach-houses have been demolished over time and the rear land converted to car parking. The building is situated close to the road edge, thus has a strong presence in the street scene.

3.0 PROPOSAL:

- 3.1 The applicant is seeking planning permission for a new door in the northern elevation, a raised decking, with balustrade, and three umbrella-style canopies.
- 3.2 The new door would replace a window with the same width and the details supplied indicate this would be timber.
- 3.3 The raised deck would have a height of 0.6m, a projection from the rear of the building of 12m and a width of 11.6m, with a 1m high glazed balustrade, the base of which would be concealed into the platform. The decking would be constructed using tanalised timber.
- 3.4 The three canopies would all have a height of 2.5m to the lip of the canopy and 3.8m to the peak. The canopy closest to the building would have a width of 5m and a depth of 4.5m. The canopy immediately to the rear of this would have a width of 5m and a depth of 7m and the third canopy, which would be located to the rear of the single storey element of the building, would have a width of 6m and a depth of 7m. The canopies would have aluminium frames with acrylic fabrics.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2008/94375 Erection of Timber Framed Shelter & Raised Stone Patio Area-GRANTED
- 4.2 2008/94376 Listed Building Consent for the erection of Timber Framed Shelter & Raised Stone Patio Area-GRANTED
- 4.3 2010/91996 Listed Building Consent for the installation of new signage and lighting-GRANTED
- 4.4 2010/91991 Advertisement Consent for the installation of new signage-GRANTED
- 4.5 2014/91441 - Advertisement Consent - GRANTED
- 4.6 2020/90242 - LBC for windows - GRANTED

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

- 5.1 The agent has been asked during consideration of the application to provide a proposed site plan, showing the parking arrangements.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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
- **LP21** – Highway
- **LP 22** – Parking
- **LP 24** - Design
- **LP 35** - Historic Environment
- **LP52** - Protection and improvement of environmental quality

Supplementary Planning Guidance / Documents:

6.3 None relevant to the determination of this planning application.

National Planning Guidance:

6.4 National Planning Policy Framework (NPPF)
Chapter 12 – Achieving well-designed places
Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been publicised with neighbour letters, a press notice, and a site notice, which gave until 16/06/2021 for interested parties to respond.

7.2 20 responses were received in total. 7 supporting the proposal and 13 objecting to the scheme. The material considerations raised in the objections are summarised as:

- *Road traffic, increase in cars and inappropriate on-street parking,*
- *Noise and rowdy behaviour disturbing the adjacent residents,*
- *Having a permanent structure at the rear would encourage anti-social behaviour,*
- *Enlarging the window at the rear, to form a door onto the decking, would harm the listed building,*
- *Loss of privacy, with people looking from the decking to the neighbouring properties,*
- *Harm to the character of the conservation area.*

7.3 **Kirkburton Parish Council** - The Parish Council objects on the grounds of loss of residential amenity due to likely generation of noise, and road safety – the entrance to the car park is immediately opposite the junction with Hall Lane, which is an awkward junction due to the angle Hall Lane meets Town Gate. It would also decrease the number of parking spaces in the pub's car park, thus increasing congestion on Town Gate.

8.0 CONSULTATION RESPONSES:

A summary of the consultees, both statutory and non-statutory is included below. Where relevant, these are expanded on further in the main appraisal section of this report.

8.1 Statutory:

- **K.C. Environmental Health** – Support the proposal, subject to conditions for a noise report and restricting the hours of use of the decking.
- **K.C Highways Development Management** – Following receipt of parking plan, support the proposals, subject to conditions.

8.2 Non-statutory:

- **West Yorkshire Police (designing out crime)** – No concerns raised.
- **K.C. Conservation & Design** – Have no concerns in terms of the proposed development on heritage grounds.

9.0 MAIN ISSUES

- Principle of development
- Impact on the Historic Environment
- Visual amenity
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a building, policy LP24 of the KLP is relevant, in conjunction with chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.
- 10.2 Development which enhances an existing business use and is aimed to grow the business and invest in the area is also desirable and in-line with the vision for Kirklees Statement outlined in 4.2 of the KLP, when balancing the enhancement with the impacts in terms of the Heritage Asset, visual amenity, residential amenity and highway safety.

Impact on the Historic Environment

- 10.3 In this instance, the public house is located within the Highburton Conservation Area, which is a large village in semi-rural setting. The village has limited shopping and community facilities, with groups of stone vernacular cottages and terraces climbing the hillside. As such, consideration is to be given to the current proposals in terms of the relationship formed between the proposals and the Conservation Area and regarding policy LP35 of the KLP and chapter 16 of the NPPF.

- 10.4 Furthermore, the building itself is listed and, as such, consideration needs to be given in terms of the relationship with the building and the effect on the historic fabric of the building.
- 10.5 The scheme has been considered by the Conservation & Design team and the impact of the proposed development on The Smiths Arms, which is listed Grade II, and the Highburton Conservation Area, has been assessed and it is considered that there would be minimal harm. The window to be altered is part of a late 19th-century extension to the public house. As such, Officers have no concerns about the proposed development on heritage grounds.

Visual Amenity

- 10.6 The public house is an important feature with a degree of prominence from the street. The area is mostly residential. The works proposed would be to the north side of the building, which is away from the main public vantage points.
- 10.7 Given the character of the building is that of a public house, it is not unreasonable to expect such facilities to have an external provision. This is considered, by Officers, to be of an acceptable design and scale.
- 10.8 Having taken the above into account, the proposed umbrellas and decking would not cause any significant harm to the visual amenity of either the host building or the wider street scene, thus complying with policy LP24 of the KLP and the aims of chapter 12 of the NPPF.

Residential Amenity

- 10.9 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out in terms of policy LP24 c), which states that proposals should promote good design by, amongst other things, developments minimising impact on residential amenity of future and neighbouring occupiers.
- 10.10 The position of the deck and canopies relative to the neighbouring property would not cause any overbearing or oppressive impacts.
- 10.11 The formation of the decking would result in a platform approximately 0.6m above the existing ground level and, given the relationship with the properties surrounding, this would not result in any loss of privacy. The adjacent 39 Far Dene is set at a lower level, with the access between, which would minimise the potential impact. The neighbour to the rear, 5a Towngate is sit a lower position some 35 from the site and, given the separation, there is unlikely to be any overlooking. The neighbour to the east, 1a Town Gate has an access lane and substantial existing screening, which would minimise any potential for overlooking from the decking.
- 10.12 It is appreciated that the works would facilitate users of the public house eating, drinking and generally socialising outside, which could result in increased noise. However, it is considered that these concerns can be addressed through conditions relating to the provision of a noise report, with appropriate attenuation methods, and by restricting the hours the outdoor area can be used by customers until before 10pm.

- 10.13 Having reviewed the above, with the use of appropriate conditions, the proposals are considered not to result in any significant adverse impacts upon the residential amenity of any surrounding neighbouring occupants, thereby complying with policy LP24 of the KLP (b) in terms of the amenities of neighbouring properties, and policy LP52 and paragraph 127 (f) of the NPPF.

Highway issues

- 10.14 This application is for the erection of a raised decking to create an outdoor area to the rear of an existing public house fronting on to Town Gate, a 30mph two-way single carriageway link road of approximately 6.5m width, footways on both sides and street lighting present. The road hosts a medium frequency bus route with stops within 150m of the application site. PROW footway KIR/66/30 runs adjacent to the application site and is separated from the car park by a wall. A standard footnote regarding the PROW should be added. The parking area is currently covered with picnic benches and a marquee. The proposal under consideration would form a dedicated outdoor space for the pub and, whilst this would remove a parking space, this would allow for the remainder of the car park to return to the parking use.
- 10.15 Many of the dwellings fronting on to Town Gate have off street parking but there is evidence of residential on street parking in the area on Town Gate, Hall Lane and Far Dene. There are H-bar marking outside accesses along Town Gate in the vicinity of the application site and so it is assumed that there have been parking issues along here in the past and neighbour representations refer to more recent parking and access issues. Kirklees Highway Safety team have confirmed parking concerns in this area including requests for TRO markings, however they cannot confirm if the issues are caused by the pub or other contributing factors such as dwellings with no off-road parking and the convenience store. There are no records of any injury accidents within the last 10 years in the vicinity of the application site.
- 10.16 Aerial photographs indicate approximately 13 marked car parking spaces are available within the car park, however, currently there is a marquee and outside seating covering most of the existing car park with approximately 6 spaces remaining along the western side of the car park. The parking area is at present hosting a large marquee and a number of picnic benches. The applicant has, at the request of the Highways Officer, provided a parking plan showing the decking with 11 marked parking spaces. A car parking analysis based on TRICS data and with an assumption that the gross floor area is approximately 200sqm with the proposals in place, suggests that the proposed 11 parking spaces should be adequate to accommodate the numbers of trips expected to be generated by a pub/restaurant of this size under normal operating conditions.
- 10.17 Subject to a condition securing the provision of the parking as indicated on the parking plan submitted and a footnote regarding the adjacent PROW, the proposals are considered to be acceptable in terms of policies LP21 and LP22 of the Kirklees Local Plan.

Representations

- 10.18 13 objections have been received regarding this scheme. The material considerations raised in the objections are summarised as:
- Road traffic, increase in cars and inappropriate on-street parking – *this is a material consideration and has been addressed within the Highways section of this report,*
 - Noise and rowdy behaviour disturbing the adjacent residents – *this is a material consideration and has been addressed within the residential amenity section of this report,*
 - Having a permanent structure at the rear would encourage anti-social behaviour – *informal discussion with Richard for WYP,*
 - Enlarging the window at the rear to form a door onto the decking would harm the listed building – *the impacts of the proposals have been fully considered in terms of the effect on the listed building within the impact on the heritage asset section of this report,*
 - Loss of privacy with people looking from the decking to the neighbouring properties – *this is a material consideration and has been considered within the residential amenity section of this report,*
 - Harm to the character of the conservation area – *this has been fully addressed within the Impact on the Heritage Asset section of this report.*
- 10.19 Cllr Armer has also expressed concerns within his reason for the committee request which can be summarised as issues relating to parking, noise nuisance, public disorder, the character of the public house with regards to the appearance of the giant umbrellas and decking – *These issues have been fully addressed under the relevant sections of this report.*

Other matters

- 10.20 There are no other matters considered relevant 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 it 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. Restriction on hours of use of decking till 10pm
 4. Provision of a noise report
 5. Securing the provision of the parking as indicated on the submitted parking plan
- NOTE: Footnote relating to the adjacent Public Right Of Way

Background Papers:

Current Application

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91724>

History Files

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008%2f94375>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008%2f94376>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2010%2f91996>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2010%2f91991>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f91441>

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90242>

Certificate of Ownership –Certificate A has been signed.

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jul-2021

Subject: Planning Application 2021/91725 Listed Building Consent for erection of raised decking with balustrade, new door opening and 3 giant umbrellas to rear (within a Conservation Area) Smiths Arms, 1, Town Gate, Highburton, Huddersfield, HD8 0QP

APPLICANT

Tony Reynolds, Loca
Shading Designs Ltd.

DATE VALID

26-Apr-2021

TARGET DATE

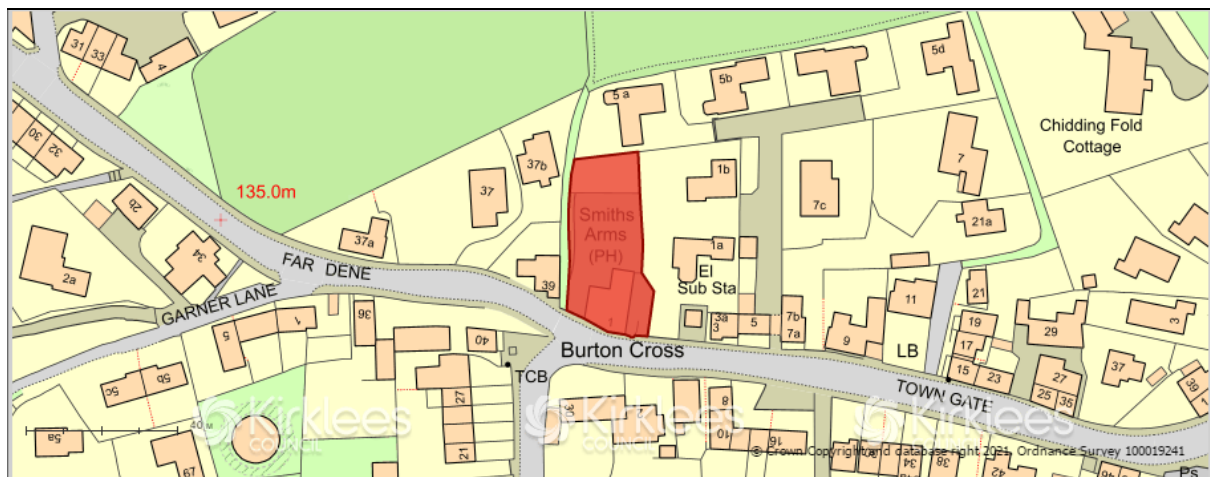
21-Jun-2021

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: Kirkburton

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 at the request of Cllr B Armer for members to consider the proposal in terms of the following.
- 1.2 Amenity: 1) the application has the joint effect of reducing the on-site car parking whilst being designed to increase the numbers of customers attending. On-street car parking in the area is severely restricted, and has in recent weeks led to inappropriate parking on Hall Lane and Towngate: 2) increased outdoor drinking is likely to lead to more noise nuisance: 3) the use of loudspeakers to facilitate events such as weekly quiz nights gives rise to unacceptable noise pollution; 4) recent experience of outdoor drinking here has led to public disorder with fighting and swearing in the street; 5) the visual impact of the proposed development would be out of character with the Grade II listed building; 6) the visual impact would be of keeping with the area.
- 1.3 Planning policy: the applicant seeks to reduce the number of parking spaces at the commercial premises, which is contrary to policy.
- 1.4 Highways: the reduction in capacity of the existing car park, alongside the intention to increase visitor numbers, will lead to increased traffic congestion and will exacerbate parking problems in the vicinity.
- 1.5 The chair of the Sub-Committee has confirmed that Cllr Armer'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 Smiths Arms, 1 Town Gate, Highburton, which is currently used as a public house, is listed Grade II and dates from the mid-17th century and is within the Highburton Conservation Area. To the rear of the main building is a 19th century extension. The former stable and coach-houses have been demolished over time and the rear land converted to car parking. The building is situated close to the road edge and, therefore, has a strong presence in the street scene.

3.0 PROPOSAL:

- 3.1 The applicant is seeking listed building consent for a new door in the northern elevation, a raised decking with balustrade and three umbrella-style canopies.

- 3.2 The new door would replace a window of the same width and the details supplied indicate that this would be timber.
- 3.3 The raised deck would have a height of 0.6m, a projection from the rear of the building of 12m and a width of 11.6m, with a 1m high glazed balustrade, the base of which would be concealed into the platform. The decking would be constructed using tanalised timber.
- 3.4 The three canopies would all have a height of 2.5m to the lip of the canopy and 3.8m to the peak. The canopy closest to the building would have a width of 5m and a depth of 4.5m. The canopy immediately to the rear of this would have a width of 5m and a depth of 7m and the third canopy which would be located to the rear of the single-storey element of the building and would have a width of 6m and a depth of 7m. The canopies would have aluminium frames with acrylic fabrics.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2008/94375 Erection of Timber Framed Shelter & Raised Stone Patio Area-GRANTED
- 4.2 2008/94376 Listed Building Consent for the erection of Timber Framed Shelter & Raised Stone Patio Area-GRANTED
- 4.3 2010/91996 Listed Building Consent for the installation of new signage and lighting-GRANTED
- 4.4 2010/91991 Advertisement Consent for the installation of new signage-GRANTED
- 4.5 2014/91441 - Advertisement Consent - GRANTED
- 4.6 2020/90242 - LBC for windows - GRANTED

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

- 5.1 The agent has been asked, during consideration of the application, to provide a proposed site plan showing the parking arrangements.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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 LP35 - Historic Environment

Supplementary Planning Guidance / Documents:

- 6.3 None

National Planning Guidance:

- 6.4 National Planning Policy Framework (NPPF)
Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been publicised with a press notice and a site notice, which gave until 16/06/2021 for interested parties to respond.
- 7.2 4 responses were received with 2 supporting the proposal and 2 objecting to the scheme. None of the matters raised in the objections related to the impact on the listed building. There were, however, objections to the concurrent planning application on these grounds.
- 7.3 **Kirkburton Parish Council** - The Parish Council objects on the grounds of loss of residential amenity due to the likely generation of noise, and road safety – the entrance to the car park is immediately opposite the junction with Hall Lane, which is an awkward junction due to the angle Hall Lane meets Town Gate. It would also decrease the number of parking spaces in the pub's car park, thus increasing congestion on Town Gate.

8.0 CONSULTATION RESPONSES:

Below is a summary of the consultation responses received in relation to this application; where relevant, they have been expanded on further in the appraisal section of this report.

8.1 Statutory:

- **K.C. Conservation & Design** – Have no concerns in terms of the proposed development on heritage grounds.

8.2 Non-statutory:

None

9.0 MAIN ISSUES

- Impact on the Historic Environment

10.0 APPRAISAL

Impact on the Historic Environment

- 10.1 The NPPF seeks a presumption in favour of sustainable development and seeks to secure high quality design and a high standard of amenity for all existing and future occupants of land and buildings, as well as taking account of the character of different areas and the way they function.

- 10.2 The site is located within the conservation area. Paragraph 192 of the NPPF highlights, amongst other things, the desirability of new development making a positive contribution to local character and distinctiveness. Policy LP35 of the KLP states that development affecting a designated heritage asset should preserve or enhance the significance of the asset.
- 10.3 The Smiths Arms is a detached public house dated 1669, with a 19th century wing to the west and a 20th century extension to the north.
- 10.4 In this instance, the public house is located within the Highburton Conservation Area, which is a large village in a semi-rural setting. The village has limited shopping and community facilities, with groups of stone vernacular cottages and terraces climbing the hillside. As such, consideration is to be given to the current proposals in terms of the relationship formed between the proposals and the Conservation Area in terms of policy LP35 of the KLP and chapter 16 of the NPPF.
- 10.5 Furthermore, the building itself is listed and, as such, consideration needs to be given in terms of the relationship with the building and the effect on the historic fabric of the building.
- 10.5 The scheme has been considered by the Conservation & Design team and the impact of the proposed development on The Smiths Arms, which is listed Grade II, and the Highburton Conservation Area, has been considered and there would be minimal harm. The window to be altered is part of a late 19th century extension to the public house. As such, Officers have no concerns about the proposed development on heritage grounds.

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 it 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. Works to be completed in accordance with the plans

Background Papers:

Current Application

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91725>

History Files

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008%2f94375>

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<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90242>

Certificate of Ownership –Certificate A has been signed.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jul-2021

Subject: Planning Application 2021/91940 Erection of single and two storey extensions and formation of vehicular access 40, Beckett Crescent, Dewsbury Moor, Dewsbury, WF13 3PW

APPLICANT

H R & F H Malik

DATE VALID

17-May-2021

TARGET DATE

12-Jul-2021

EXTENSION EXPIRY DATE

09-Aug-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: Dewsbury West

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed extensions, 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 host dwelling and which would cause harm to visual amenity. To permit the proposed single and two-storey extensions would be contrary to Policy LP24 of the Kirklees Local Plan, the House Extensions and Alterations SPD, and advice within Chapter 12 of the National Planning Policy Framework.

2. The proposed single and two-storey extensions and formation of vehicular access, by reason of size and level of development, would result in overdevelopment and an unacceptable level of amenity space for current and future occupiers, particularly given the proposed number of bedrooms at the property. To permit the proposed single and two-storey extensions and formation of vehicle access would be contrary to Policy LP24 of the Kirklees Local Plan, the House Extensions and Alterations SPD, and advice within Chapter 12 of the National Planning Policy Framework.

3. The single and two-storey extensions, by reason of size and proximity to the shared boundary with the adjacent 42 Beckett Crescent, would result in an unacceptable overbearing and overshadowing impact on the amenities of the occupiers of the neighbouring property. To permit the proposed single and two-storey extensions would be contrary to Policy LP24 of the Kirklees Local Plan, the House Extensions and Alterations SPD, 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 Ward Cllr O'Donovan for the following reason:

1.2 "I do not believe this development would alter the visual amenity or have an overbearing impact"

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 40 Beckett Crescent is a two-storey semi-detached dwelling. It is faced in red brick at ground floor level and render at first-floor level, with a hipped roof finished in tiles. There is off-street parking to the front and lawned gardens to the front, side, and rear.

- 2.2 The property is located on a residential street. The surrounding properties are similar two-storey dwellings, both semi-detached and terraced. The street scene is fairly uniform, with only modest variations in design and few additions or alterations to the properties.

3.0 PROPOSAL:

- 3.1 The applicant is seeking permission for the erection of single and two-storey extensions and formation of vehicular access.
- 3.2 The extensions would be constructed over garden space to the front, side, and rear of the property. The two-storey elements would have hipped roof forms. The single storey elements would have lean-to roof forms.
- 3.3 The single-storey rear extension would project 6.0m from the original rear wall. It would have a maximum height of 3.4m and an eaves height of 2.5m. The 6.0m projection of the single-storey rear extension has been agreed through the larger home extension prior approval scheme (2020/92899).
- 3.4 The two-storey rear extension would project 3.0m from the original rear wall. It would have a maximum height of 7.4m and an eaves height of 5.2m.
- 3.5 The two-storey side extension would project 3.2m from the original side wall. It would have a maximum height of 7.4m and an eaves height of 5.2m.
- 3.6 The single-storey front extension would project 1.5m from the original front wall. It would have a maximum height of 4.1m and an eaves height of 3.1m.
- 3.7 The walls are proposed to be constructed of brick, with tiles for the roof covering.
- 3.8 The formation of vehicular access would involve creating a dropped kerb to the front of the property. This would allow access to the off-street parking area for four vehicles. The parking area would be approximately 10m wide and a minimum of 12m long.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2020/92899 - Prior notification for single storey rear extension. Not required.
- 4.2 2020/94132 - Erection of single and two storey extensions and formation of vehicular access. Refused.

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

- 5.1 The submitted plans raised significant concerns in terms of the design and scale of the proposed extensions and formation of vehicle access, together with the overdevelopment of the site and the substantial harm which would be caused to the adjacent 42 Beckett Crescent. 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 2020/94132.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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 21 – Highway safety
LP 22 – Parking
LP 24 – Design
LP 30 – Biodiversity
LP 51 – Protection and improvement of air quality

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Council has recently adopted its supplementary planning guidance on house extensions. Although the period for a potential judicial review has not yet expired, it is now being considered in the assessment of householder planning applications, with some weight attached. This guidance indicates how the Council will usually interpret its policies regarding such built development, although 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 of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

National Planning Guidance:

- 6.4 **Chapter 9** – Promoting sustainable transport
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

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised by neighbour letter giving until 29/06/2021 for interested parties to comment.
- 7.2 Two letters of support received.

8.0 CONSULTATION RESPONSES:

Below is a summary of the consultation responses received in relation to this application. Where appropriate, they are expanded upon in the appraisal section of this report.

8.1 **Statutory:**

None

8.2 **Non-statutory:**

KC Highways DM – no objections subject to conditions relating to storage and recovery of waste and areas to be surfaced and drained.

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 KLP, policy LP1 of which 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. KLP policy LP2 sets out that, to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan. 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. These issues along with other policy considerations will be addressed below.

Impact on Visual Amenity

- 10.2 The property is located on a residential street. The surrounding properties are similar two-storey dwellings, both semi-detached and terraced. The street scene is fairly uniform, with only modest variations in design and few additions or alterations to the properties. Dependent upon design, scale, and detailing, it may be acceptable to extend the host property.
- 10.3 The proposed single and two-storey extensions to the front, side, and rear would more than triple the footprint of the dwelling, increasing from approximately 40.0 square metres to approximately 128.5 square metres. The two-storey extensions would be flush with the roofline of the host dwelling. The projection and bulk of the combined extensions would result in an incongruous form of development which would not be subservient to the host dwelling. Given that the street scene is fairly uniform in character, the proposed extensions are considered unacceptable in terms of visual amenity.

- 10.4 The proposed side and rear extensions and off-street parking area to the front would develop most of the amenity space of the property, with the area remaining to the rear measuring approximately 2.3m x 8.0m. Although the 6.0m projection of the single storey rear extension was agreed under a "notification for prior approval for a proposed larger home extension" application (2020/92899), the proposed development in the prior approval was as wide as the original dwellinghouse, not including the side extensions under consideration here. It is considered that the proposed development would result in overdevelopment of the site which would provide an unacceptable level of amenity for current and future occupiers, particularly given the proposed number of bedrooms at the property.
- 10.5 The formation of wider vehicle access to the front of the applicant property will involve creating a dropped kerb. It is noted that a number of properties in the surrounding area have vehicle access. Therefore, the formation of vehicular access at 40 Beckett Crescent would not look out of place within the street scene.
- 10.6 Having taken the above into account, the proposals would result in harm to the appearance of the host dwelling and would be out of character with 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 as the extensions would not (b) provide a high standard of amenity for future and neighbouring occupiers and/or (c) form a subservient addition to the property and would therefore not be in keeping with the existing building and the aims of chapter 12 of the National Planning Policy Framework.

Impact on Residential Amenity

- 10.7 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out in terms of policy LP24 c), which states that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.
- 10.8 *Impact on 38 Beckett Crescent:* This is the adjoining property to the south-east side of the application site. The side extension would be located on the opposite side of the adjoining property and, as such, would have no impacts. There would be no impacts from overshadowing from the front or rear extensions as the applicant property is located to the north. As there are no windows proposed for the side elevation of the front or rear extensions, it is considered that there would be no overlooking impacts. Given that the front extension would have a small scale, it is considered that there would be no overbearing impacts. It is likely that there would be overbearing impacts from the rear single and first-floor extensions, as they would increase the level of development along almost the full length of the shared boundary and they are not set off from the shared boundary. However, the impact on this neighbour has been reconsidered since the previous application (2020/94132). It is considered that the overbearing impacts on this neighbour would not be significant, given that the two-storey element would only project 3m from the original rear wall and would be designed with a hipped roof form. Therefore, it is considered that there would be no significant impacts on the amenities of 38 Beckett Crescent due to the proposed development.

- 10.9 *Impact on 42 Beckett Crescent:* This is the adjacent property to the north-west side of the application site. This property benefits from a single-storey rear extension. As there are no windows proposed for the side elevation of the front or rear extensions, and the single window in the side elevation of the side extension would be obscurely glazed, it is considered that there would be no overlooking impacts. It is considered that due to the location of the applicant property to the south, the proximity of the proposed development to the shared boundary with the neighbouring property, and the size of the proposed development, that there would be a significant overshadowing and overbearing impact. Therefore, it is considered that there would be a significant impact on the amenities of the occupiers of 42 Beckett Crescent due to the proposal.
- 10.10 *Impact on 9 and 11 Beckett Crescent:* These are the neighbouring properties to the front elevation of the application site, on the opposite side of Beckett Crescent. These are angled away from the applicant site. There would be no significant impact upon the amenities of the occupiers 9 and 11 Beckett Crescent, given the significant separation distance provided by the front gardens of the dwellings and the road between (approximately 35m post-development). Furthermore, the existing windows in the front elevation of the applicant property already look towards these neighbours. Therefore, the new windows would have no further impact over and above the existing arrangements on site.
- 10.11 *Impact on 47 and 49 Heckmondwike Road:* These are the neighbouring properties to the rear elevation of the application site. There would be no significant impact upon the amenities of the occupiers of these properties, given the significant separation distance provided by the rear gardens of the dwellings and a public open space with grass and trees (approximately 30m post-development). Furthermore, the existing windows in the rear elevation already look towards these neighbours. Therefore, the new windows would have no further impact over and above the existing arrangements on site.
- 10.12 Having reviewed the above, it is considered that this proposal will result in a significant overshadowing and overbearing impact on the adjacent 42 Beckett Crescent. As such, the application fails to comply with policy LP24 of the KLP and paragraph 127 (f) of the NPPF.

Impact on Highway Safety

- 10.13 KC Highways DM were consulted and had the following comments. The formation of vehicular access at the site frontage would include the works for a dropped kerb which would need to be done under a section 184 agreement. Visibility from the site is below standards. However, given the location of the dwelling, the speed of cars along this road is likely to be below the speed limit of 30mph and KC Highways DM believes the access would be safe. Therefore, on balance, the formation of vehicular access is considered acceptable.
- 10.14 The proposed extensions would result in an intensification of the domestic use (number of bedrooms increases from 3 to 7). The formation of new vehicular access allows for 4 off-street parking spaces to the front of the property. This in accordance with the Kirklees Highways Design Guide which stipulates that a dwelling with 4+ bedrooms should provide at least 3 off-street parking spaces. Highways Development Management consider that sufficient parking is provided. As such, the scheme would not represent any additional harm to highway safety and, therefore, it complies with policies LP21 and LP22 of the KLP and Chapter 9 of the NPPF.

Other Matters

- 10.15 *House Extensions and Alterations SPD*: This adopted SPD has been considered in the assessment of this proposal with some material weight attached. The cumulative effect of the single and two-storey extensions to the front, side and rear and formation of vehicular access would not be in keeping with the appearance, scale, design, and local character of the area, which is fairly uniform dwellings with few additions or alterations, set within good-sized plots, with lawned gardens to the front and rear. This fails to comply with Key Design Principle 1 of the SPD and relevant policy LP24 (a) and (c).
- 10.16 The cumulative effect of the proposed extensions would dominate the host dwelling, as the proposed two-storey extensions would not be set back from the front elevation or set down from the ridgeline of the host dwelling. Furthermore, as discussed in the “impact on visual amenity” section, the proposed extensions would more than triple the footprint of the dwelling. This fails to comply with Key Design Principle 2 of the SPD and relevant policy LP24 (c) and (d).
- 10.17 The proposed extensions to the side and rear would adversely impact the amount of natural light enjoyed by the adjacent neighbour (42 Beckett Crescent), as discussed in the “impact on residential amenity” section. The proposed extensions, due to their size and proximity to the shared boundary, would overshadow the habitable rooms and conservatory to the rear of the adjacent neighbour and the garden to the rear. This fails to comply with Key Design Principle 5 and relevant policy LP24 (b).
- 10.18 The proposed extensions to the side and rear would result in an adverse overbearing impact on the adjacent neighbour (42 Beckett Crescent), as discussed in the “impact on residential amenity” section. This fails to comply with Key Design Principle 6 and relevant policy LP24 (b).
- 10.19 The cumulative effect of the single and two-storey extensions to the front, side and rear and formation of vehicular access would not retain an appropriately sized and usable private outdoor space. Over half of the garden area would be developed, with the front garden converted to hardstanding parking for 4 vehicles. To the rear, an area measuring approximately 8m x 2m would be retained, which would only be accessible through the property. This is considered inadequate for a proposed 7-bedroom property, and out-of-character with the local area in which the neighbouring dwellings benefit from good-sized gardens to the front and rear. It is, therefore, “unlikely to be acceptable”. Furthermore, although a small area of amenity space may remain to the front, this is “not considered adequate private amenity space due to the lack of overall privacy for occupants”. The proposal, therefore, fails to comply with Key Design Principle 7 and relevant policy LP24 (b) and (c).
- 10.20 In terms of the detailed guidance for rear extensions set out in the SPD, the proposed single and two-storey rear extensions would fail to maintain a back garden of reasonable size (particularly for a proposed house of 7 bedrooms); would adversely overshadow and overbear the adjacent property (42 Beckett Crescent); and would not retain a 1m gap from property boundaries. Additionally, the two-storey element, to the rear, would be within 1.5m from the property boundary and would exceed an eaves height of 3m. The proposal, therefore, fails to comply with the detailed guidance for rear extensions.

- 10.21 In terms of the detailed guidance for side extensions set out in the SPD, the proposed two-storey side extension would affect the natural light to the habitable rooms of the neighbouring property and, as set out previously; would take up all the space to the side of the applicant property; would not maintain a 1m gap to the side boundary; and would not be set back 0.5m from the front elevation or set down from the ridgeline of the original dwelling. The proposal, therefore, fails to comply with the detailed guidance for side extensions.
- 10.22 The guidance and additional details on KLP policies set out in the House Extensions and Alterations SPD are based on the principle of 'comply or justify'. The proposal under consideration departs from the guidance set out in the SPD and no justification has been provided. It is acknowledged that this planning application was submitted prior to the adoption of the SPD however, now that it has been adopted, it is a material consideration in the determination of this application and adds additional weight to the recommendation for refusal.
- 10.23 *Biodiversity*: The site is located within a bat alert layer. Based on the site photos, the building appeared to be well sealed, and no evidence of bat roosts or bat roost potential was found. This accords with the aims of Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.
- 10.24 *Carbon Budget*: The proposal is a 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. For this reason, the proposed development is considered to comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.
- 10.25 There are no other matters for consideration.

Representations

- 10.26 Two letters of support received from neighbouring residents which stated that the proposal would not result in the loss of light or amenity space and would provide off-street parking. The letters also stated that "there are many similar extensions already built" in the street and surrounding area.

11.0 CONCLUSION

- 11.1 This application to erect single and two storey extensions and formation of vehicular access at 40 Beckett Crescent, Dewsbury Moor, Dewsbury, has been assessed against relevant policies in the development plan, as listed in the policy section of the report, the NPPF and other material considerations.
- 11.2 The proposed extensions, 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 host dwelling and which would cause harm to visual amenity. To permit the proposed single and two-storey extensions would be contrary to Policy LP24 of the Kirklees Local Plan, the House Extensions and Alterations SPD, and advice within Chapter 12 of the National Planning Policy Framework.

- 11.3 The proposed single and two-storey extensions and formation of vehicular access, by reason of size and level of development, would result in overdevelopment and an unacceptable level of amenity space for current and future occupiers, particularly given the proposed number of bedrooms at the property. To permit the proposed single and two-storey extensions and formation of vehicle access would be contrary to Policy LP24 of the Kirklees Local Plan, the House Extensions and Alterations SPD, and advice within Chapter 12 of the National Planning Policy Framework.
- 11.4 The single and two-storey extensions, by reason of size and proximity to the shared boundary with the adjacent 42 Beckett Crescent, would result in an unacceptable overbearing and overshadowing impact on the amenities of the occupiers of the neighbouring property. To permit the proposed single and two-storey extensions would be contrary to Policy LP24 of the Kirklees Local Plan, the House Extensions and Alterations SPD, 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. As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91940>

Certificate of Ownership –Certificate B signed (notice served on Kirklees Council due to proposed formation of vehicle access).