

Public Document Pack



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

Julie Muscroft

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Wednesday 6 October 2021

Notice of Meeting

Dear Member

Planning Sub-Committee (Heavy Woollen Area)

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Reception Room - Town Hall, Dewsbury** at **1.00 pm** on **Thursday 14 October 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".

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

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

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

Substitutes Panel

Conservative

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

Green

K Allison
S Lee-Richards

Independent

C Greaves
T Lyons

Labour

M Akhtar
E Firth
M Kaushik
M Sokhal
S Ullah

Liberal Democrat

PA Davies
A Marchington
A Munro

Agenda

Reports or Explanatory Notes Attached

Pages

1: Appointment of Chair

To appoint a Chair for this meeting of the Sub Committee due to apologies for absence being submitted by Councillor Mumtaz Hussain.

2: Membership of the Sub-Committee

Under the provision of Council Procedure Rule 35, Councillor Ramsay is appointed as a permanent Member of the Sub-Committee in place of Councillor Cathy Scott.

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

Apologies for absence have been received from Councillor Mumtaz Hussain (Chair).

3: Minutes of Previous Meeting

1 - 6

To approve the Minutes of the meeting of the Sub-Committee held on 2 September 2021.

4: Declaration of Interests and Lobbying

7 - 8

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.

5: 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.

6: 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.

7: Public Question Time

The Sub-Committee will receive any public questions.

In accordance with:

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

Planning Applications

9 - 10

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

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone) or 11.59pm (via email) on Monday 11 October 2021.

To pre-register, please email andrea.woodside@kirklees.gov.uk or phone 01484 221000 (Extension 74993).

An update, providing further information on applications on matters raised after the publication of the Agenda, will be added to the web Agenda prior to the meeting.

8: Planning Application - Application No: 2021/91871

11 - 46

Erection of residential development (55 dwellings) including access and associated infrastructure - Land adj, High Street and Challenge Way, Hanging Heaton, Batley.

Ward affected: Dewsbury East

Contact: Nick Hirst, Planning Services

9: Planning Application - Application No: 2020/94055 47 - 56

Erection of 7 dwellings and associated access works - Land opposite, 4, Coalpit Lane, Upper Denby, Huddersfield.

Ward affected: Denby Dale

Contact: Liz Chippendale, Planning Services

10: Planning Application - Application No: 2020/93471 57 - 68

Discharge condition 40 on previous permission 2015/90201 for variation condition 3 (plans) on previous permission 2014/90780 for erection of 206 dwellings, formation of community and sports facilities comprising floodlit practice rugby pitch, 2 floodlit multi use games areas, public open space, footways/cycleways, car parking and associated landscaping for phase 1 of the development (64 dwellings) - Dewsbury RLFC Ltd, The Tetley Stadium, Owl Lane, Shaw Cross, Dewsbury.

Ward affected: Dewsbury East

Contact: Kevin Walton, Planning Services

11: Planning Application - Application No: 2020/94412 69 - 80

Installation of replacement shop fronts - 8, Cowper Street, Savile Town, Dewsbury.

Ward affected: Dewsbury South

Contact: Olivia Roberts, Planning Services

12: Planning Application - Application No: 2021/91170 81 - 90

Erection of detached garage with first floor storage - 20 Steanard Lane, Mirfield.

Ward affected: Mirfield

Contact: Lyle Robinson, Planning Services

13: Planning Application - Application No: 2021/91659 91 - 100

Erection of second floor extension - Heckmondwike Grammar School, High Street, Heckmondwike.

Ward affected: Heckmondwike

Contact: Olivia Roberts, Planning Services

14: Planning Application - Application No: 2021/91961 101 - 108

Erection of single storey extension - Gladstone House, Gladstone Street, Cleckheaton.

Ward affected: Cleckheaton

Contact: Jennifer Booth, Planning Services

15: Planning Application - Application No: 2021/92608 109 - 116

Erection of front porch, single storey rear and first floor side extensions - 416, Lees Hall Road, Thornhill Lees, Dewsbury.

Ward affected: Dewsbury South

Contact: Nina Sayers, Planning Services

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 2nd September 2021

Present: Councillor Mumtaz Hussain (Chair)
Councillor Nosheen Dad
Councillor David Hall
Councillor Steve Hall
Councillor Cathy Scott
Councillor Adam Gregg
Councillor Andrew Marchington
Councillor Jackie Ramsay
Councillor Joshua Sheard
Councillor Mohan Sokhal
Councillor Melanie Stephen
Councillor John Lawson

Apologies: Councillor Mussarat Pervaiz

1 Membership of the Sub-Committee

Councillor Sokhal substituted for Councillor Lowe.

Councillor Ramsay substituted for Councillor Loonat.

Councillor D Hall substituted for Councillor K Taylor.

Councillor Marchington substituted for Councillor A Pinnock.

Apologies for absence were received on behalf of Councillor Pervaiz.

2 Minutes of Previous Meeting

RESOLVED – That the Minutes of the Sub Committee held on 22 July 2021 be approved as a correct record.

3 Declaration of Interests and Lobbying

Councillor M Hussain advised that he had been lobbied on Application 2021/91940.

Councillor Ramsay declared an 'other' interest in Applications 2021/91052 and 2019/91053 on the grounds that she had made comment upon the applications and would not participate in the discussion or determination of the applications.

Councillor Dad advised that she had been lobbied on Applications 2020/94412, 2021/91052 and 2021/91053.

Planning Sub-Committee (Heavy Woollen Area) - 2 September 2021

Councillor D Hall advised that he had been lobbied on Application 2021/91170.

Councillor Gregg advised that he had been lobbied on Application 2021/91170.

Councillor Sheard advised that he had been lobbied on Application 2020/94345.

4 Admission of the Public

It was noted that all agenda items would be considered in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Proposed diversion of part of the public footpath Batley 40 and provision of alternative route at Howley Walk, Soothill, Batley

The Sub-Committee gave consideration to a report which detailed an application to divert part of public footpath Batley 40. The application proposed the diversion of part of the public footpath and the provision of an alternative route at Howley Walk, Soothill, Batley, under the Town and Country Planning Act 1990, Section 257.

The Sub-Committee were asked to consider the option as set out at paras. 2.6-2.8 of the report, and it was noted that option 3, that would authorise the confirmation of the order to be progressed, was recommended for approval.

RESOLVED –

- 1) That approval be given to Option 3, as set out at paragraph 2.8 of the report.
- 2) That the Service Director (Legal, Governance and Commissioning) be authorised to make and seek and order under Section 257 of the Town and Country Planning Act 1990 to divert Batley footpath 40 (part) and provide alternative public routes.

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, Marchington, Ramsay, Scott, Sheard, Sokhal and Stephen (12 votes)

Against: (no votes)

8 Proposed stopping-Up of non-definitive footpaths and the provision of alternative footpaths at Kenmore Drive, Milton Terrace and Rook Avenue, Cleckheaton

The Sub-Committee gave consideration to a report which detailed an application to stop up non-definitive footpaths, and provide alternative footpaths at Kenmore Drive, Milton Terrace and Rook Avenue,

Planning Sub-Committee (Heavy Woollen Area) - 2 September 2021

Cleckheaton, under the Town and Country Planning Act 1990, Section 257.

The Sub-Committee were asked to consider the option as set out at paras. 2.5-2.7 of the report, and it was noted that option 3, that would authorise the confirmation of the order to be progressed, was recommended for approval.

RESOLVED –

- 1) That approval be given to Option 3, as set out at paragraph 2.7 of the report.
- 2) That the Service Director (Legal, Governance and Commissioning) be authorised to make and seek and order under Section 257 of the Town and Country Planning Act 1990 to enable the stopping up of non-definitive footpaths and the provision of alternative footpaths at Kenmore Drive, Milton Terrace and Rook Avenue, Cleckheaton.

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, Marchington, Ramsay, Scott, Sheard, Sokhal and Stephen (12 votes)

Against: (no votes)

9 Planning Application - Application No: 2020/94345

The Sub-Committee gave consideration to Application 2020/94345 – Erection of 5 dwellings at land at St Luke's, Bierley Marsh, East Bierley.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Stephen Hill, Catherine Hill and Tom Owens (local residents) and Nigel Jacques (applicant's agent).

Under the provisions of Council Procedure Rule 36(3), the Sub-Committee receive a representation from Councillor Smaje (ward member).

RESOLVED – That, contrary to the Officer's recommendatoon, the application be refused on the grounds of (i) insufficient justification to demonstrate that the open space is no longer required and (ii) intensification of the site and the impact of that upon the character of the area,

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

For: Councillors Dad, Gregg, D Hall, S Hall, Lawson, Marchington, Scott, Sheard and Stephen (9 votes)

Against: Councillors M Hussain, Sokhal and Ramsay (3 votes)

10 Planning Application - Application No: 2020/94412

The Sub-Committee gave consideration to Application 2020/94412 – Installation of replacement shop fronts at 8 Cowper Street, Savile Town, Dewsbury.

Planning Sub-Committee (Heavy Woollen Area) - 2 September 2021

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Mehruz Ahmed and Zahir Ditta (local residents) and Haris Kasuji (applicant's agent).

RESOLVED – That the consideration of the application be deferred to enable further information to be submitted in regards to the precise use of proposed retail units and negotiations to achieve off-street parking.

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

For: Councillors Gregg, D Hall, S Hall, Hussain, Lawson, Marchington, Scott, Sheard and Stephen (9 votes)

Against: Councillors Dad, Ramsay and Sokhal (3 votes)

11 **Planning Application - Application No: 2021/91052**

The Sub-Committee gave consideration to Application 2021/91052 – Use of premises for sale of used cars at 105 Warren Street, Savile Town, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Faheda Biraderi and Louisa Vladneov (in support of the application), Nasar Hussain (local resident) and Hamish Gledhill (applicant's agent)

RESOLVED – That the application be refused on the grounds that (i) the use of the application site for car sales would result in the intensification of use of the highway, by virtue of additional demand for on-street parking which would further exacerbate existing highway safety issues within the vicinity of the site (ii) the proposed development would fail to ensure a safe and efficient flow of the highway network contrary to Policy LP21 of the Kirklees Local Plan and Chapter 9 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, S Hall, M Hussain, Lawson, Marchington, Scott and Sheard (8 votes)

Against: (no votes)

Abstained: Councillors D Hall, Sokhal and Stephen

12 **Planning Application - Application No: 2021/91053**

The Sub-Committee gave consideration to Application 2021/91053 – Change of use to car sales premises at 105A Warren Street, Savile Town, Dewsbury.

RESOLVED – That the application be refused on the grounds that (i) the application site for car sales would result in the intensification of use of the highway, by virtue of additional demand for on-street parking which would exacerbate existing highway safety issues within the vicinity of the site and (ii) the proposed development would therefore fail to ensure a safe and efficient flow of the highway network contrary to Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

Planning Sub-Committee (Heavy Woollen Area) - 2 September 2021

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

For: Councillors Dad, Gregg, S Hall, M Hussain, Lawson, Marchington, Scott and Sokhal (8 votes)

Against: (no votes)

Abstained: Councillors D Hall, Sheard and Stephen

13 **Planning Application - Application No: 2021/91170**

The Sub-Committee were advised of a request from the applicant of Application 2021/91170 that the consideration of the matter be deferred.

RESOLVED – That the consideration of the application be deferred.

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, Marchington, Ramsay, Scott, Sheard, Sokhal and Stephen (12 votes)

Against: (no votes)

14 **Planning Application - Application No: 2021/91940**

The Sub-Committee gave consideration to Application 2021/91940 – Erection of single and two storey extensions and formation of vehicular access at 40 Beckett Crescent, Dewsbury Moor.

RESOLVED – That, contrary to the Officer's recommendation, the application be delegated to Officers to approve, subject to the removal of permitted development rights within the imposed conditions.

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

For: Councillors Dad, S Hall, M Hussain, Scott and Sokhal (5)

Against: Councillors D Hall, Gregg, Lawson, Sheard and Stephen (5 votes)

Abstained: Councillors Marchington and Ramsay

In accordance with Council Procedure Rule 24(2), the application was determined by the casting vote of Councillor M Hussain.

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KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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

PLANNING POLICY

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

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

National Policy/ Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, 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 55 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: 14-Oct-2021

Subject: Planning Application 2021/91871 Erection of residential development (55 dwellings) including access and associated infrastructure Land adj, High Street and Challenge Way, Hanging Heaton, Batley

APPLICANT

Alex Baillie, Vistry
Partnerships Yorkshire,
Trustees of Lord Saville
Trust 1965

DATE VALID

05-May-2021

TARGET DATE

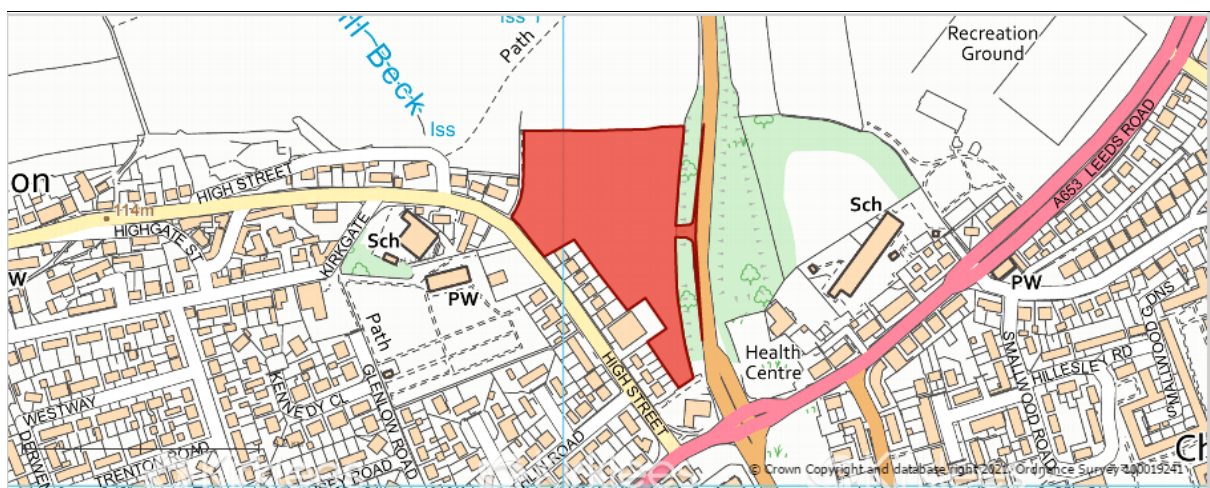
04-Aug-2021

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Dewsbury East Ward

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

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

1. Public open space off site commuted sum of £84,233
2. Contribution of £40,307 for off-site highway works for junction improvements to Challenge Way / John Ormsby VC Way / Leeds Road (Shaw Cross) junction.
3. £28,132 towards metro travel cards and/or other sustainable travel method improvements.
4. 20% of total number of dwellings to be affordable with a tenure split of 6 being affordable rent (social rent) and 5 being intermediate tenure (shared ownership).
5. £67,187 towards education requirements arising from the development
6. Management and maintenance arrangements of on-site public open space in perpetuity and drainage features (prior to adoption)

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

1.0 INTRODUCTION

- 1.1 This is an application for full planning permission for the erection of 55 dwellings with associated works.
- 1.2 This application is brought to Heavy Woollen Planning Sub-Committee in accordance with the Delegation Agreement, as the proposal seeks residential development with a site area exceeding 0.5ha but below 61 units. Also, a significant level of objection has been received in response to the proposal during the representation period.
- 1.3 The site is a housing allocation within the local plan (HS51). The proposal is deemed to comply with local and national planning policy and would provide a complete planning obligation contribution. It is therefore recommended for approval by officers, subject to the signing of a S106 agreement and conditions.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is an irregularly shaped area of undeveloped land and has a size of 1.72ha. It is situated in Hanging Heaton and is approximately 1.3 miles northeast of Dewsbury and 1.5 miles southeast of Batley. Challenge Way (B6128) runs along the site's east boundary, with the junction between Challenge Way / John Ormsby VC Way / Leeds Road (Shaw Cross) being to the site's south-east. There is open Green Belt land to the north. To the south and west is the developed area of Hanging Heaton.
- 2.2 The site falls steadily to the north / north-east. A tree belt borders the east boundary, separating the field from Challenge Way. The tree belt is within the designated Green Belt. The north boundary is defined by a mature hedgerow, with sporadic trees and hedges elsewhere around the site. PROW BAT/45/20 runs along the north-west boundary, with the remainder of the west boundary abutting High Street, residential properties, and a working men's club.
- 2.3 There are no designated heritage assets within the site, however there is a historic stone boundary wall crossing the site which is considered a non-designated heritage asset. To the west are several Grade 2 listed structures, including a boundary stone (Batley and Dewsbury) and church (St Paul's) with curtilage buildings and wall.

3.0 PROPOSAL

- 3.1 The application is for full planning permission to erect 55 dwellings with associated works. The dwellings will be a combination of detached, semi-detached and terraced units, with the following size mixture:
- 1-bed (flat): 4
 - 2-bed: 22
 - 3-bed: 25
 - 4-bed: 4
- 3.2 All dwellings are to be two storeys (one dwelling type has rooms in the roof space). The flats are in a single block that has an appearance of a modern semi-detached pair, with two flats per floor. Units are to be faced in a mixture of brick and artificial stone, each with grey concrete roofing tiles.
- 3.3 The development is to be served by a new estate road which will branch into several cul-de-sacs. A single vehicle access, a priority T-junction, is to be formed from Challenge Way and will require partial clearance of the existing tree belt. Off-street parking is proposed in private driveways. Four dedicated visitor parking bays are proposed.
- 3.4 An area of public open space would be sited adjacent to the boundary with High Street. This public open space will include a path connecting the development to High Street and PROW BAT/45/20. A corridor of public open space would also be sited along the north and east boundaries, with the proposed attenuation tank to be sited in the north-east corner.

3.5 The following affordable housing provision has been offered:

- 1-bed: 4
- 2-bed: 5
- 3-bed: 2

This totals 11 units, which is 20% of the total units proposed. A total of 3,080sqm of on-site Public Open Space is proposed.

4.0 **RELEVANT PLANNING HISTORY (including enforcement history)**

4.1 Application Site

None.

4.2 Surrounding Area

Challenge Way

89/06321: Highway construction and class B2 industrial development – Outline Permission Granted

89/06322: Highway construction and class B2 storage / warehousing development – Outline Permission Granted

89/06323: Highway construction and class B1 business development – Outline Permission Granted

91/00742: Road improvement scheme including new link roads – Granted

land at, Owl Lane, John Ormsby V C Way, Shaw Cross

2020/90450: Erection of restaurant with drive-thru, car parking, landscaping, play frame, customer order displays and associated works – Refused

Land at Owl Lane, Chidswell

2019/92787: Erection of 280 dwellings with open space, landscaping and associated infrastructure – S106 Granted

Land east of, Leeds Road, Chidswell

2020/92331: Outline planning application for demolition of existing dwellings and development of phased, mixed use scheme comprising residential development (up to 1,354 dwellings), employment development (up to 35 hectares of B1(part a and c), B2, B8 uses), residential institution (C2) development (up to 1 hectare), a local centre (comprising A1/A2/A3/A4/A5/D1 uses), a 2 form entry primary school including early years provision, green space, access and other associated infrastructure – Pending consideration

Land off, Soothill Lane, Batley

2018/94189: Outline application for residential development of up to 366 dwellings with details of access points only – Outline Granted

2020/94202: Variation of Conditions 1, 9, 19, 28 on the previous outline permission 2018/94189 (outline application for residential development of up to 366 dwellings with details of access points only) to allow for minor changes to the red line boundary plan and minor variations to the approved southern highways access point and approved remediation strategy specifications – Removal / Modification Granted

2021/91731: Reserved Matters application (layout, scale, appearance and landscaping) for the erection of 319 dwellings pursuant to previous permission 2020/94202 (Section 73) for Variation of Conditions 1, 9, 19, 28 on previous outline permission 2018/94189 for residential development of up to 366 dwellings with details of access points only to allow for minor changes to the red line boundary plan and minor variations to the approved southern highways access point and approved remediation strategy specifications – RM Granted

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)

- 5.1 The applicant requested pre-application advice from the Local Planning Authority in October 2020 (ref. 2020/20431) for a proposal of 53 dwellings. Local ward members were notified, and comments were received and shared with the applicant. Discussions took place between the applicant and planning officers between October and November 2020, with written advice issued on the 23rd of November 2020.
- 5.2 The applicant submitted their current application in May 2021. Many, but not all, of officer recommendations from the pre-application stage had been accommodated. Following review of the submission, receipt of consultation and public representations, officers provided their initial feedback in June. Concerns were expressed over various matters, including the layout, highway arrangements, level of ecological information, amongst others. The applicant took these comments away. They provided substantive amendments to the proposal and additional supporting documents towards the end of July. A second period of public representation began on the 1st of September.
- 5.3 The revisions and amendments, along with agreement to the identified planning obligations, resulted in officers being supportive of the proposal subject to final minor amendments on certain details. These were provided.
- 5.4 Throughout the application process local residents have raised concerns over land ownership and access rights. Land ownership is not a material planning consideration, subject to appropriate notice being served on landowners. The applicant has provided evidence to demonstrate ownership of the land in question. No substantial evidence has been offered by residents. Notwithstanding this, the applicant amended their plans to accommodate residents' concerns by moving fencing away from the area to allow for further consideration as required. While this is reported for completeness, it is reiterated as not forming a material planning consideration.

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 part of land allocated for residential development in the Local Plan (site allocation ref: HS51). The site allocation has an indicative housing capacity of 61 dwellings.

6.3 Site allocation HS51 identifies the following constraints relevant to the site:

- A combined sewer crosses this site
- Potentially contaminated land
- Noise source near site - noise from road traffic
- Site is close to listed buildings
- Part of the site is within a high-risk coal referral area

6.4 Relevant Local Plan policies are:

- **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
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP23** – Core walking and cycling network
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP38** – Minerals safeguarding
- **LP47** – Healthy, active and safe styles
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban green space
- **LP63** – New open space

6.5 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council;

Supplementary Planning Documents

- Highways Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)

Guidance documents

- Kirklees Interim Affordable Housing Policy (2020)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets® Principles for the West Yorkshire Transport Fund

National Planning Guidance

6.6 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20th July 2021, 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 5** – Delivering a sufficient supply of homes
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

6.7 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical housing standards – nationally described space standard (2015)

Climate change

- 6.8 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.
- 6.9 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

The applicant's statement of community involvement

- 7.1 The application is supported by a statement of community involvement which outlines the public engagement the applicant undertook prior to their submission. The applicant posted an information flyer to local residents which gave details of the proposal. The flyer also included a questionnaire seeking feedback on various aspects of the development. A total of 48 flyers were sent, and three questionnaires were received in response.
- 7.2 The following is the applicant's summary of the main points raised in the responses:
- the principle of housing on green fields
 - the increase of traffic flow on nearby roads
 - a lack of green space for local wildlife.
- 7.3 The applicant has responded to each of these points. Their responses are contained in their submitted Statement of Community Involvement and are to be considered where relevant within this assessment.

The planning application's public representation

- 7.4 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement. Following the amendment to the application it was readvertised via neighbour notification letter. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.

7.5 The end date for public comments was the 24th of September 2021. In total, 81 public representations were received in response to the proposal. The following is a summary of the comments received:

Surveys

- The noise and traffic surveys were undertaken during COVID and are not true representations of typical circumstances.
- The noise and air quality assessments are inadequate and should not be accepted.
- The Working Men's Club is also a noise pollutant and was closed at the time of the survey.
- The ecological surveys were not undertaken at the optimum times and should be discounted.
- Notwithstanding comments made on the noise survey, the noise level it did identify was excessive of appropriate levels and indicates there will be issues.

Tree loss

- The tree belt along Challenge Way is part of the green infrastructure network. It serves an important ecological function which will be broken.
- The tree belt is understood to have been planted as mitigation when the road (Challenge Way) was built, to screen noise, vibration, and air pollution. The removal of trees will invalidate these purposes.
- In addition to removing trees the development will likely kill others through damage to their roots.

Ecology

- The site is a meadow which attracts various invertebrates, birds and mammals. This includes numerous rare and endangered species.
- The proposal is not sustainable development as it destroys habitat.

Design and amenity

- The proposed development does not comply with the separation distances of the Householder Design Guide; specifically relating to properties on High Street. There will be privacy and overlooking issues, exacerbated by the topography.
- The proposed dwellings do not respond to the character of the area.
- Hanging Heaton is characterised by stone properties and its views over the countryside. This development will harm that.
- The development will remove the rural character of the area.
- Building upon this field will merge Hanging Heaton into Shaw Cross, removing local character and identity. It is urban sprawl.

Drainage / Flooding

- The flood risk report and its surveys were undertaken during light rainfall.

- The site is a soakaway for the wider area, with floodwater diverging on the site. There are watercourses under neighbouring buildings which must be considered. All drainage information must be re-submitted and re-assessed.
- The development will remove the area's soakaway and lead to the flooding of Batley centre.

Highways

- The proposed development will put too many cars on roads already too busy. More consideration should be given to cumulative impacts of development and their implications on the highway network.
- The traffic survey is 2017 figures + reasonable estimate. Residents have done a survey and it is very wrong.
- Cars use Challenge Way as a rat run and speed through it. Putting more people and cars here will exacerbate the issue.
- A nearby fast-food development was refused due to traffic concerns: this development is substantially worse.
- There are already hundreds of houses approved in the area: the local roads cannot accommodate them.
- Concerns that the sightlines inside the site are insufficient.
- The internal road layout looks inadequate for the turning of a refuse vehicle.
- Cars avoid Grange Road because of speedbumps upon it. Instead, they drive on High Street. The proposal will exacerbate this.

Pollution

- The site filters out Nitric Oxide from the roads and reduces it to 'background level' by the time it reached properties on High Street. The proposal will remove this filter.
- The site is too close to a main road(s), and future residents will suffer from the proximity. It is stated that 'The World Health Organisation have confirmed that living within 50 meters of a main road can cause an increase in diseases'. Furthermore, the Council has declared a climate emergency. This development, cumulative with others, must be assessed fully for air pollution and the effect on the area.
- The Local Plan's housing allocation should be revised following the Air Quality Action Plan being adopted and the climate crisis being declared in Kirklees. Other parts of Leeds Road have been declared 'air quality management areas'.
- The applicant does not own all the land they claim. This relates to a strip of land to the rear of properties on High Street.
- The proposed dwellings cause harm to St Paul's Church, which is a listed building, through being within its setting.

Other

- There is no playground proposes within the plans. Children have not been considered within this proposal.
- The development is poor quality and is just an attempt to make money.
- Greenfield sites should not be developed before brownfield sites.

- There are coal mining shafts in the area that should prevent development.
- These fields are used by walkers and are a public benefit. Accessible outdoor spaces have become increasingly valuable over lockdown and are needed for physical and mental health.
- The proposal would harm local schools, doctors and dentists which are already overstretched. It is already chaos during drop off / pick up time, more students and cars will make this much worse.
- The land is Green Belt and should not be built upon. If this is allowed more Green Belt land will be built upon.
- The proposal will remove views from properties which overlook the fields and affect their value. Compensation should be paid to residents for the loss of the field and council tax should be reduced for those affected.
- Footpaths crossing the site have been used for centuries.
- Approved planning permissions in the area for other housing estates should be built before more are granted. This will allow for an assessment on cumulative impacts.

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

7.7 Later amendments and submissions of information were minor in scope and did not necessitate further public re-consultation.

7.8 The site falls within Dewsbury East Ward. The north boundary is also the boundary to Batley East Ward. Ward Members for each ward have been consulted on the application. Cllrs Scott and Firth provided no comment, however raised queries on behalf of local residents. Furthermore, MP Mark Eastwood requested to be kept informed of the application's progress.

8.0 CONSULTATION RESPONSES

8.1 Statutory

K.C. Highways Development Management: Provided advise and feedback through the application process. Expressed initial objections, specifically around the access arrangement and impact upon the nearby Shaw Cross roundabout and the internal layout. Following negotiations agreements were made over final contributions for highway improvements at Shaw Cross and internal layout changes were made. Based on the final plans, no objection subject to contributions being secured via S106 and conditions.

K.C. Lead Local Flood Authority: No objection subject to condition.

The Coal Authority: Confirmed that the site is not actually within the High Coal Risk Zone and falls within the Low Coal Risk Zone. No objection to the proposal.

The Environment Agency: No comments received.

8.2 Non-statutory

K.C. Crime Prevention: No objection to the principle of the development. Provided advice and feedback to planning officers and the applicant to ensure crime mitigation. These have been considered and incorporated where possible. Other aspects of the advice go beyond the planning system (i.e. lock standards) but have been given to the applicant for their determination.

K.C. Ecology: Expressed initial concerns due to lacking information. Were involved in discussions with the applicant and outlined expected information. This information was provided. On subsequent review, confirmed no objection subject to conditions.

K.C. Education: Identified that the proposal necessitates a contribution of £67,187.

K.C. Environmental Health: Have provided assessments on various environmental factors, including noise, contamination and air pollution. No objection subject to condition.

K.C. Landscape: Expressed initial concerns to the layout and suggested amendments and conditions.

K.C. Strategic Housing: Advised on matters of affordable housing provision, including that identified as in demand within the area. No objection to this proposal and the offered affordable housing, subject to it being secured within the S106.

K.C. Trees: No objection subject to condition.

K.C. Waste: Expressed initial concerns to the layout and suggested amendments and conditions.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the

Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.

Land allocation

- 10.2 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared with the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021). As the Kirklees Local Plan was adopted within the last five years the five-year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authorities should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.3 The site falls within a housing allocation, reference HS51, within the Kirklees Local Plan Allocations and Designations document (2019) to which full weight can be given. Therefore, residential development is welcomed within the site. However, both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land.
- 10.4 LP7 requires development to achieve a net density of at least 35 dwellings per ha, where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. Within the Local Plan HS51 is expected to deliver 61 dwellings. The application proposes 55 dwellings, which is a density of 31.25 dwellings per ha.
- 10.5 Site constraints include a watermain bisecting the site from east to west, and a foul sewer running north-to-south. Each of these features have easements which prevents structures being built upon them (although roads / gardens may be) and dictates the location of development. Furthermore, the irregular shape of the south portion of the site restricts the layout of development as do the root protection areas of the trees to be retained. From pre-application stage officers have discussed the site's density and explored options to maximise it (without causing undue harm to other material planning considerations). On balance, considering the site's constraints, officers are satisfied that the achieved density is an effective and efficient use of the land.
- 10.6 Looking beyond density, LP11 of the Local Plan requires consideration of housing mixture. LP11 requires a proposal's housing mix to reflect the proportions of households that require housing, achieving a mix of house size (2, 3, 4+ bed) and form (detached, semi, terrace, bungalow). The starting point for considering the mixture of housing types needed across the district is the

Kirklees Strategic Housing Market Assessment (SHMA). The following housing mixture is proposed:

- 1-bed (flat): 4 = 7.2%
- 2-bed: 22 = 40%
- 3-bed: 25 = 45.5%
- 4-bed: 4 = 7.2%

10.7 The proposed housing size mixture is considered acceptable. While a reduction in 2-bed units and an increase in 4-bed units would be ideal, a balance has been struck between housing delivery, design and mixture. That proposed is considered acceptable and in compliance with LP11.

10.8 The site is a housing allocation in the Local Plan, with the proposal considered to represent an effective and efficient use of the allocation, in accordance with relevant planning policy. The proposal would aid in the delivery of the Council's housing targets and the principle of development is therefore found to be acceptable. Consideration must then be given to the proposal's local impacts, considered below.

Sustainable development and climate change

10.9 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.

10.10 The site is within the urban envelope, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. Notably the site is within close proximity of Dewsbury Town Centre. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

10.11 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

Urban Design

10.12 Relevant design policies include LP2 and LP24 of the Local Plan and Chapter 12 of the National Planning Policy Framework. These policies seek for development to harmonise and respect the surrounding environment, with LP24(a) stating; 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'

- 10.13 The site currently forms a boundary to the settlement of Hanging Heaton and the proposal would represent an urban extension of the settlement. With development to the west and south, and a mature tree belt to the east, public views into the site are limited. However, the open land to the north and gentle topography do allow long distance views into the site from this direction. The development of the site will have notable impacts upon the appearance of the environment; therefore, a considered design is required.
- 10.14 The proposed dwellings would be accessed via a new main estate road from Challenge Way which would branch into several cul-de-sacs. Dwellings are well spaced to one another and would create an attractive pattern of development which would harmonise with the established urban grain of Hanging Heaton. There are some internal shortfalls in separation distances between dwellings as per the standards within the council's Housebuilders Design Guide SPD. Nonetheless, these breaches are minimal and do not result in an unattractive or otherwise harmful design. This is giving due regard to the previous consideration on the quantum of development, and the fact that greater spacing between dwellings could result in fewer units and/or a less acceptable unit size mix.
- 10.15 Negotiations between officers and the applicant particularly focused upon the relationship between High Street and the western edge of the development. This led to the inclusion of an additional area of Public Open Space which is accessible from High Street (via PROW BAT/45/20) and helps integrate the development into the rest of Hanging Heaton along with an open soft landscaped connection point. Elsewhere discussions took place on the southern portion of the site, which was difficult to design for given its shape. The proposed siting of the flats in this area is deemed an appropriate and effective use of a difficult part of the site.
- 10.16 Considering landscaping and external works, the site will form a new boundary to the Green Belt (north and east). The density of development drops to the north and an area of natural / semi-natural public open space would separate the developed land from the Green Belt boundary. Currently the boundary is predominantly hedgerows, which will be retained and filled in as part of the landscaping strategy. This is considered an appropriate transitional arrangement next to the Green Belt. A similar natural / semi-natural public open space will run along the east boundary and will be complemented by the existing tree belt, allowing for a higher density of development along this boundary without causing harm to the Green Belt.
- 10.17 There are no trees benefiting from Tree Preservation Orders within the site or on neighbouring land, including the tree-belt along Challenge Way. Nonetheless LP33 establishes a principle against the loss of trees of significant amenity value. The creation of the site access will necessitate the removal of a section of the tree-belt along Challenge Way, along with other the removal of other trees within the site. At pre-application stage the applicant initially proposed access from High Street. This caused various concerns, but predominantly issues for highways and the placement of traffic on High Street. As such it is was recommended that access from Challenge Way be considered (subject to appropriate highways, ecological and arboricultural assessments). As the tree-belt runs along the whole boundary with Challenge Way it is accepted this will inevitably require tree loss.

- 10.18 A comprehensive landscaping strategy is recommended to be secured by condition. Beyond the standard information, this should include a requirement for compensatory tree re-planting throughout the site and look at methods to maximise tree planting both on-street and other open (public) areas around the site.
- 10.19 For public open space, as mentioned an area of amenity greenspace is to be provided adjacent to High Street. This provides connectivity and is immediately accessible for residents of the wider area. Other areas of public open space, designed as natural / semi-natural are along the north and east boundaries. Natural / semi-natural does not need to be publicly accessible, as it serves other purposes (i.e. visual, environmental) while still providing public benefits. However, these areas will still be accessible and allow for access around the site, albeit unpathed. A final area of public open space, to be amenity greenspace and therefore requiring access by the public, is proposed in the north-east corner. This is removed from the wider area, limiting access for existing residents, and is also removed from properties within the site to the south. Nonetheless, this is the lowest point of the site and therefore is required to host the attenuation tank. Furthermore, the site is not overly large so being 'remote' is relative and will not require a long walk. Given this, and the other accessible public open space, officers consider this siting to be acceptable.
- 10.20 Rear boundary treatments are to be 1.5m close boarded fencing, with a further 0.3m (for 1.8m height total) privacy panel. Rear boundary walls prominent within the streetscene are to be 1.8m high brick walls with timber fence infill, as a more attractive and characterful feature to enhance the streetscene. The boundary treatments are typical for a modern residential area and would mimic that common within the area. A condition requiring the boundary treatment to be installed as shown is recommended, to secure the appropriate design. In visual amenity and streetscape terms, acceptable parking is proposed, such that this provision would not result in a car-dominated street scene.
- 10.21 Turning to the architectural form and appearance of the dwellings, the proposed dwellings have a typical Pennine vernacular which will harmonise well with the surrounding form of development. This includes their massing, roof forms and fenestration size and layout. The predominance of semi-detached units, with less terraced and detached units is considered appropriate within the context of the wider area.
- 10.22 The dwellings would be predominantly faced in red-brick, however specified units on key viewpoints will have artificial stone frontages and sides. Red brick is the predominant material in the area, however secondary materials are varied, with artificial stone, natural stone, render, and buff brick being evident. The proposed use of materials and the mixture of brick and stone is considered acceptable and will reflect the character of the area. Roofing is to be grey concrete tiles. Roofing materials in the area are likewise varied, however in this case there is no clear predominance. Examples include red-tile, blue slate and grey concrete. The use of grey-concrete is therefore not opposed. Notwithstanding these comments, a condition requiring samples of facing materials be provided for review is recommended. This is to ensure suitable end products are used.

- 10.23 The proposed works would notably change the character and appearance of the site and wider area. However, as existing, the site is considered detrimental to the visual amenity of the built environment. The proposed development is considered to be sufficiently well designed and it would result in an attractive continuation of the residential environment. Through the retention of the woodland, there would also be no harm upon the setting of the open land to the south. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the KLP, and Chapter 12 of the NPPF.

Heritage

- 10.24 The site is neither within a Conservation Area, nor hosts any listed structures. However, it is adjacent to two heritage assets; St Paul's Church (Grade 2) and its associated curtilage structures, and the boundary stone opposite St Paul's (Grade 2), which marks the boundary between Batley and Dewsbury. A degraded wall associated with the boundary stone runs through the site and is deemed a non-designated heritage asset.
- 10.25 Section 66 of Planning (Listed Buildings & Conservation Areas) Act 1990 introduces a general duty in respect of listed buildings. In considering whether to grant planning permission for development which affects a listed building or its setting the LPA should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 10.26 First considering St Paul's Church, the proposed development is removed from it and will not impact its fabric. Consideration must however be given to its setting. The site sits on a lower level than the church and is well removed. K.C. Conservation and Design identified the importance of views of the church on approach to Hanging Heaton via PROW BAT/45/20, which would have been a historical route to the church. The applicant has reviewed this and demonstrated that the development would not negatively affect views of the church from the PROW.
- 10.27 Regarding the boundary stone, this too is outside the site and its fabric will not be affected. Its original purpose, indicating the separation between Batley and Dewsbury, has been deteriorated through successive development over time. Its remaining heritage value is as a past indicator, then a modern functional and therefore its value will not be unduly affected. Nonetheless development will be taking place close to it: a condition is recommended requiring a strategy for its retention, protection, and repair. Following negotiations, the degraded wall crossing the site is to be kept as part of the garden boundaries for several plots, with new boundary fencing erected behind it. This will retain the historic feature while enabling the development. A condition requiring the wall to be kept is recommended.
- 10.28 The proposed development will have a neutral impact upon the identified heritage assets. Accordingly, the development is deemed to comply with the requirements of S66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 and the guidance contained within LP35.

Residential Amenity

- 10.29 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.30 Acceptable separation distances are demonstrated between the proposed new dwellings and existing neighbouring properties. This is giving due regard to the relationship between the proposed dwellings and units to the south-west on High Street. The properties on High Street are on a ground level between 1m and 2m greater than the application site. Dwelling to dwelling minimum separation distances would vary between 21.3m and 25m.
- 10.31 Residents have raised particular concern over the relationship of plots 47 – 53 and nos. 191 – 201 High Street. The Householder Design Guide SPD states that typically 21m separation distances should be achieved between facing two storey dwellings. It is indicated that building heights and land levels may justify seeking high (or lower) distances, although no set distances are given. Properties on High Street present three storey elevations to the site, however the shorter separation distances are caused by extensions to the High Street properties. The extensions are maximum two storeys (although some are noted to have roof-balconies upon their extensions). The minimum three storey window separation to the new dwellings is circa 24m. The proposed dwellings will be on a lower land level, with the distances as outlined. Properties backing onto each other is not an unusual arrangement, and the arrangement outlined is not considered to cause materially harmful overlooking or overbearing for existing or future residents.
- 10.32 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.33 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not incompatible with existing surrounding uses. Representations have raised concerns over noise pollution from Challenge Way increasing following the removal of trees to form access. Trees are considered to offer limited acoustic screening, and the opening to be formed is limited. Most existing dwellings will have new dwellings between them and the new entrance, however it is accepted others will not. Nonetheless, given the separation distance and limited existing noise attenuation offered by the trees, the proposed loss of trees is not deemed harmful to the amenity of neighbouring residents.

- 10.34 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units. Internal separation distances and the layout of the dwellings are adequate and will ensure an appropriate standard of privacy, outlook and natural light for units within the development. Some units have parking detached from their dwellings. While not ideal, this has been necessitated by the constraints of the site along with securing a reasonable density. Ultimately the separation is not so severe to cause material harm to the amenity of future occupiers.
- 10.35 The sizes (in sqm) of the proposed residential units are 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. 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. In the current proposals, all dwellings would be NDSS-compliant, as set out within the table below table:

House Type	Number of units	Proposed (GIA, m ²)	NDSS (GIA, m ²)
Worsley (GF) – 1bed	2	50.0	39
Worsley (FF) – 1bed	2	61.9	39
Atkins – 2bed	5	70.9	70
Cartwright – 2bed	7	71.4	70
Wyatt – 2bed	10	81.0	70
Elmslie – 3bed	16	86.8	84
Becket – 3bed	9	95.2	84
Goodridge – 4bed	2	103.0	103
Mylne – 4bed	2	105.5	103

Garden sizes are considered commensurate to the scale of their host dwellings. All of the proposed houses would also benefit from being dual aspect, and would have satisfactory outlook, privacy and natural light.

- 10.36 Noise from nearby main roads can negatively affect the amenity of future residents. Traffic noise from Challenge Way is noted as a site constrain for this allocation within the Local Plan. The applicant has provided a noise assessment along with recommendations to mitigate the harm caused by the identified noise. This has been reviewed by K.C. Environmental Health. The report demonstrates that adequate mitigation may be implemented via glazing. However, the mitigation requires windows to be closed to be effective. To ensure appropriate ventilation the application suggests trickle ventilation. This is not accepted by Environmental Health. They therefore recommend a condition for a noise and ventilation mitigation strategy, which does not rely on trickle ventilation, be secured via condition. This includes a post implementation review to confirm the required mitigation has been achieved. This is considered reasonable.
- 10.37 Residents have raised concerns that the noise survey was undertaken during lockdown (March 21) and is therefore not a fair assessment of the noise climate. This is noted. The Association of Noise Consultants have provided guidance through the pandemic on how their members should process. At the

time, the guidance was for noise impact assessments to go ahead, however for professionals to apply their judgement on a case-by-case basis on whether a proposal was unduly affected by lockdown and how to accommodate this. While the traffic levels in March 2021 are accepted to be below standard, they were not significantly would not make a substantial difference in traffic noise levels, likely no more than a couple dB. The recommend glazing to act as mitigation, notwithstanding the above comments on ventilation, has an 8dB tolerance based on the survey's noise levels. As such it would remain appropriate if the noise level increased as expected. Therefore, while the impact of lockdown is noted, there is no indication that noise from traffic would have an undue impact on the development. The aforementioned post-implementation review will also secure the appropriate level of mitigation and ensure the amenity of future occupiers.

- 10.38 Local residents have raised that the noise survey was undertaken when the adjacent Working Men's Club was closed due to COVID. This is accepted by officers. However, the club has operated in a residential area for a prolonged period. K.C. Environmental Health only have a single complaint on record, and this related to a specific incident (an external disturbance) as opposed to noise breakout / music. Therefore, the principle of putting more dwelling adjacent to the Working Men's Club is not opposed and there is no reasonable likelihood that any noise it generates cannot be adequately mitigated. However, to ensure appropriate mitigation is secured, the aforementioned noise and ventilation mitigation strategy condition will include a requirement for review of noise generated by the club.
- 10.39 Public Open Space of 3,080sqm would be provided on site and would contribute to the amenity of future and neighbouring residents. However, this falls below the required on-site contribution, calculated in accordance with Local Plan policy LP63 and the methodology set out in the Open Space SPD, nor would a dedicated Local Area of Play (LAP) be provided on site. Dewsbury East Ward is acknowledged to be deficient in natural and semi-natural greenspace. To offset this shortfall a contribution of £84,233 would be provided, to be spent in the local area. It is recommended that this contribution be secured in the required Section 106 agreement, along with provisions to secure details of the management and maintenance of open spaces.
- 10.40 To summarise, the proposed development is not considered detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with LP24 of the Kirklees Local Plan.

Highway

- 10.41 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

- 10.42 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.43 A single point of access is proposed onto Challenge Way. Using the national TRICS database, at 55 dwellings the following car – traffic generation is expected during the am and pm peak hours.

Peak Hour	Arrivals	Departures
AM	8	30
PM	23	10

- 10.44 The maximum number of vehicular trips arising from the development will be 38 two-way trips (arrival + departure) during the AM peak hour and 33 two-way trips during the PM peak hour. Volumetrically, this equates to roughly one additional vehicle movement on the local highway network every 1.5 minutes during the AM peak hour and one additional vehicle movement every 1.8 minutes during the PM peak hour. The applicant calculates that 37% of departures from the site are expected to travel north on Challenge Way whilst 63% are expected to travel south. K.C. Highways accept the applicant's methodology for calculating anticipated traffic generation and movements.
- 10.45 Consideration was given to whether the proposal warranted a dedicated right turn lane into the site from Challenge Way. Based on the identified traffic level and direction of travel at the PM peak (when site access is at its highest demand) 9 vehicles can be expected to turn right into the site. This equates to one vehicle every 6.5 minutes. This low level of movement does not justify a dedicated right turn lane. Furthermore, regular gaps in the northbound traffic flows are created by the traffic signal junction to the south. Therefore, the limited volume of turning traffic would have little difficulty in safely entering the site in the gaps created. Finally, the installation of a right turn lane would likely require the removal of additional trees.
- 10.46 As noted, the majority of traffic exiting the site is expected to travel south, towards the Challenge Way / John Ormsby VC Way / Leeds Road (Shaw Cross) junction. This junction is identified within the Local Plan as requiring junction improvements to accommodate local development and as outlined within LP19. Other development nearby has already part funded improvements works to this junction, including 2019/92787 (Land at Owl Lane, Chidswell – 260 dwellings). A contribution of £40,307 has been calculation for the development to contribute towards these improvements: this contribution is proportional to the scale of development when compared to that provided by 2019/92787. It is recommended this contribution be secured within the S106 agreement. Beyond the impact upon Shaw Cross junction, to be mitigated via the outlined contribution, K.C. Highways are satisfied that the level of traffic associated with the development may be adequately accommodated into the network without causing harm.

- 10.47 Progressing to the internal road arrangements, the submitted road layout details and Stage 1 Road Safety Audit have been reviewed by K.C. Highways, who considered there to be no prohibitive reason preventing a scheme for adoption being brought forward at S38 stage. It is deemed to comply with the standards of the Highways Design Guide SPD. Full technical details of the new access road, to an adoptable standard, are to be sought via condition.
- 10.48 All dwellings would have a level of dedicated off-road parking in accordance with the Highways Design Guide SPD, with one exception. Unit 14, a four-bed unit, would have two parking spaces instead of three. Options to overcome this were explored but ultimately provided more harmful to other considerations. Weighing the proposal as a whole, the shortfall of one parking space (bearing in mind it is the 3rd parking space for a dwelling, therefore having a lesser impact), is not a cause for concern. In terms of visitor parking, the Highways Design Guide recommends one per four dwellings, or 14 for this application. Four designated visitor parking bays would be provided. The applicant has demonstrated that the remaining ten units may be accommodated upon the proposed road without causing access or turning difficulties for even a refuse collection wagon. This is deemed acceptable.
- 10.49 Swept path analysis has been provided which demonstrates acceptable turning arrangements for refuse vehicles. Several share private drives are proposed; each of these would be served by a waste collection area, allowing for effective collection by refuse services. The provision of these waste collection areas may be secured by conditions. Given the scale of the development, which will likely be phased, a condition is to be imposed for a waste collection strategy during the construction phase. This is because refuse services will not access roads prior to adoption therefore appropriate arrangements must be considered and implemented.
- 10.50 K.C. Highways raised concerns that the provided share private drives do not have turning for medium sized vehicles (i.e, food delivery vans). The provision of these were explored, however due to the site's constraints alongside the previous outlined considerations on density, appropriate solutions could not be reached. While medium sized vehicle turning on private drives would be preferable, officers are satisfied that their use of either the adopted turning areas, with a longer walk, or reversing is not fundamental cause for concern and will not unduly affect highway safety or efficiency.
- 10.51 The application site has a retaining wall to High Street, with works proposed near it. A condition is recommended requiring full technical assessments of the retaining wall and works nearby to it. This is to ensure the safety of the adopted highway.
- 10.52 Progressing to sustainable travel, the site is within the urban environment with nearby amenities. The site is within 2km of Dewsbury and Batley centres, with nearby bus links into Dewsbury. Dewsbury in turn has public transport links to the wider region. West Yorkshire Metro have calculated a figure of £28,132, recommended to be put towards metro cards to promote bus usage. It is recommended that this figure may, if a more appropriate method of enhancement is identified following assessment, be put towards alternative sustainable travel improvements. This may be secured within the S106. The provision of cycle storage facilities and electric vehicle charging points, one per dwelling, are also recommended to be secured via condition. This is to promote alternative, low emission, methods of travel.

- 10.53 PROW BAT/45/20 runs along the site's north-west boundary. An area of Public Open Space would be sited next to it, with path connecting the proposed adoptable road to the PROW, as well as a private drive. To ensure the path is kept to an appropriate standard, and the new development connects into it appropriately, and to promote use of the PROW network, a condition is recommended for a scheme to improve the PROW BAT/45/20 where it is adjacent to the application's red line. This is to comply with LP20's aim to support pedestrians in the sustainable travel hierarchy.
- 10.54 The application is supported by a Travel Plan which sets out a series of measures that would encourage changes in the travel patterns of residents and their visitors to the development from the use of the single occupied private vehicle to more sustainable forms of transport. This is welcomed, however given the scale of the development, the level of traffic expected, and the sustainable location, of the site, on balance a Travel Plan monitoring contribution is not deemed necessary.
- 10.55 Given the scale and nature of the development officers recommend a Construction Management Plan be secured via condition. This is to ensure the development does not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable, and a condition is proposed by planning officers.
- 10.56 In summary, officers are satisfied that, subject to the referenced conditions and financial contribution towards junction improvement works at Shaw Cross, the development would not cause harm to the safe and efficient operation of the Highway, in accordance with the aims and objectives of Policies LP21 and LP22 of the Kirklees Local Plan and the aims and objectives of Chapter 9 of the National Planning Policy Framework.

Drainage and flood risk

- 10.57 Assessing flood risk first, the site is within flood zone 1, which is land having a less than 1 in 1,000 annual probability of river or sea flooding (low risk). Nonetheless, all developments over 1ha in size are required to be supported by a Flood Risk Assessment. This has been provided and reviewed by the LLFA; there are no main rivers near the site and the only other open water is a minor beck 210m away with negligible risk to the site. The LLFA confirm they have no concerns regarding fluvial flooding.
- 10.58 A surface water drainage strategy to address pluvial events has been provided. The applicant has followed the drainage hierarchy and, discounting infiltration due to impermeable ground conditions, proposes to discharge to Green Hill Beck. This is not opposed in principle by the LLFA or Yorkshire Water. Technical details, including discharge rate and attenuation size, are supported by both the LLFA and Yorkshire Water, and indicate that a viable drainage solution may be achieved upon the site. Nonetheless, to enable flexibility through the development process, the LLFA recommend that the submission of full technical details be secured via condition.

- 10.59 A watermain and foul sewer cross the site. Yorkshire Water do not object to the layout, which avoids the easements of the piping. However, Yorkshire Water have requested that a condition be imposed preventing any future structure (i.e., permitted development rights) being erected within the easements. This is considered reasonable and is recommended as a condition.
- 10.60 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.
- 10.61 A flood routing plan has been provided. Overall, the scheme is acceptable and indicates appropriate routing of floodwater. However, the plan shows one instance of possible flooding within the curtilage of a dwelling. Therefore, the LLFA raise concerns over it however they do not consider the issue to be prohibitive. This has been raised with the applicant. If amended prior to the committee, members will be informed within the update. Alternatively, the LLFA are satisfied that this is a minor issue which can be addressed via condition if required.
- 10.62 Representations have raised concerns of flooding on High Street and in association with the adjacent Working Men's club. As the site is on lower ground level the proposed development would not exacerbate any existing flooding issues. Furthermore, notwithstanding the above commentary on a single dwelling, the flood routing plan demonstrates any flooding from High Street / the Working Men's club into the site would be appropriately routed through the site.
- 10.63 Foul water from the proposed development would discharge to the existing combined sewer crossing the site, located to the west. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.
- 10.64 Considering the above, subject to the proposed condition and securing management and maintenance arrangements via the S106, the proposal is considered by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29 of the LP and Chapter 14 of the NPPF.

Planning obligations

- 10.65 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of 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 this application should be subject to a Section 106 agreement to cover the following:

Affordable Housing

10.66 LP11 of the Local Plan and the Council's Interim Affordable Housing Policy requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing. For this site, a 20% contribution of 55 units would be 11 units. This has been offered by the applicant.

10.67 The offered units are:

1-bed: 4

2-bed: 5

3-bed: 2

The site lies in the Dewsbury and Mirfield Market Area, where there is a demand for 3 and 3+ bed homes. However, it also borders the Batley and Spenningsdale Market Area, which has a need for 2 bed homes. Overall, the proposed mixture is considered acceptable. In terms of tenure 6 are to be social rent and 5 sub market (shared ownership). This mixture complies with LP11 and the Kirklees Interim Affordable Housing Policy.

10.68 The offered units all comply with the Nationally Described Space Standards. It is noted that the applicant proposes all of the propose 1-bed flats that are to be built, and in that regard may be considered 'distinguishable'. However, there is no indication that they are any less quality than the market units proposed. The units are adequately spaced through the site.

Education

10.69 K.C. Education have reviewed the capacity at nearby schools. The schools assessed were Mill Lane Primary, Batley Girls' High, Upper Batley High, and Manor Croft Academy. Batley Girls' High and Manor Croft Academy were identified as being above capacity and a contribution will be required to address this.

10.70 To address the identified issue K.C. Education have calculated a necessary contribution of £67,187. This has been agreed by the applicant.

Highway improvements

10.71 As outlined in paragraph 10.46 a contribution of £40,307 has been calculation for the development to contribute towards the planned improvement works for the Challenge Way / John Ormsby VC Way / Leeds Road (Shaw Cross) junction. This is to comply with the aims of LP19 of the Kirklees Local Plan.

Management and Maintenance

10.72 It is recommended that the S106 agreement include terms for the provision of long-term maintenance and management of the surface water drainage features (until adoption) and the on-site public open space. This is to ensure appropriate responsible bodies are in place to ensure the ongoing management and maintenance of these assets.

Public Open Space

- 10.73 In accordance with LP63 of the Kirklees Local Plan new housing developments are required to provide public open space, or contribute towards the improvement of existing provision in the area.
- 10.74 The application proposes 3,080sqm of on-site Public Open Space, with an off-site contribution of £84,233 agreed, which is in accordance with the Public Open Space SPD. The contribution is recommended to be secured within the S106. This is considered appropriate to comply with policy LP63 of the Kirklees Local Plan.

Sustainable travel measures

- 10.75 The site is within walking distance of numerous bus stops that connect the development to the wider area, including Dewsbury Town Centre that in turn connects to the greater region. To assist in the promotion of alternative, sustainable methods of travel, as opposed to the primary use of private vehicles, West Yorkshire Combined Authority have calculated a contribution of £28,132 for the provision of metro travel cards (bus only). It is recommended that this figure may, if a more appropriate method of enhancement is identified following assessment, be put towards alternative sustainable travel improvements.
- 10.76 The provision of this contribution is considered to comply with the aims of LP20 of the KLP.

Other Matters

Air quality

- 10.77 The development is not in a location, nor of a large enough scale, to require an Air Quality Impact Assessment.
- 10.78 Notwithstanding the above, in accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within LP24(d) and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development officers seek the provision of electric vehicle charging points, one per dwelling, on new development that includes car parking. The purpose of this is to promote modes of transport with low impact on air quality.
- 10.79 Subject to a condition requiring this provision, the proposal is considered to comply with LP24(d) and LP51 of the Local Plan.

Contamination

- 10.80 The Coal Authority has confirmed that the site does not fall within the High-Risk Coal Zone. It falls within the Low-Risk Coal Zone, and therefore the CA recommend an informative note be placed on the decision notice.

- 10.81 The site is within the 250m buffer zone of a historic landfill site at an infilled railway cutting to the east of the site. The Environment Agency have been consulted; however, they have provided no comment. Nonetheless this designation does not prevent the approval of residential development at this site.
- 10.82 Notwithstanding the identified buffer zone, all major residential developments are required to be considered general ground contamination. The applicant has submitted Phase 1 and Phase 2 ground investigation reports which have been reviewed by K.C. Environmental Health. The Phase 1 has been accepted; however, the Phase 2 provides inadequate assessment has been provided for Environmental Health to support the conclusion. Accordingly Environmental Health recommend conditions relating to further ground investigations. Subject to the imposition of these conditions' officers are satisfied that the proposal complies with the aims and objectives of LP53.

Crime Mitigation

- 10.83 Regarding crime and anti-social behaviour and the potential for unauthorised access to rear gardens, some rear and side ginnels are proposed (albeit to relatively few dwellings). The need for these is understood – residents of mid-terrace dwellings are likely to want to be able to access their rear gardens without having to pass through their homes, for example when carrying out gardening jobs, or moving bicycles. To help address the concerns relating to potential crime committed via these ginnels, it is recommended that details of boundary treatments, and of gates to rear ginnels (to minimise public access to vulnerable parts of the proposed development) be secured by condition.
- 10.84 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments. It is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with LP24(e).

Ecology

- 10.85 Policy LP30 of the KLP states that the Council would seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.
- 10.86 The application is supported by an Ecological Impact Assessment (EclA) which has been reviewed by K.C. Ecology. The site comprises species poor former grazing pasture, since overgrown due to current limited management, along with native and ornamental hedgerow. No priority habitats are present within the site, nor on adjacent land, and the majority of habitats on-site are considered to be of low ecological value. Features within the site identified as having moderate ecological value, namely the woodland to the east and hedgerow to the north, are to be retained (bar the formation of the access). The site was concluded to have limited value to amphibians, reptiles and terrestrial mammals.

- 10.87 The woodland corridor that runs immediately adjacent to the eastern boundary of the site is included as part of the Kirklees Wildlife Habitat Network. LP30iii requires development to safeguard and enhance the function and connectivity of the Habitat Network. Due to the proposed loss of trees, which would create a break in the network, a bat survey was undertaken and an assessment of the likely impacts. The survey results indicate no trees suitable for roosting bats were identified, however the site supports low levels of individual bats, utilising the site for commuting purposes only. Despite this, the proposal would create a gap in the tree-belt of circa 10m. The species recorded utilising the woodland however, will regularly cross gaps of up to 150m, and therefore the gap created will not represent a significant dispersal barrier for these species. In addition, mitigative measures are specified within the EclA to minimise impacts to the connectivity of this corridor. The proposal will also introduce new artificial lighting to the site and therefore a sensitive lighting design strategy is recommended via condition to minimise the impact of this.
- 10.88 Other mitigation proposed includes no vegetation clearance within the bird breeding season, without prior survey, which may be secured via condition. One invasive non-native species (INNS) was identified on site (montbretia). A condition for an INNS removal strategy is proposed.
- 10.89 Representations have raised concerns that the site hosts butterfly populations. The habitats on site are common and widespread in the area with a limited array of wildflower species recorded within the grassland on site. Therefore, it is expected that the site would only support generalist species with no specialist habitat requirements. Nonetheless, as outlined above, the site at present is considered to be of low ecological value. Post development, areas of existing grassland will be retained and enhanced to species-rich wildflower meadows (in order to provide a biodiversity net gain) which is likely to benefit a greater diversity of butterfly and other pollinating invertebrate species.
- 10.90 All developments are expected to demonstrate a net gain to ecology, in accordance with Local Plan policy LP30 and chapter 15 of the NPPF. Net gain is measurable, and the degree of change in biodiversity value can be quantified using a biodiversity metric. The applicant has undertaken the metric calculations and concluded, post on-site interventions, a net gain of 14.88% habitat units and 30.86% hedgerow units. These are more than the desired 10% and are welcomed. The provision of a minimum 10% net gain (as required via the Biodiversity Technical Advice Note), along with specifics of how it would be achieved and thereafter retained for a minimum of 30 years, is recommended to be secured via a condition for a Biodiversity Enhancement Management Plan (BEMP). This may include features such bat boxes and hedgehog holes amongst others. Subject to this condition, officers and K.C. Ecology consider the proposal to comply with the aims of LP30 of the Kirklees Local Plan.

Minerals

- 10.91 The site is within wider mineral safeguarding area (SCR with Sandstone and/or Clay and Shale). Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing and affordable housing need, having regard to Local Plan delivery targets) for it. The proposal is therefore not considered to conflict with LP38.

Representations

10.92 A total of 81 representations have been received to date. Most matters raised have been addressed within this report. The following are matters not previously directly addressed.

Surveys

- The noise and traffic surveys were undertaken during COVID and are not true representations of typical circumstances.
- The noise and air quality assessments are inadequate and should not be accepted.

Response: Different industries that undertake surveys have responded to the constraints of the COVID pandemic differently. The submitted noise report and highway statements have each been completed in accordance with their industry best practise to respond to COVID related constraints. The methodologies for their reports have been reviewed by K.C. Highways and K.C. Environmental Health, who have each confirmed they have been undertaken with reasonable approaches.

Officers have no cause for concern over the quality of the reports or the professional competence of their authors.

- The Working Men's Club is also a noise pollutant and was closed at the time of the survey.

Response: This is addressed within paragraph 10.38.

- The ecological surveys were not undertaken at the optimum times and should be discounted.

Response: Bat surveys were undertaken in October 2020 and September 2021. While towards the end of the bat activity season, they do fall within it and are considered acceptable by K.C. Ecology.

- Notwithstanding comments made on the noise survey, the noise level it did identify was excessive of appropriate levels and indicates there will be issues.

Response: This is known, therefore noise mitigation measures (glazing specification) are required and proposed via condition.

Tree loss

- The tree belt along Challenge Way is part of the green infrastructure network. It serves an important ecological function which will be broken.

Response: This matter is addressed within paragraph 10.87.

- The tree belt is understood to have been planted as mitigation when the road (Challenge Way) was built, to screen noise, vibration, and air pollution. The removal of trees will invalidate these purposes.

Response: The construction of Challenge Way was granted via an outline application in 1989 and a subsequent application in 91. The 1991 application file gives no indication that this was deemed the case. The 1989 files are being delivered from archive and commentary of their content will be provided to members in the update.

Notwithstanding this, subsequent planning applications may overrule previous planning decisions. Furthermore, the area of tree loss from the tree-belt is minimal. Trees, due to being an inconsistent and low density 'wall' provide limited acoustic / vibration screening and pollution absorption. Challenge Way is not identified as an air quality management area. The proposed tree removal will not result in materially harmful noise, vibration or air pollution to existing residents.

- In addition to removing trees the development will likely kill others through damage to their roots.

Response: An Arboricultural Method Statement has been provided which outlines how trees will be protected during the construction phase. This has been reviewed by K.C. Trees, who find it acceptable. Compliance with the AMS's recommendations is to be secured via condition.

Ecology

- The site is a meadow which attracts various invertebrates, birds and mammals. This includes numerous rare and endangered species.
- The proposal is not sustainable development as it destroys habitat.

Response: These matters are addressed within the report. Please see paragraphs 10.85 – 10.90.

Design and amenity

- The proposed development does not comply with the separation distances of the Householder Design Guide; specifically relating to properties on High Street. There will be privacy and overlooking issues, exacerbated by the topography.
- The proposed dwellings do not respond to the character of the area.
- Hanging Heaton is characterised by stone properties and its views over the countryside. This development will harm that.
- The development will remove the rural character of the area.
- Building upon this field will merge Hanging Heaton into Shaw Cross, removing local character and identity. It is urban sprawl.

Response: These matters are addressed within the report. Please see paragraphs 10.85 – 10.90.

Drainage / Flooding

- The flood risk report and its surveys were undertaken during light rainfall.
- The site is a soakaway for the wider area, with floodwater diverging on the site. There are watercourses under neighbouring buildings which must be considered. All drainage information must be re-submitted and re-assessed.
- The development will remove the area's soakaway and lead to the flooding of Batley centre.

Response: Flood routing is considered in paragraph 10.61. This includes water flowing into the site from neighbouring land, such as High Street. The flood routing plan indicates that water may flow through the site and discharge to the north, away from built land.

No evidence has been provided regarding watercourses under neighbouring buildings. They do not show up on records and neither Yorkshire Water or the LLFA have raised them as issues. Nonetheless, as they are on neighbouring land, the proposed development is not expected to affect them. If this refers to the Yorkshire Water sewers on site, these are known and considered by the development.

Highways

- The proposed development will put too many cars on roads already too busy. More consideration should be given to cumulative impacts of development and their implications on the highway network.
- The traffic survey is 2017 figures + reasonable estimate. Residents have done a survey and it is very wrong.
- Cars use Challenge Way as a rat run and speed through it. Putting more people and cars here will exacerbate the issue.
- A nearby fast-food development was refused due to traffic concerns: this development is substantially worse.
- There are already hundreds of houses approved in the area: the local roads cannot accommodate them.
- Concerns that the sightlines inside the site are insufficient.
- The internal road layout looks inadequate for the turning of a refuse vehicle.
- Cars avoid Grange Road because of speedbumps upon it. Instead, they drive on High Street. The proposal will exacerbate this.

Response: The development's Highways implications are considered in paragraphs 10.41 – 10.59.

While highways were considered as a possible concern, the nearby fast-food restaurant was refused, via 2020/90450, on health grounds only.

The LPA have not been provided why any alternative traffic survey figures. Nonetheless, K.C. Highways are satisfied with those provided and their methodology for collection.

Cumulative highway impacts and the local network have been provided. To enhance the network's capacity the development is to contribute £40,307 towards highway improvements at Shaw Cross junction.

Pollution

- The site filters out Nitric Oxide from the roads and reduces it to 'background level' by the time it reached properties on High Street. The proposal will remove this filter.
- The site is too close to a main road(s), and future residents will suffer from the proximity. It is stated that 'The World Health Organisation have confirmed that living within 50 meters of a main road can cause an increase in diseases'. Furthermore, the Council has declared a climate emergency. This development, cumulative with others, must be assessed fully for air pollution and the effect on the area.
- The Local Plan's housing allocation should be revised following the Air Quality Action Plan being adopted and the climate crisis being declared in Kirklees. Other parts of Leeds Road have been declared 'air quality management areas'.

Response: The site and Challenge Way are not Air Quality Management Areas. While the WHO report is noted this site is not deemed to be at specific risk from poor air pollution (nor would the development unduly contribute to a poor area). Air pollution from roads drops by distance: the field will not offer substantial absorption affects.

Other

- The applicant does not own all the land they claim. This relates to a strip of land to the rear of properties on High Street.

Response: The applicant has provided sufficient evidence to demonstrate land ownership, with no substantial counter evidence provided. Beyond this, land ownership is a private matter.

- The proposed dwellings cause harm to St Paul's Church, which is a listed building, through being within its setting.

Response: This is addressed within paragraphs 10.24 -10.28.

- There is no playground proposes within the plans. Children have not been considered within this proposal.

Response: The on-site provision has been reviewed by K.C. Landscape, who do not consider a dedicated playground appropriate for this site. Alternative play sites are available within an appropriate vicinity. An off-site POS contribution of £84,233 is to be secured and may be used to enhance local facilities, if required. The exact use of the finance will be determined when received.

- The development is poor quality and is just an attempt to make money.

Response: The development quality is considered acceptable. The reason for the development is not a material consideration.

- Greenfield sites should not be developed before brownfield sites.

Response: The planning system and guidance contained within the NPPF does not require that brownfield sites must be prioritised over development greenfield.

- There are coal mining shafts in the area that should prevent development.

Response: The proposal has been reviewed by The Coal Authority, who have no objection to the proposal and comment that the site is within their 'low risk area'. Even if within a 'high risk area' typically remediation methods may be employed to enable development.

- The proposal would harm local schools, doctors and dentists which are already overstretched. It is already chaos during drop off / pick up time, more students and cars will make this much worse.

Response: There is no Policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice.

With regard to schools, K.C. Education have calculated a contribution of £67,187 towards supporting local schools affected by the development.

- The land is Green Belt and should not be built upon. If this is allowed more Green Belt land will be built upon.

Response: The land was removed from the Green Belt and is now a Housing Allocation within the Local Plan. The removal of the land from the Green Belt was considered by the Local Plan's inspector and found to be acceptable.

- The proposal will remove views from properties which overlook the fields and affect their value. Compensation should be paid to residents for the loss of the field and council tax should be reduced for those affected.

Response: House prices are not a material planning consideration, nor is the calculation of council tax.

- These fields are used by walkers and are a public benefit. Accessible outdoor spaces have become increasingly valuable over lockdown and are needed for physical and mental health.
- Footpaths crossing the site have been used for centuries.

Response: PROW BAT/45/20 runs along the site's north-west boundary and will be retained. The PROW provides access to open countryside. No other formal paths are within the site. The development will retain connectivity between High Street and Challenge Way and will not prejudice pedestrians.

- Approved planning permissions in the area for other housing estates should be built before more are granted. This will allow for an assessment on cumulative impacts.

Response: The planning system does not enable the Local Planning Authority to take this approach.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The proposal seeks residential development on a housing allocation. While the proposal does fall below the Local Plan's target density of 35 dwellings per ha and does not achieve the allocation's indicative capacity, the layout of the development is considered a logical response to the site's constraints. To seek a higher density than that proposed
- 11.3 Site constraints including topography, neighbouring residential properties, trees and ecology, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. The design and appearance of the proposed development is considered acceptable. There would be no harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology and protected trees, have been addressed through the proposal.
- 11.4 The proposal would not harm material planning considerations. Furthermore, it would provide an enhancement to local affordable housing, providing 11 affordable units, and open space, with circa 3,080sqm on-site and off-site contributions to enhance local facilities, in line with policy. Highways and education contributions are also secured to mitigate the impacts of the proposal.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications
3. Material samples to be provided
4. Landscaping strategy, to include compensatory tree re-planting
5. Boundary treatment details to be provided and implemented, including ginsels.
6. Stone boundary wall to be
7. Noise and ventilation mitigation strategy, which does not rely on trickle ventilation, to include assessment of adjacent Working Men's Club and post implementation review.
8. Submission of Construction Environmental Management Plan (CEMP)
9. Development to be done in accordance with Arboricultural Method Statement
10. Road to an adoptable standard
11. Submission of Construction Management Plan (CMP)
12. Road condition survey.
13. Waste collection areas to be provided
14. Construction phase waste collection strategy
15. Cycle storage facilities
16. Technical details of retaining walls.
17. Scheme to improve PROW BAT/45/20
18. Electric Vehicle Charging Points
19. Contaminated Land investigation
20. Submission of technical drainage strategy.
21. Development to be done in accordance with flood route plan or notwithstanding flood route plan, updated version to be provided for review.
22. Easements preventing building over sewerage infrastructure.
23. Temporary drainage strategy during construction period.
24. Lighting design strategy for ecology
25. No vegetation clearance within the bird breeding season, without prior survey
26. Invasive non-native species (INNS) removal strategy

Background Papers

Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/91871>

Certificate of Ownership

Certificate B signed. Notice served on Kirklees Council (access works).

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

Subject: Planning Application 2020/94055 Erection of 7 dwellings and associated access works Land opposite, 4, Coalpit Lane, Upper Denby, Huddersfield, HD8 8UF

APPLICANT

J Peace

DATE VALID

21-Jan-2021

TARGET DATE

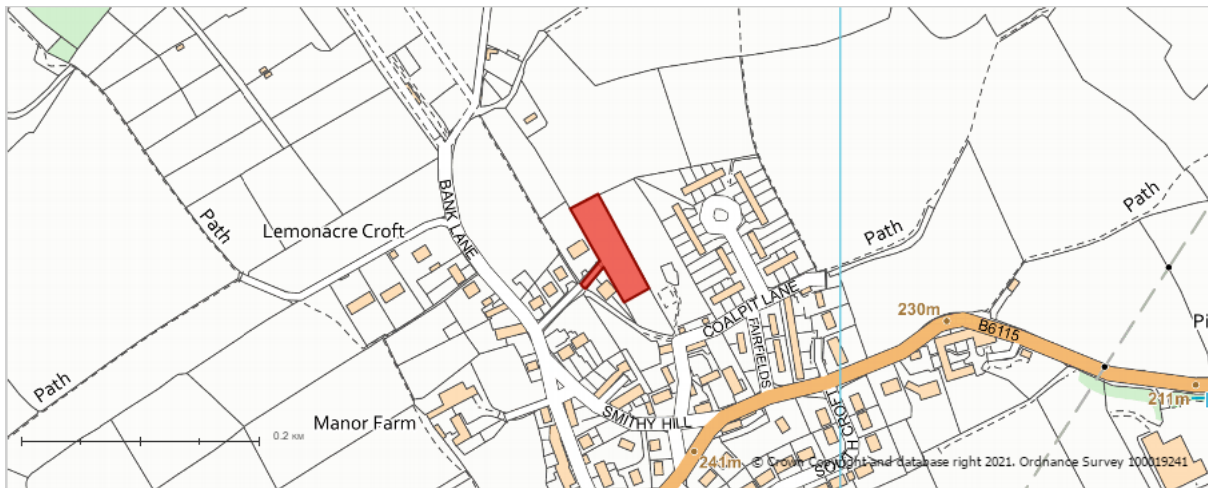
18-Mar-2021

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Denby Dale

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 The application is sought for the erection of erection of 7 no. detached dwellings and associated works at land opposite 4 Coal Pit Lane, Upper Denby.
- 1.2 The application is reported to the Heavy Woollen Planning Sub-Committee due to the significant number of representations received in relation to the proposal. This is in accordance with the Council's scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is a rectangular piece of grassland measuring 0.23 Hectares which was previously used for agriculture. The site is enclosed to all boundaries by a drystone wall.
- 2.2 To the North of the site is open Green Belt land. To the East is an allocated Green space which has a playing field and children's play area, beyond which are a row of terraced residential dwellings. To the South and West of the site are residential dwellings of a varied form and size.
- 2.3 A public right of way (PROW DEN/67) runs along the South West corner of the site crossing Greenfield Close and continues adjacent to 11 Greenfield Close.
- 2.4 The application site is adjacent to the Upper Denby Conservation Area. The boundary for the Conservation Area runs along Coal Pit Lane to the South, along the line of the PROW (DEN/67) to the South West and to the South of Greenfield Close.

3.0 PROPOSAL:

- 3.1 The application is submitted in full for the erection of 7 no. dwellings set out in three groupings of 3 pairs of three bedroom semi-detached dwellings and a detached dwelling.

- 3.2 Plots 1 to 4 are adjacent to the new access road from Greenfield Close to the West. Plots 5 to 7 are to the North of the site in a linear form. The two-storey dwellings have a ridge height of 7.9m and eaves height of 4.9m. The width of the dwellings is 6.4m with a depth of 9.3m. Each dwelling will have a pitched roof porch to the frontage.
- 3.3 Plots 1, 2, 5 and 6 have detached garages and Plot 7 has an attached garage. The dwellings will each have 2 no. off street vehicle parking spaces with 2 no. additional visitor parking spaces.
- 3.4 A new access is proposed via Greenfield Close to the West.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- | | | |
|-----|------------|--|
| 4.1 | 2017/92898 | Outline application for erection of detached dwelling
Invalid |
| | 2020/91223 | Erection of 4 semi-detached dwellings
Withdrawn |
| | 2019/93982 | Erection of 5 dwellings and associated works
Withdrawn |

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

- 5.1 During the course of the application, consultation responses requested further information and/or revisions as follows:
- *Kirklees Highways Development Management*: submission of a Highway Safety Audit
 - *Conservation and Design*: Amendments to original flat roof porch to pitched roof.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).
- 6.2 Kirklees Council has adopted supplementary planning guidance on house building which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, with the general thrust of the advice aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF). The SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to new housing.

6.3 On 12/11/2019, the Council adopted a target for achieving net zero carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda

6.4 Kirklees Local Plan (2019):

Relevant policies are:

LP1 –Presumption in favour of sustainable development
LP7 – Efficient and effective use of land and buildings
LP20 – Sustainable Travel
LP21 – Highway safety and access
LP22 – Parking
LP24 – Design
LP30 – Biodiversity and Geodiversity
LP32 – Landscape
LP35 – Historic Environment
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality

6.5 Supplementary Planning Guidance / Documents:

- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Highways Design Guide SPD
- Housebuilders Design Guide SPD
- Planning Practice Guidance

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

6.6 National Planning Guidance:

Chapter 2 – Achieving sustainable development
Chapter 6 – Building a strong, competitive economy
Chapter 8 – Promoting healthy and safe communities
Chapter 9 – Promoting sustainable transport
Chapter 12 – Achieving well-designed places
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by neighbour letter and site notice which expires on 8th October 2021. To date the application has received 19 representations by the Local Planning Authority. The comments can be summarised as follows:

Against (12)

- Overdevelopment
- Loss of green space
- Increased traffic and impact on highway safety

Support (7)

- Welcome the option of new build dwellings in the area
- Improved access to previous applications

Denby Dale Parish Council - Objections due to access issues, specifically emergency services, and the impact on the existing highway. Objections also stated due to over development of the site.

8.0 CONSULTATION RESPONSES

8.1 Statutory:

KC Highways Development Management – No objection subject to condition

The Coal Authority – No objection subject to conditions requiring further investigative ground works

8.2 Non-Statutory:

KC Conservation and Design – No objection

KC Environmental Health – No objection subject to conditions relating to contaminated land; vehicle charging points and the submission of a noise report.

KC Public Rights of Way – No objection subject to the inclusion of a footnote to ensure that the PROW remains clear at all times.

9.0 SUMMARY OF MAIN ISSUES

- The principle of development
- Urban design issues
- Residential amenity and quality
- Sustainability and climate change
- Highways and transport
- Representations
- Other matters

10.0 MAIN ISSUES

The principle of development

- 10.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.
- 10.2 Local Plan Policy 1 states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 10.3 The Local Plan sets out a minimum housing requirement of 31,140 homes to be provided between 2013 and 2031 to meet identified needs. LP7 of the Local Plan and Design Principle 4 of the Housebuilders Design Guide SPD states that net development is expected to achieve at least 35 dwellings per hectare. The application site has an approximate area of 0.23 Hectares which equates to a density of 8 dwellings. As the proposal is for 7 dwellings which provide adequate outdoor levels of residential amenity and access, the proposal is considered to comply with both LP7 and Design principle 4 of the Housebuilders SPD.
- 10.4 The application site is situated just outside the Upper Denby Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the Conservation Area. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.
- 10.5 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework forms the basis for this guidance.
- 10.6 The application site is unallocated within the Kirklees Local Plan. As such Policy LP 24 is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.

Heritage and urban design

- 10.7 As set out above, the application site is adjacent to the Upper Denby Conservation Area. To the South East of the site are 4-10 Coal Pit Lane which are a short group of Grade II listed dwellings, therefore Local Plan policy LP35 is relevant.
- 10.8 The proposed scale and design of the dwellings broadly reflects the local vernacular. Amendments were submitted during the course of the application to alter the roof form of the porches to create a more sympathetic design to that originally submitted and to ensure that the dwellings would sit well within the wider site, particularly from the South where visible from the Conservation Area.
- 10.9 The proposed use of facing materials would be welcomed to remain in keeping with surrounding dwellings. The use of natural stone window surrounds will be encouraged and a condition added to secure full details of materials and boundary treatments where dry stone walling should be retained.
- 10.10 The proposal is considered to cause less than substantial harm to the setting of the Conservation area and listed buildings within their setting. Furthermore, there is some degree of separation between the site and the designated heritage assets and therefore the impact would be minor. The proposal is considered to be in compliance with Policy LP24 and LP35 of the Kirklees Local Plan; Principle 2 of the Housebuilder SPD and Chapter 16 of the National Planning Policy Framework.

Residential amenity and quality

- 10.11 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.
- 10.12 The closest residential properties to the application site are no. 9 and no. 11 Greenfield Close.
- 10.13 With regards to 9 Greenfield Close, a detached dormer bungalow located to the West of proposed plot 3. There is adequate separation distance between the dwellings and no habitable room windows proposed within the side elevation. Due to the orientation of the dwelling, there will be no impact of overshadowing. The vehicle parking spaces for plots 5 and 6 are adjacent to the East elevation of the neighbouring dwelling which may cause some light pollution. However, there are no habitable room windows within this elevation and light will be mostly screened by boundary treatments.
- 10.14 11 Greenfield Close is a two storey, semi-detached dwelling to the West of plot. There is adequate separation distance between the dwellings and no habitable room windows proposed within the side elevation. Due to the orientation of the dwelling, there will be no impact of overshadowing.

- 10.15 The application site is adjacent to an area of urban green space and children's play area which could potentially create levels of noise which would impact on the residential amenity of future occupiers. As such, a condition is recommended for the submission of a noise report prior to the commencement of development in order to assess the impact and agree necessary mitigation if required.
- 10.16 The proposed dwellings have a access to generous outdoor amenity space and the proposed dwelling sizes are considered to meet with space standard guidance.
- 10.17 In order to protect the residential amenity of future occupiers and neighbouring dwellings, a condition will be added to restrict the addition of any new openings within the side elevations of the proposed dwellings.
- 10.18 In summary, subject to the condition relating to the submission of a noise report, there is no considered impact on the residential amenity of existing and new residents. As such, the application is considered to comply with Policies LP1, LP24 and LP52 of the Kirklees Local Plan and guidance contained within Chapters 12 and 15 of the NPPF.

Highways and transport

- 10.19 The application seeks approval for the erection of 7 no. dwellings and associated access works at land adjacent to 4 Coal Pit Lane, Upper Denby.
- 10.20 Greenfield Close is an adopted residential cul-de-sac serving 7 no. existing dwellings. The road has street lighting, a footway to the Northern side and terminates in a small turning head. A Public right of way (PROW DEN/67) runs across Greenfield Close adjacent to 11 Greenfield Close, crossing the proposed access.
- 10.21 Access to the proposed site is via an existing private un-adopted road built to serve nos. 9, 11 and 15 Greenfield Close. The proposal would extend this road into the adjacent land to serve the proposed dwellings.
- 10.22 The proposed site plan shows adequate levels of private and visitor parking for the proposed dwellings.
- 10.23 Subject to the addition of conditions relating to the submission of full details of the internal roads and the surfacing of said internal roads, the proposal is considered to be in compliance with policies LP21, LP22 and LP24 of The Kirklees Local Plan, Chapter 12 of the NPPF as well as the Highways Design Guide SPD.

Climate change

- 10.24 Chapter 12 of the KLP relates to climate change and states that "Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development". This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic,

social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development.

- 10.25 A condition is recommended to secure the installation of electric vehicle charging points to serve the proposed units.

Coal Mining legacy

- 10.26 The application site falls within the defined Development high risk area; therefore within the site and surrounding area there are coal mining features and hazards which need to be considered.

- 10.27 The application is supported by a Coal Risk Assessment (20 January 2021 prepared by RGS) which identifies that the coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures to ensure safety and stability. As such, conditions are recommended to be added for this work to be carried out, submitted to and approved in writing by the Local Planning Authority.

Land Contamination

- 10.28 There are no known risks of land contamination at the application site at this stage. A condition is however, recommended to be added to ensure that should land contamination not previously identified be encountered, all groundworks should stop and the Local Planning Authority notified. An approved remediation strategy would then be required to be submitted and approved should land contamination be identified.

Representations

- 10.29 The representations received have been carefully considered. Officers would respond to the matters raised as follows:
- Overdevelopment
Response: The density of the scheme is in accordance with the recommended density as per local plan policy LP7, as set out at paragraph 10.3.
 - Loss of green space
Response: The principle of residential development on the site is addressed above. This is an unallocated site which would not encroach onto the surrounding Urban Greenspace allocation or the designated Green Belt.
 - Increased traffic and impact on highway safety
Response: The impact of the proposed development on highway safety is addressed above and, subject to the inclusion of relevant conditions, would not result in any undue highway safety or efficiency issues.
 - Welcome the option of new build dwellings in the area
Response: Comment noted by officers.
 - Improved access to previous applications
Response: Comment noted by officers.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The application proposal would be considered to be acceptable in principle in compliance with local plan policies LP24, LP35 and LP21; relevant design policies within the Housebuilders SPD and the NPPF subject to the imposition of conditions as addressed above.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Commencement of development within 3 years
2. Development to be in accordance with the approved plans
3. Submission of facing and roofing materials
4. Submission of full details, including materials and height, for all boundary treatments
5. The provision of Electric vehicle charging points
6. Reporting of unexpected land contamination
7. Coal mining investigative works
8. Submission of noise assessment report
9. Submission of details of internal estate roads scheme
10. Surfacing and drainage of road and parking areas
11. Submission of an Ecological Design Strategy
12. Removal of Permitted development rights for the addition of windows/openings within the side elevation of proposed dwellings.
13. Provision of bin collection points

NOTE: Public Right of Way footnote

Background Papers:

Website link to the application details:-

[Planning application details | Kirklees Council](#)

Certificate of Ownership – Certificate B signed and dated 20.11.2020

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

Subject: Planning Application 2020/93471 Discharge condition 40 on previous permission 2015/90201 for variation condition 3 (plans) on previous permission 2014/90780 for erection of 206 dwellings, formation of community and sports facilities comprising floodlit practice rugby pitch, 2 floodlit multi use games areas, public open space, footways/cycleways, car parking and associated landscaping for phase 1 of the development (64 dwellings) Dewsbury RLFC Ltd, The Tetley Stadium, Owl Lane, Shaw Cross, Dewsbury, WF12 7RH

APPLICANT

Tony Scargill, Dewsbury
Rams RLFC

DATE VALID

13-Oct-2020

TARGET DATE

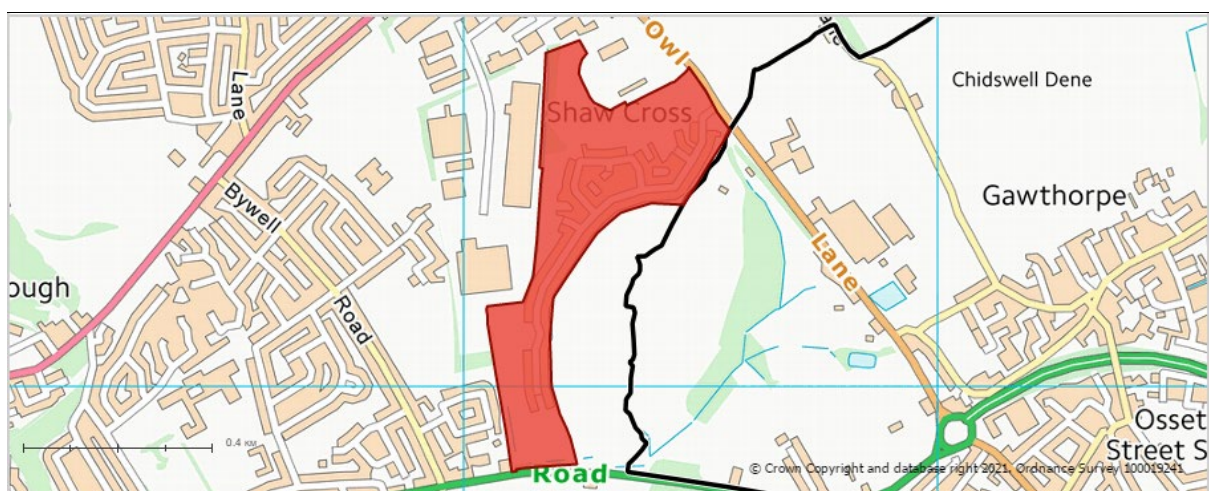
08-Dec-2020

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:	Dewsbury East
Ward Councillors consulted:	Cllrs Scott, Firth and Lukic
Public or private:	Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development.

1.0 INTRODUCTION:

1.1 This application is brought to Heavy Woollen Planning Sub-committee for determination upon the request of Cllr Cathy Scott.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is located off Owl Lane, Dewsbury which has, over the previous 5 years, been subject to a residential development of 206 residential properties now known as Amberwood Chase. More specifically the site relates to the practice/training pitch which was installed within the grounds of Dewsbury Rams stadium as part of the development of the new dwellinghouses. The pitch is located south of the existing stadium with car parking to the east and west and a number of residential properties on the Amberwood Chase development located directly adjacent to the south of the pitch.

2.2 The re-development to the pitch also included the installation of two Multi Games Areas directly west of the main playing pitch which is surrounded by commercial and industrial uses.

3.0 PROPOSAL:

3.1 The application has been submitted to re-discharge the requirements of condition 40 imposed on the planning permission to develop the residential site. Condition 40 states:-

40. Prior to the loss of the existing playing pitch, the following documents shall be submitted to and approved in writing by the Local Planning Authority:

i) A Sports Development Plan (that includes consultation with relevant sports groups and organisations usage, matrix and costs);

ii) A pitch feasibility study containing an assessment of ground conditions (including drainage and topography) of land proposed for the replacement pitch which identifies constraints that which could affect the quality of the replacement pitch; and

iii) Based on the results of the Sports Development Plan assessment to be carried out pursuant to i) and ii) above a detailed pitch specification which ensures that the replacement pitch will be provided of an acceptable quality in accordance with the Rugby League standards, including a written specification and technical drawings of materials, drainage and a maintenance schedule to comply with the RFL stadium standard for artificial grass pitches.

The approved scheme shall be carried out in full accordance with a timeframe agreed with the Local Planning Authority. The land shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: *To accord with the guidance contained in part 8 of the National Planning Policy Framework “Promoting Healthy Communities”.*

- 3.2 The requirements to provide details pursuant to condition 40 was initially discharged via application and as such details over the usage of the pitch were initially agreed. This application seeks to vary the terms of usage for the pitch and full details on the current proposal will be set out in the assessment below.

4.0 RELEVANT PLANNING HISTORY

- 4.1 The salient planning history includes the following applications:-

Planning Applications

2014/90780 - Erection of 206 dwellings, formation of community and sports facilities comprising floodlit practice rugby pitch, 2 floodlit multi use games areas, public open space, footways/cycleways, car parking and associated landscaping (Relocation of MUGA's) – *Granted* - 27/11/2014

2014/93527 - Discharge conditions 1- 40 – *Split Decision* - 02/12/2016

2015/90201 - Variation of condition 3 (Plans) – *Granted* – 16/11/2015

2015/92153 - Discharge of condition 28 (Off Site Signal Works) – *Granted* - 25/09/2015

2016/93929 - Discharge of condition 30 (Travel Plan) – *Granted* – 08/12/2016

Enforcement History

COMP/15/0013 – Major Site Monitoring - ongoing

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The applicant initially proposed the pitch activities to be carry on until 9:30pm which was considered excessive. Negotiations took place to agree a reduction in finishing time of activities. The proposed finishing time is now proposed to be 8:30pm.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determined to be made under the planning Acts, the determination must be made 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) and National Planning Policy Framework.

Kirklees Local Plan (2019) [KLP]:

LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP50 – Sport and physical activity
LP52 – Protection of improvement of environmental quality

National Planning Policy Framework [NPPF]

Chapter 8 – Promoting healthy and safe communities
Chapter 15 – Conserving and enhancing the natural environment

Supplementary Planning Guidance / Documents:

- 6.2 None applicable.

National Planning Policy Guidance [NPPG]:

- 6.3 NPPG section “Open Space, sports and recreation facilities, public rights of way and local green space” provides relevant guidance

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 There has been 12 representations to the initial proposal. Below is a summary of the comments made:-

- An increase in the use of the pitch will lead to further noise disturbances.
- The use of the pitch was for rugby training and community purposes only.
- Anti-social behaviour, foul language, whistles, ball strikes and shouting create noise.
- There are already sufficient 3G pitches in the area.
- Balls kicked into gardens.
- Car horns used when players leave the site.
- Floodlights create light disturbance
- Pitch erected closer to residential properties than approved.

- 7.2 The amended proposal was re-advertised with letters sent to residential properties adjacent to the pitch. One representation has been made to the amended proposal raising the following concerns:-

- Noise and light disturbance.
- Potential damage to existing properties.
- Pitch erected closer to residential properties than approved.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory: -

Environmental Health – Noise and Pollution – Objected to the initial submission by reason of late finishing times. Supportive of re-negotiated times of usage.

9.0 MAIN ISSUES

- 9.1 The installation of the pitch and its usage for training, community and public use are not issues of debate. The pitch has planning permission by virtue of the permission for the residential development and the types of uses have previously been agreed by virtue of the previous discharge of condition 40. The pitch, while marginally closer to the boundary by approximately 2 metres than shown on the approved plans, is considered to have been installed within acceptable tolerances and pursuant to the planning permission.
- 9.2 Secondly, the types of use are not under scrutiny in so far as the discharge of condition allowed a range of uses on the pitch at given times during the day including evening hours.
- 9.3 The key issue to be considered upon this application is whether the change in operating times is acceptable and consistent with the reasons for why the condition was imposed. This is appraised below.

10.0 APPRAISAL

Reasons for imposing the condition

- 10.1 By way of background knowledge it is important to understand the reasons why the condition was considered necessary and for what purposes the required information sought to achieve. This is important to the determination of whether or not the details submitted on this application are acceptable as they should equally go towards achieving the purposes for imposing the condition.
- 10.2 In this instance the residential development was carried out on land designated as green belt and under NPPF policy planning permission could only have been granted where very special circumstances existed. It can be seen from the report before Heavy Woollen Planning Sub-committee that Members were asked to give substantial weight to the enhanced sporting facilities and were told:-

The Proposed Development seeks to achieve two objectives. The first is to secure the long term future of Dewsbury Rams RLFC. The club is an integral part of the local community and as such it is imperative investment is made in its facilities and community programme to ensure its survival.

The Council have acknowledged the importance of the club and its role within the community and have approved a development agreement which will manage future community programmes and outreach reach work and new community facilities that will benefit the club in their development and the wider community. This is particularly important with proposed changes to the super league structure whereby existing clubs will have an opportunity for promotion to the Super League. In order to ensure the Dewsbury Rams are eligible for the proposed new format, investment needs to be made in sporting and community facilities. To that end the proposed practice pitch, MUGAs and car park revisions together with funding for maintenance and enhancement of community programme is essential.

10.3 The committee report went on to state:-

Through the provision of community facilities (practice pitch, MUGA's, linear park, footpaths and cycleway), the delivery of the Clubs Community Development Plan and establishing the Community Trust Fund, the development proposed provides a wide package of measures to help tackle these types of issues and would be of considerable benefit to the community.

As such this is considered to be an important factor that should be given considerable weight particularly as it accords with the overall vision and strategic aims of the development plan.

10.4 In resolving to approve the planning application, Members of the committee placed considerable weight on the importance of Dewsbury Rams and the benefits of the pitch not only to the community for their usage but also to the sustainability of the rugby club as an community asset. The community benefit derived from the use of the pitch is therefore of considerable community benefit and sufficient to constitute very special circumstances to the degree it overcame the harm to the green belt. Condition 40 was therefore considered necessary to secure the details of the community use and how the pitch was proposed to be used. This is reflected in the stated reason for the condition.

Initial discharge of condition 40

10.5 The subsequent details submitted to discharge condition 40 included a supporting statement. The statement set out the potential scope of groups, schools, sports clubs, organisations, teams who would likely benefit from the use of the pitch. The statement included a matrix of usage over a typical month and allocated time slots for specified users upon each day of the week. Over a typical week the hours of use for each day were as follows:-

- Monday - 9am to 9pm
- Tuesday - 10am to 10pm
- Wednesday - 10am to 9pm
- Thursday - 10am to 10pm
- Friday - 10am to 3pm and 6pm to 10pm
- Saturday - 10am to 5pm
- Sunday - Car boot sale and match day
- No restriction on the Multi Games Areas

- 10.6 The application to discharge condition 40 also included details of specifications and feasibility of the pitch, all sufficient to discharge the condition.

Proposed re-discharge of condition 40

- 10.7 Dewsbury Rams now seek to vary the terms of the previously agreed hours of use and state that the previous usage information was based on the planned use at the time of the application 2014. They go on to state that *“through time it has been impossible to sustain the usage planned and hours of operations have been reduced.”* The statement also states that the previously agreed plan did not give the flexibility needed to accommodate all sports at the times they need the training facility and that operationally they *“require the usage plan to be replaced by an open plan while ever the facilities are open and the option to have different sports on the same evening even on consecutive bookings.”*
- 10.8 Essentially they submit that the agreed plan is too rigid and that an option to operate with a more flexible open arrangement to allow any sports to be played on the pitch during fixed times would allow the pitch to be used in a more efficient and viable manner. The fixed hours for pitch usage and Multi Games Area are proposed to be:-

Pitch Usage

- Monday – Friday - 9am to 8:30pm
- Saturday – Sunday - 9am to 1pm

- The pitch is proposed to be closed for 1 hour between either 12pm and 1pm or 1pm and 2pm Mondays to Fridays.

- The pitch may be in use all day on three occasions in a calendar year with agreement from the Council.

Multi Use Games Areas

- Monday – Sunday - 9am to 10pm

- 10.9 The proposed Management Plan also includes details how the pitch and Multi Games Area will be maintained, managed, marketed including booking procedures and code of conduct for users to adhere to.
- 10.11 The applicant submits that any further reduction in the proposed hours would be financially unviable and would severely put the community facilities at risk thus eroding the reasons for approving the residential development in the green belt. However it is of note the applicant do not provide empirical evidence to support this claim although it is not disputed that the longer the community facilities are available adds more weight to the reasons for imposing the condition.

Reasons for Imposing the Condition

- 10.12 With regard to the purposes of the condition as set out in paragraphs 10.1 – 10.4 above, the proposed use of the pitch differs little from the previously approved matrix other than it does not contain specified time slots for individual sports and other community uses. The proposed details do state, however, that the pitch will be “*available to Dewsbury Rams for club activities such as training, sports camps etc and also to the wider community for training nights, holiday camps etc.*”.
- 10.13 With regard to current policy, KLP LP47 seeks to facilitate access to accessible open spaces and play, sports, leisure and cultural facilities. KLP LP48 aims to retain existing community, education, leisure and cultural facilities that meet the needs of all members of the community. KLP LP50 also seeks to protect outdoor and indoor sport and leisure facilities. Overarching KLP policies is chapter 8 of NPPF which aims to enable and support healthy lifestyles through the provision of sports facilities.
- 10.14 On this basis it is considered the proposed usage of the pitch as a community facility remains consistent with the purposes for imposing the condition, current planning policy and does not erode the very special circumstances that Members of Planning Sub-committee accepted in 2014. However, Members will need to be satisfied that any additional impact resulting from the inherent flexibility of an open use for any sports at anytime within the proposed hours is acceptable. Principally this additional impact is likely to come from the use of the pitch closest to the residential properties.

Environmental Impact

- 10.15 KLP policy LP52 and chapter 15 of NPPF both aim to protect existing developments from unacceptable levels of noise pollution and are relevant in this case in so far as any change in the operations of the community facilities could be jeopardised if those changes lead to unacceptable levels of noise. This may result in pressure to reduce the use of the community facility if noise nuisance exists thus impacting upon the availability of the community asset and reasons for imposing the condition.
- 10.16 There is no doubt the use of the pitch closest to the residential properties has the potential for creating noise and in this case the Council has received complaints from residents occupying properties on the adjacent residential development. In terms of noise, complaints principally include concern over users of the pitch shouting and using foul language, referee whistles, noise from spectators, ball strikes on perimeter fencing and car horns all during evening hours. Residents inform the Council that this noise is most disturbing during 5-a-side football use by reason to the more intensive use of the pitch and the orientation of the goals towards the residential properties.

Planning Balance

- 10.17 Determination will turn on a balance to be struck between enhancing and promoting the community facility / healthy life styles in accordance with KLP policies LP47, 48 and 50 and chapter 8 of the NPPF and noise protection in accordance with KLP policy LP52 and chapter 15 of the NPPF. On one hand

the retention and optimal use / viability of the community facility is important to justify the very special circumstance why which the residential development was approved while on the other KLP policy LP52 and chapter 15 of the NPPF will seek protect residents from excessive noise.

- 10.18 Currently the facility has approval to operate 63 hours per week with variable finishing times between 9pm and 10pm during weekdays and 5pm Saturdays. Under the currently agreement the pitch is not used on a Sunday. Note, however that the car boot sale and match days are normal activities not controlled under the provisions of condition 40. It is also important to note that the activities set out in the agreed matrix are rigid allocated time slots for certain activities. In particular, during evening hours when disturbance is most likely to occur (5pm-10pm) the time slots are allocated to Local Clubs, Rams and Semi Pro RL Clubs Monday to Thursday and 5-a-side football on a Friday.
- 10.19 The applicant now proposes to operate the pitch during 60.5 hours within the week with finishing times of 8:30pm Mondays to Fridays and 1pm Saturday and Sunday. However there are no restrictions on the types of sports played on the pitch.
- 10.20 The applicant submits that the rigid format does not allow for flexibility as Semi-Pro Clubs, Local Clubs and the Rams may wish to use the pitch at other times or are not available at their given time slot. This is evidenced by the fact the applicant is under financial pressure to meet the costs of maintenance by seeking optimal use for the pitch which has led to unused time slots being hired typically for 5-a-side football uses which attracts a higher revenue stream.
- 10.21 Consequently, it is envisaged that the proposed flexible will result in the more intensive 5-a-side football uses operative during evening hours leading to more people playing sports and increased likelihood of ball strikes against the metal perimeter fencing thus increasing the noise intensity. Environmental Health officers raised concern over this issue, particularly if the activities were to continue to 9:30pm as initially proposed.
- 10.22 However, after negotiation with the applicant, the proposed finishing time was reduced from 9:30pm to 8:30pm Mondays to Fridays and 1:30pm to 1pm Saturdays and Sundays. An added one hour respite during the day was also agreed.
- 10.23 In light of the re-negotiated times, Environmental Health officers, whilst recognising that noise will still be made, consider the proposed hours would limit the activities to a level whereby noise nuisance is kept to a minimum. While this is not entirely consistent with KLP policy LP52 or NPPF chapter 15, negotiations have resulted in a significant reduction in finishing times. There are no concerns raised regarding the use of the Multi Games Areas given their location away from residential properties.
- 10.24 Balanced against this is that officers accept that the applicant needs to operate the pitch at its optimal viable use, sufficient to ensure that the important community facilities continue to be available. This, as stated above, is consistent with the Council policy objectives and as previously accepted by Committee upon approval of the planning permission also carries "considerable weight" (see paragraph 10.3 above).

10.25 It is recognised this is a fine balance and the Council has been supportive of the residents concerns over noise by offering assistance in protecting their properties from an excessive noise. However, great weight is placed on the provision of quality community facilities which go towards achieving healthy lifestyles.

10.26 Based on the evidence available and with respect to those making representations, in exercising the “planning balance” officers are of the opinion, for the reasons stated above, that the considerable policy weight given to KLP LP47,48 & 50 and NPPF chapter 8 overcomes the harm that may be caused through the operation of the pitch during the proposed times on the pitch. No material considerations would indicate otherwise.

Recommendation

10.26 It is therefore recommended to Members that the proposed Pitch Management Plan is agreed and the details required by condition 40 of planning permission ref: 2014/90780 is discharged.

Other Matters

10.27 Responses to representations made:-

- An increase in the use of the pitch will lead to further noise disturbances.

This is assessed in the main body of the report.

- The use of the pitch was for rugby training and community purposes only.

As stated in the main body of the report between paragraphs 10.1-10.4, the sporting facilities were provided to support the Rams as a community asset and provide community facilities for sports. The condition did not restrict the use of the pitches for community or training purposes only.

- There are already sufficient 3G pitches in the area.

As above

- Anti-social behaviour, foul language, whistles, ball strikes and shouting create noise.

This is assessed in the main body of the report.

- Balls kicked into gardens.

It is understood the applicant has now erected netting to prevent balls escaping from the pitch

- Car horns used when players leave the site.

This is assessed in the main body of the report.

- Floodlights create light disturbance

This is an issue outside the scope of condition 40 although Officers are working with the applicant to reduce any disturbance from light spill.

- Pitch erected closer to residential properties than approved

As stated in the report, officers consider the pitch to largely accord with the planning permission granted.

11.0 CONCLUSION

- 11.1 On the balance of all material considerations, it is recommended by officers that Committee resolve to delegate approval of the application and the issuing of the decision notice to the Head of Planning and Development.

Background Papers:

Ref: 2014/93527 - Discharge of condition 40 – Management Plan -

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2014/93527&file_reference=519532

Ref: 2014/90780 – Erection of 206 dwellings – Committee report -

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2014/90780&file_reference=506695

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

Subject: Planning Application 2020/94412 Installation of replacement shop fronts 8, Cowper Street, Savile Town, Dewsbury, WF12 9NN

APPLICANT

A I Dadibhai

DATE VALID

29-Dec-2020

TARGET DATE

23-Feb-2021

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Dewsbury South

Ward Councillors consulted: 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 and issue the decision.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Sub-Committee following a request from Cllr Masood Ahmed for members to consider the impact of the proposal on design, appearance and visual amenity.
- 1.2 Cllr Ahmed also raised concern to 'the highways impact of the subdivision of the existing single retail unit into 4 separate shops given the oversubscription of this road at present given the very urban and high-density nature of the area'. Whilst amendments have been made to the scheme which is for the installation of a replacement shopfront only, it is noted that the shopfront would facilitate the subdivision of the existing retail unit, and as such, concerns relating to parking and highway safety can be taken into consideration.
- 1.3 The Chair of the Heavy Woollen Sub-Committee has confirmed that Councillor Masood Ahmed's reasons for referral to committee are valid having regard to the Councillor's Protocol for Planning Committees.
- 1.4 This application was deferred at the Heavy Woollen Sub-Committee meeting on 2nd September 2021 for further information to be submitted regarding the precise use of the proposed retail units and negotiations to achieve off-street parking.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to 8 Cowper Street, a two-storey property in Saville Town, Dewsbury. It is constructed from stone for the external walls and tiles for the roof. The property currently comprises a two-storey dwelling to the southern most element. There is an existing retail unit towards the north at ground floor level with a residential flat above. There is a single storey projecting element to the rear of the building which serves a store. The property is located on the corner of Cowper Street and South Street. The retail unit fronts onto South Street with vehicular access and an area of hardstanding to its front elevation. There is an access door to the first-floor level flat towards the north of the building. Access to the dwelling is taken to the south of the building where there is also an area of hardstanding and vehicular access from Cowper Street. There is an existing shopfront to the retail unit which is located towards the centre of the building.

2.2 The site is located within a predominately residential area with residential properties adjacent to all elevations. There is, however, an existing commercial use located to the south of the site on South Street. The properties along South Street are generally of a similar character, though there is some variation in terms of design. The style and design of the properties also varies within the wider area. The predominant material of construction within the vicinity is stone.

3.0 PROPOSAL:

3.1 The application originally sought planning permission for the installation of a replacement shop front and the subdivision of the existing retail unit. Following revisions to the scheme, the application seeks planning permission for the replacement shop fronts only.

3.2 The replacement shopfront would be located to the front elevation of the retail unit, fronting onto South Street, providing a separate entrance for each of the proposed four retail units. It would have a width of 21m, a height of 3.15m and a projection from the principal elevation of the building of 0.45m. The opening to the existing dwelling and access door to the first-floor level flat towards the north elevation of the building would be retained.

3.3 The shopfront would be constructed from aluminium and would be grey in colour (anthracite RAL7016). The individual shopfront units would also be constructed from aluminium in the same colour. Panels of K Rend Silicone render in colour granite are proposed between the individual units.

3.4 The submitted plans show the location of proposed signage. This cannot be considered as part of this planning application and a separate application for Advertisement Consent may be required.

3.5 The new retail units, whilst not under consideration as part of this planning application, would fall within the Class E use class, forming small units of a local nature which would serve the local community.

3.6 Four off-street parking spaces for customer parking would be provided to the front of the retail units and would be accessed through the existing access to the site which leads off South Street.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

98/90337 – Erection of double garage extension. Granted.

96/92950 – Erection of two-storey extension to shop and dwelling. Granted.

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

5.1 The application originally sought planning permission for the installation of a replacement shop front and the subdivision of the existing retail unit.

- 5.2 Additional plans were requested from the applicant's agent during the course of the application showing the provision of off-street parking within the site. This was in response to a consultation response from the Council's Highways Development Management team in which some concern was raised to potential for the subdivision to result in a slight increase in parking demand and to place additional pressure on the existing on-street parking. The provision of off-street parking within the site was requested to mitigate the increase in parking demand.
- 5.3 An email from the applicant's planning consultant was received on 29-Apr-2021 which referred to Section 55 (2) of the Town and Country Planning Act 1990. It was requested that the application be determined based on the replacement shopfront only, as the subdivision of the unit does not constitute development for the purpose of the act and as such, would not require planning permission in its own right. For the purpose of Section 55 (2) of the Town and Country Planning Act 1990, where a building would remain in the same use, its subdivision is not considered to constitute development. In this case, it is noted that the ground floor of the building comprises a retail unit, which would be split into four separate retail units. As such, the use class of the new units would remain as existing. Additionally, the new internal walls required to separate the units would also not constitute development. It was requested that the description of proposal be amended, and the application be determined on the basis of the replacement shopfront only, as the external works proposed would constitute development to the building. The subdivision of the retail unit is shown on the submitted drawings, however officers are satisfied that this element does not require planning permission and the application shall be determined based on the installation of the replacement shopfront only. As the external works to the shopfront would facilitate the subdivision, consideration can be given to concerns regarding the impact on highways safety and parking as a result of the subdivision which should be balanced against the realistic fall-back position that the subdivision could be completed in any event, as set out above.
- 5.4 Additional information was sought from the agent regarding the materials and colour of the proposed shop front. An additional plan reference 20174-D05-A was submitted on 25-May-2021 showing the proposed materials. The materials of the shopfront are set out above.
- 5.5 As the revisions to the scheme have removed the subdivision from consideration of the application and confirmed the proposed materials, the amendments have not been advertised in this instance.
- 5.6 The application was first brought to the Heavy Woollen Planning Sub-Committee meeting on 2nd September 2021 and was deferred for further information to be submitted regarding the precise use of the proposed retail units and negotiations to achieve off-street parking.
- 5.7 It has been confirmed, by email received from the applicant's planning consultant on 10-Sep-2021 that the new retail units would fall within the Class E use class, forming small units of a local nature which would serve the local community.

5.8 A proposed site plan has been submitted showing the provision of four parking spaces to the front of the site. Following a discussion with the Council's Highways Development Management officer, it is noted that the proposed parking arrangements would offer some improvement from the existing arrangements by marking out four parking spaces within the existing yard, however, this improvement would be minimal. It has however been suggested previously that removing a section of the boundary wall and extending the dropped kerb could provide off street customer parking spaces perpendicular to the building. Whilst it is acknowledged that this would result in some loss of existing on-street parking, it is considered that a net increase in parking provision could be achieved which would offer greater levels of customer parking than what is currently shown on the submitted plan. This has been relayed to the applicant's agent and planning consultant, however, no additional plans to this affect have been submitted. The applicant's planning consultant has advised that the proposed four parking spaces can be provided, or alternatively, three parking spaces with an area retained for turning. Officers have discussed these suggestions with the Highways Development Management officer who considers, out of these two options, the provision of four parking spaces to be preferable.

6.0 PLANNING POLICY:

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

6.2 The site is unallocated on the Kirklees Local Plan. However, it is located within the Strategic Green Infrastructure Network.

6.3 Kirklees Local Plan (KLP):

LP 1 – Achieving sustainable development

LP 2 – Place shaping

LP 21 – Highway safety and access

LP 22 – Parking

LP 24 – Design

LP 25 – Advertisement and shop fronts

LP 31 – Strategic Green Infrastructure Network

LP 51 – Protection and improvement of local air quality

LP 53 – Contaminated and unstable land

6.4 National Planning Policy Framework

Chapter 2 – Achieving sustainable development

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 As a result of the publicity period, 15 representations against the proposal have been received. The points raised are summarised as follows:

- Existing issues with traffic and on-street parking which would be worsened by the subdivision of the existing retail unit.
- Risk to safety of pedestrian traveling to the nearby schools.
- There are already 3 commercial shops, barbers and Dewsbury Markaz which cause high volumes of traffic in the area.
- Increase in customers to retail units due to three additional shops.
- Increase in pollution and noise levels which would be detrimental to the surrounding residential properties.
- South Street is a residential area and should remain a residential area.
- No details regarding the types of shops which would be created.
- A sequential test has not been submitted with the application.
- No opening hours submitted for the proposed shops.
- Proposal represents an overdevelopment of the site.

8.0 CONSULTATION RESPONSES:

8.1 The following consultation responses were provided based on the original scheme before revisions to the proposal and the matters for consideration were made.

8.2 Statutory:

KC Highways Development Management (HDM) – Raised some concern to the original scheme and requested amended plans to show the provision of off-street parking within the site.

KC Strategic Waste – No objection, however, recommend the inclusion of a footnote attached to the decision notice.

8.4 Non-Statutory:

KC Environmental Health – No objection subject to the inclusion of conditions relating to the provision of electric vehicle charging points and the reporting of unexpected contamination.

9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan. This policy stipulates that proposals that accord with policies in the Kirklees Local Plan will be approved without delay unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability.
- 10.2 The application site is recorded as being located within the Strategic Green Infrastructure Network on the Kirklees Local Plan.
- 10.3 Policy LP31 of the Kirklees Local Plan states that proposals should ensure that the function and connectivity of green infrastructure networks and assets are retained, replaced or provided where appropriate, incorporating or providing new walking, cycling and ecological links.
- 10.4 The application relates to the replacement of a shopfront and, therefore, Policy LP25 of the KLP is relevant. This sets out that:

The development of new or replacement shop front units and display of advertisements will only be permitted if they satisfy the following criteria:

- a) the design is consistent with the character of the existing building in terms of scale, quality and use of materials;
 - b) proposals respect the character of the locality and any features of historic, architectural, cultural or other special interest;
 - c) the shop fascia is designed to be in scale, in its depth and width, with the façade and street scene of which it forms part.
- 10.5 In this case the proposal is for the installation of a replacement shopfront to an existing retail premise. The shopfront would replace an existing shopfront to the principal elevation of the building. In this case the principle of development is considered to be acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity as well as highway safety. The proposal shall be considered against Policy LP25 of the KLP within the impact on visual amenity section below.

Impact on Visual Amenity

- 10.6 The proposal is for the installation of a replacement shopfront to an existing retail unit. The unit would be subdivided into four separate units. However, it is noted that this does not require planning permission and does therefore not form part of the consideration of the planning application.

- 10.7 The proposed shopfront would have a slightly greater height than the existing shopfront and would project beyond the front elevation of the property by approximately 0.4m. The shopfront would have a width of 21m when compared to the existing shopfront which has a width of 10m. It would replace existing openings to the retail unit which are located towards the northern elevation of the building.
- 10.8 Whilst the replacement shopfront would alter the appearance of the principal elevation of the building, it is considered proportionate in terms of its height, width and depth to the scale of the building. The shopfront would be constructed from aluminium which is considered an acceptable material for a development of this nature. The shopfront would replace an existing shopfront to the front of the building which appears to be of a similar material of construction.
- 10.9 The amended plans which have been submitted during consideration of the application illustrate that the shop front and rendered panels would be grey in colour. This colour is in keeping with the existing shopfront and is considered acceptable in relation to both the host building and the wider area where there are several other shop fronts which differ in colour. As such, the impact of the proposed development on the street scene and wider area is considered acceptable.
- 10.10 In conclusion, it is considered that the proposed development would be acceptable in terms of its design and the impact on visual amenity of the host building as well as the character of the immediate surroundings. On this basis, officers are satisfied that the proposal complies with Policies LP24 and LP25 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Impact on Residential Amenity

- 10.11 The site is located within a residential area. This section will assess the relationship between the development and the neighbouring properties.
- 10.12 Due to the nature of the proposal, which involves the installation of a replacement shopfront to an existing retail unit, it is considered that the proposal would not have a harmful impact on the closest residential properties, including the adjoining residential dwelling and flat above. Whilst the existing retail unit is shown to be subdivided on the submitted plans, this element does not require planning permission and does therefore not form part of the assessment of this planning application.
- 10.13 For the reasons set out above, the proposed development is considered acceptable regarding the impact on residential amenity. This is in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Impact on Highway Safety

- 10.14 The proposal originally sought planning permission for the installation of a replacement shopfront and the subdivision of the existing retail unit.

- 10.15 As part of the Highways Development Management consultation response, it was noted that the existing retail unit would be subdivided into 4 smaller units, with no net increase in retail floor area. There is access to the rear of the property which appears to be used for servicing and deliveries and could also accommodate some staff parking. Vehicle access is also available from South Street to the forecourt area to front of the retail unit. Existing signage on the property suggests that this area has previously been used for customer parking.
- 10.16 Whilst there would be no net increase in retail floor area, it is considered that the sub-division is likely to result in a slight increase in parking demand. On-site observations and a review of information submitted by objectors confirms that on street parking in the area is widespread with many of the residential properties not benefiting from off-street parking. It is acknowledged that any increase in parking demand would place additional pressure on existing on-street parking. To help mitigate any slight increase in parking demand from a result of the sub-division, it was requested that the applicant confirmed the existing off-street parking provision and provided details of how this could be formalised/maximised. It was suggested by the Highways DM officer that removing a section of the boundary wall to South Street and extending the dropped kerb could be a possible solution to providing additional customer parking perpendicular to buildings frontage.
- 10.17 Following revisions to the scheme, the application seeks planning permission for the replacement of the existing shopfront only with the subdivision of the retail unit not requiring planning permission. Notwithstanding this, as the external works are to facilitate the subdivision, consideration can be given to the impact of the proposal on highway safety.
- 10.18 The application was first brought to the Heavy Woollen Planning Sub-Committee meeting on 2nd September 2021 and was deferred for further information to be submitted regarding the precise use of the proposed retail units and negotiations to achieve off-street parking. It has been confirmed by the applicant's planning consultant that the new retail units would fall within the Class E use class, forming small units of a local nature which would serve the local community. A drawing has been submitted showing the provision of four parking spaces within the existing yard area which is located to the front of the property. The parking would utilise the existing access which is taken from South Street.
- 10.19 The Council's Highways Development Management officer has reviewed the submitted plan. Whilst it is acknowledged that four off-street parking spaces would be provided, these are considered to formalise the existing parking arrangements at the site. Whilst there would be some improvement to the existing arrangements, this would be limited. As noted within the previous consultation response, it is considered that removing a section of the boundary wall and extending the dropped kerb could be a possible solution to providing additional customer parking perpendicular to South Street. Whilst this would result in the loss of some of the existing on street parking, it is considered that a net increase in parking provision could be achieved. This advice has been relayed to the applicant's agent and planning consultant though no further plans showing additional parking to the frontage of the site have been forthcoming.

- 10.20 The application is being assessed with the consideration of four parking spaces provided within the existing external yard to the front of the building. Whilst it is considered that additional off-street parking could be provided, it is acknowledged that the formalisation of the four parking spaces as shown on the submitted plans would result in a slight improvement from the existing parking arrangements. When taking into consideration the realist fallback position that the subdivision could be completed in any regard, the provision of four off-street parking spaces is considered acceptable from a highway safety perspective.
- 10.21 The replacement shopfront would have a slight projection beyond the front elevation of the building. This projection would however be limited to 0.45m and is considered not to impact on vehicle movement within the site which would be harmful in terms of highway safety.
- 10.22 In summary, it is considered that the proposed replacement shopfront would be acceptable from a highway safety perspective, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

Representations

Highway Safety Concerns

- Existing issues with traffic and on-street parking which would be worsened by the subdivision of the existing retail unit.
- Increase in customers to retail units due to three additional shops.
- Risk to safety of pedestrian traveling to the nearby schools.

Officer Comments: Revisions have been made to the scheme which is being assessed based on the replacement of the existing shopfront only. The impact of the replacement shopfront has been considered within the Impact on Highway Safety section of this report and is considered acceptable.

Nature of the Surrounding Area

- There are already 3 commercial shops, barbers and Dewsbury Markaz which cause high volumes of traffic in the area.
- South Street is a residential area and should remain a residential area.

Officer Comments: Revisions have been made to the scheme which is being assessed based on the replacement of the existing shopfront only. The residential nature of the surrounding area has been noted by officers. The application relates to an existing retail unit, and as such, the replacement of the existing shopfront to this unit is considered acceptable.

Pollution and Noise Concerns

- Increase in pollution and noise levels which would be detrimental to the surrounding residential properties.
- No opening hours submitted for the proposed shops.

Officer Comments: Revisions have been made to the scheme which is being assessed based on the replacement of the existing shopfront only. It is considered that the replacement shopfront would not result in additional pollution nor would it generate noise over and above the existing relationship which would be detrimental to the amenity of the neighbouring residential properties.

Other Concerns

- No details regarding the types of shops which would be created.
- A sequential test has not been submitted with the application.
- Proposal represents an overdevelopment of the site.

Officer Comments: Revisions have been made to the scheme which is being assessed based on the replacement of the existing shopfront only. As such, details of the proposed shops and the submission of a sequential test is not required. The replacement shopfront, whilst projecting beyond the front elevation of the building, would not introduce any additional footprint. As such, it is considered that it would not result in an overdevelopment of the site.

Other Matters

Contaminated and Unstable Land

- 10.18 The application site has been identified as being located on land which is potentially contaminated due to its proximity to a historic landfill site. The Council's Environmental Health and Strategic Waste teams have been consulted and have requested a condition and footnote respectively relating to contaminated land. The application relates to the replacement of a shopfront and no ground works are proposed. However, as a precautionary measure, the condition and footnote could be included to the decision notice in accordance with Policy LP53 of the Kirklees Local Plan.

Climate Change

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

- 10.20 The proposal is for a replacement shopfront to an existing retail unit. As such, no specific measures are required in terms of the planning application, with regards to carbon emissions.
- 10.21 There are no other matters considered relevant to the determination of this application.

11.0 CONCLUSION

- 11.1 To conclude, it is considered that the proposal would have an acceptable impact with regards to visual amenity, residential amenity and highway safety as discussed in the above report.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Standard timeframe for implementation of development (3 years).
2. Development in accordance with the submitted plans.
3. Reporting of unexpected contamination.

Background Papers:

Application documents can be viewed using the link below:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/94412>

Certificate A was submitted as part of this application, signed and dated 22.12.2020.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

Subject: Planning Application 2021/91170 Erection of detached garage with first floor storage 20, Steanard Lane, Mirfield, WF14 8HB

APPLICANT

N Aldersley

DATE VALID

13-Apr-2021

TARGET DATE

08-Jun-2021

EXTENSION EXPIRY DATE

09-Jul-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: Mirfield

Ward Councillors consulted: No

Public or private: PUBLIC

RECOMMENDATION: REFUSE for the following reasons:

1. The proposed development would be inappropriate in the Green Belt by definition, with no very special circumstances to which clearly outweigh the harm caused by inappropriateness and other harm. There would be additional harm to the spatial and visual aspects of the openness of the Green Belt. To approve the application would be contrary to chapter 13 of the National Planning Policy Framework.

2. The proposed development, by virtue of its scale and design, would cause harm to the heritage asset – the grade II listed building - with no public benefits to justify this harm. The proposal therefore contravenes policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.

3. The proposed development fails to meet the exceptions for development on developed functional flood plain in flood zone 3ai as set out in policy LP27 of the Kirklees Local Plan. The site edged red and adjacent areas are wholly within flood zone 3b and 3ai and a sequential approach cannot be achieved.

1.0 INTRODUCTION:

1.1 This planning application has been called in to Planning Committee by Councillor Lees-Hamilton. The reason for the call-in request by Cllr Lees-Hamilton is that “this is agricultural land, flood risks have been considered by the applicant, the current stables are unsafe in their current condition, the proposed development would be a huge improvement over what is already there and would serve a useful purpose, the proposed development is not much larger than the footprint of the stable blocks”.

1.2 The Chair of the Sub-Committee has accepted that Cllr Lees-Hamilton’s reason for her committee request is in line with the Council’s Protocol for Planning Committee.

1.3 This application was deferred from the Heavy Woollen Committee meeting on 2nd September 2021, at the applicant’s request.

2.0 SITE AND SURROUNDINGS:

2.1 The site is that of an historic farmstead dating from the 18th century comprising a farmhouse, cottage and barn. The buildings within the group are well-preserved examples of vernacular building in both local stone and brick with stone slate roofs. The historic farmstead buildings form a T-shape. There is an existing stable block on site. The site is in a flood zone and it is washed over by the allocated Green Belt.

3.0 PROPOSAL:

- 3.1 This is a householder application for planning permission for the erection a 26m by 12m outbuilding, approximately 7m in total height with first floor dormers and catslide roof elements. The stated proposed use of the building is as garaging. The existing stable block would be demolished.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2021/90598 Listed Building Consent for installation of replacement windows
Pending Consideration

87/04022 Erection of stable block *Approved 07/APR/1989*

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

- 5.1 This planning application has been assessed based on the plans as originally submitted. The case officer has contacted the applicant well in advance of the determination date advising of concerns with the scheme. The issues relate to the principle of development and go to the heart of the application. It has not been possible to negotiate a solution to the matters raised and no further amendments have been sought thereafter.

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).

The site is located within the allocated Green Belt on the Kirklees Local Plan.

6.2 Kirklees Local Plan (2019):

- **LP 01** – Achieving sustainable development
- **LP 02** – Place shaping
- **LP 21** – Highways and Access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 27** – Flood Risk
- **LP 35** – Historic Environment
- **LP 52** – Protection and improvement of environmental quality
- **LP 57** – Extensions to buildings in the Green Belt

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 (KLP) and the National Planning Policy Framework (NPPF), 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 SPG will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

National Planning Guidance:

- 6.4 National planning policy and guidance is set out in National Policy Statements, primarily the NPPF published 20th July 2021, 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 6 – Building a strong competitive economy
- Chapter 8 – Promoting healthy and safe communities
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 This application was publicised by neighbour letters and a site notice which expired on 28-May-2021. Following this publicity, no representations were received from neighbours or members of the public.

Ward Member Cllr Lees-Hamilton – comments that this is agricultural land, flood risks have been considered by the applicant, the current stables are unsafe in their current condition, the proposed development would be a huge improvement over what is already there and would serve a useful purpose, the proposed development is not much larger than the footprint of the stable blocks.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Lead Local Flood Authority – objection on the basis of flood risk.

KC Highways Development Management – no objection.

8.2 Non-statutory:

KC Conservation and Design – objection on the basis of harm to heritage asset.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the KLP, which stipulates that proposals, which accord with policies in the KLP will be approved without delay unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report
- 10.2 The application site allocated as Green Belt on the KLP proposals map. The NPPF makes clear at paragraph 149 that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions. One of these is the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building. There is no provision within national or local guidance for outbuildings, per se, as these are assessed in principle under subsection c as an extension to the dwelling in the curtilage. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy LP57 of the KLP states that proposals for the extension of buildings will normally be acceptable provided that the original building remains the dominant element in terms of size and overall appearance.
- 10.3 It is considered that a two-storey building with design elements such as dormers typical of a new dwellinghouse cannot reasonable be said to be a proportionate addition as an ancillary outbuilding to a residential dwellinghouse for the purposes of this policy. Expansive upstairs floorspace areas, at some 172.5m², are not considered conducive to an ancillary use to a dwellinghouse and it is clear that this building goes far beyond what could be considered proportionate for the purposes of subsection c of paragraph 149 of the NPPF.
- 10.4 As the proposal is considered inappropriate in the Green Belt, this incurs automatic and definitional harm to the Green Belt. The Government places great weight on Green Belts and harm to the Green Belt must be afforded very substantial weight in the planning balance as per national policy.

- 10.5 Case law (Turner v Secretary of State for Communities and Local Government [2016] EWCA) establishes that the concept of openness is open textured and that several factors are capable of being relevant when applying it to the particular facts of a specific case. National Planning Practice Guidance (NPPG) broadly identifies openness as being divisible into spatial and visual aspects.
- 10.6 The building itself would not be diminutively massed and would not be sited in any grouping of house or ribbon of development. The approx. 7m height of the building together with the substantial approx. 392m² floorspace set over two floors would harm the visual aspect of openness in addition to that of the spatial aspect. The effect of implementation of this application, if approved, would be the construction of a building, which would appear as a new dwellinghouse in the Green Belt, rather than an ancillary structure or outbuilding. This incurs harm to the Green Belt in addition to the automatic harm to the Green Belt afforded by the definitional inappropriateness as explained above.
- 10.7 Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There are no very special circumstances apparent that would justify such clear and unambiguous inappropriateness in the Green Belt and the automatic harm to the Green Belt it would cause.

Urban Design issues

- 10.8 Policy LP24 of the KLP, consistent with chapter 12 of the NPPF, states, inter alia, that the form, scale, layout and details of all development respects and enhances the character of the townscape.
- 10.9 The historic farmstead buildings form a T-shape. Historic map evidence shows that the farmstead retained its compact layout until the late 20th century when further farm buildings were added to the east of the historic group on what was historically open farmland. Remaining elements of the surrounding rural landscape in agricultural use and woodland make an important contribution to the setting of the listed building. Views to and from the listed building to and across the rural landscape also make an important contribution to its setting. The stables, subject of this application, were granted planning permission in 1989. They are single storey, constructed of timber and have a flat roof. They are considered not to form part of the listed building. They do, however, fall within its setting. The present buildings make a neutral contribution to that setting. They are typical modern farm buildings; their low height allows has a limited impact on views to and from the listed building. However, their layout and screening vegetation around the existing parking area limits views from the north side of the listed building out towards the remaining elements of the rural landscape beyond. Paragraph 194 of the NPPF requires that applicants should be required to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

- 10.10 The application falls short on these tests in that the significance of the affected heritage assets has not been described, the contribution made by their setting has not been considered and the West Yorkshire Historic Environment Record has not been consulted. The High Court found in *James Hall v City of Bradford* that failure to comply with the requirements of Paragraph 194 of the NPPF was grounds for quashing a grant of planning permission.
- 10.11 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The existing stables do not form part of the listed building and there is no concern about their loss. However, the Local Planning Authority should seek to preserve the remaining rural landscape elements of the setting of the listed building and views from and to the listed building across those elements. Policy LP35 of the KLP requires that development proposals affecting a designated heritage asset (or an archaeological site of national importance) should preserve or enhance the significance of the asset. Paragraph 195 of the NPPF requires that local planning authorities avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 10.12 NPPF paragraph 206 requires that local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 10.13 Guidance on the sustainable development and the conservation of traditional farmsteads can be found in *Farmstead Assessment Framework: Informing sustainable development and the conservation of traditional farmsteads* (Historic England, 2015). This provides the following advice with regards to siting new buildings:
- Site new buildings on the footprint of lost buildings or site them so that they respond and are sensitive to the historic plan form of the site and its wider setting in the landscape.
 - Use the historic character of the site to inform the scale, massing and form of new buildings. Ideally the new elements should not compete or be overbearing to the traditional farm buildings.
- 10.14 The proposed development would not preserve the significance of the listed building, the scale and height of the proposed new building would have a greater impact on views from and to the listed building, particularly from the north side of the listed building. The scale of the new building would compete with the existing listed farm buildings. At 36 metres square in area and 6.5 metres high to the ridge, they would be comparable to the footprint and height of the existing historic buildings.
- 10.15 Paragraph 199 of the NPPF requires that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. 20 Steanard Lane is listed grade II and therefore of national architectural and historic interest. The proposed development would cause less than substantial harm to its significance.

- 10.16 Paragraphs 201 and 202 of the NPPF require clear and convincing justification for any harm to designated heritage assets and allow for harm to be weighed against the public benefits of the proposal. No justification has been provided for a building of this scale and no public benefits have been demonstrated.
- 10.17 Notwithstanding heritage considerations as set out above, the form of the proposal is considered more than what is typical of a domestic outbuilding such that it would not appear in keeping in respect of massing, density and scale in terms of this historic farmstead.
- 10.18 The development, therefore, would be unacceptable in terms of visual amenity and heritage, failing to comply with policies LP24 and LP35 of the KLP as well as chapter 12 of the NPPF.

Residential Amenity

- 10.19 Policy LP24 of the KLP requires of developments, inter alia, a good standard of amenity for future occupants and neighbouring occupiers, as well as a minimising of the impact on residential amenity of future and neighbouring occupiers.
- 10.20 The space about the dwellinghouse and isolated location of the site negates privacy or loss of light impacts on neighbouring properties. The potential future use of the first-floor windows at the proposed outbuilding is ambiguous however they would not directly overlook habitable rooms or amenity spaces.
- 10.21 All told, therefore, notwithstanding design considerations above, the proposed development would comply with policy LP24c of the KLP in terms of residential amenity.

Highway issues

- 10.22 The proposal is for the replacement of the existing outbuilding for the erection of a detached garage with first floor storage. The new garage can secure 8 cars due to it being designed as 4 attached double garages. This offers better protection and security for vehicles in the site. There is area for storage to the rear of each end garage and on the first floor. The garage will use the existing access for the old outbuilding. Highways Development Management welcomes the increase in parking provision and has no objection to the proposals so, therefore, deems the application acceptable with no specific conditions. The development concerned is, therefore, acceptable in terms of highway safety and parking and consistent with policies LP21 and LP22 of the KLP.

Flooding issues

- 10.23 Kirklees Flood Management & Drainage objects to this application and advises the Local Planning Authority that the proposed building is part in Flood Zone 3b and part in zone 3ai. Flood zone 3b is functional floodplain. This area is defined as where water must go. Only water compatible uses and essential infrastructure can be considered. The application fails in this respect. A policy aim is also to relocate existing development to land with a lower probability of flooding. In this respect KLP has introduced an additional flood zone category 3ai. This represents areas that would be deemed functional floodplain but have already been built upon.

- 10.24 Flood zone 3ai – Developed Functional Floodplain:
Proposals within flood zone 3ai will be assessed in accordance with national policies relating to flood zone 3a but with all the following additional restrictions:
- a. no new highly vulnerable or more vulnerable uses will be permitted;
 - b. less vulnerable uses may only be permitted provided that the sequential test has been passed and;
 - i. where extensions are linked operationally to an existing business or,
 - ii. where redevelopment of a site provides buildings with the same or a smaller footprint;
 - iii. all proposals will be expected to include flood mitigation measures such as compensatory storage which should be identified and considered through a site-specific Flood Risk Assessment;
 - iv. development will not be permitted on any part of the site identified through a site-specific Flood Risk Assessment as performing a functional floodplain role.
- 10.25 In the opinion of the LLFA, moving the footprint out of 3b and wholly in 3ai will still raise an objection as the footprint is larger in comparison to existing buildings. The red line boundary and adjacent areas are wholly within Flood Zone 3b and 3ai and a sequential approach cannot be achieved. A sequential test is not appropriate here given the policies stated above.
- 10.26 Therefore, the proposal would be contrary to policy LP27 of the KLP. This incurs a third reason for refusal.

Representations

- 10.27 No comments from neighbours or members of the public have been received.

In terms of the comments of the ward member, officers would like to take the opportunity to comment as follows: the proposed structure fails to meet the policy tests of paragraph 149 of the Framework of both residential (i.e. an extension under subsection (c)) or agricultural (i.e. it is not a building for agriculture or forestry per subsection a). The proposal has been assessed against all other Green Belt policy exceptions and still does not comply. Whilst flood risks may have been considered by the applicant this does not negate the clear, unambiguous contravention of flood risk policy. The proposed building would be significantly larger in both footprint, height and massing than the existing stables.

Other Matters

- 10.28 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.

10.29 This is a domestic outbuilding application. As a householder application, given the above, further conditions are considered unnecessary for this type of application in light of the six tests of planning conditions as set out in NPPG.

11.0 CONCLUSION

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

11.2 The proposal would result in inappropriate development in the Green Belt, with no "very special circumstances" to justify such automatic harm. There is additional harm to the spatial and visual aspects of openness identified in allowing the development. This attracts very substantial weight as a material consideration in disfavour of the proposal in the planning balance.

11.3 The proposed development would cause harm to a heritage asset, the Grade II listed cottage, contrary to s.16 of the NPPF and policies LP24 and LP35 of the KLP. The proposal would also be contrary to policy LP27 of the KLP on flood risk as the proposal fails to meet the exceptions for the policy of restraint on development on developed functional floodplain.

11.4 There are no further material considerations in the planning balance to outweigh these material considerations such that they would warrant a grant of planning permission in this instance.

11.5 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would not constitute sustainable development and is, therefore, recommended for refusal.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91170>

Certificate of Ownership – Certificate A signed and dated 13th April 2021.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

**Subject: Planning Application 2021/91659 Erection of second floor extension
Heckmondwike Grammar School, High Street, Heckmondwike, WF16 0AH**

APPLICANT

T Glennon

DATE VALID

06-May-2021

TARGET DATE

01-Jul-2021

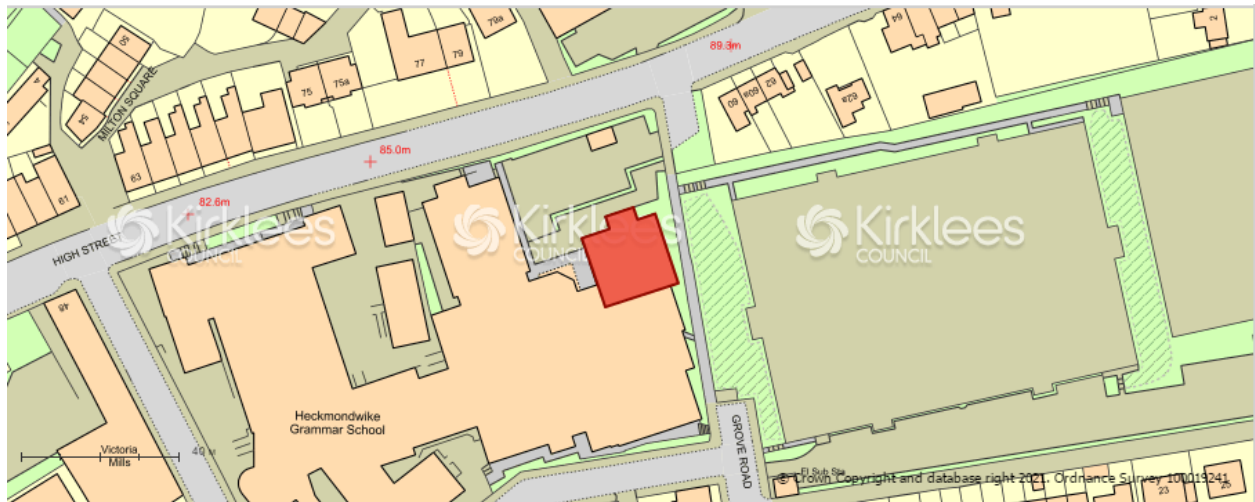
EXTENSION EXPIRY DATE

16-Jul-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: Heckmondwike

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 and issue the decision.

1.0 INTRODUCTION:

- 1.1 The application has been referred to the Heavy Woollen Sub-Committee due to the number of representations received. 49 representations have been received. These include two individual representations, one of which takes the form of a petition containing 48 signatures. This is in accordance with the Delegation Agreement set out in the Constitution.
- 1.2 A committee request was also received from Ward Councillor Steve Hall. The request is made on the grounds of the concerns of local residents regarding massing, loss of privacy and noise disturbance resulting from the use of the extension as well as during the building process.

2.0 SITE AND SURROUNDINGS:

- 2.1 Heckmondwike Grammar School occupies a substantial plot which is split into two elements, with the main buildings/classrooms sited to the west and a playing field with sport pitches and car parking to the east. The original elements of the school are of a traditional appearance, constructed from stone for the external walls with pitched roofs finished in slate. The eastern most elements of the building are of a more contemporary appearance, including areas of cladding and flat roof forms.
- 2.2 Heckmondwike Grammar School is located on High Street though access can also be taken from North Street to the west and Church Street to the south. Vehicle access to the staff and visitor parking which is located to the south of the sports pitches is taken from Grove Road.
- 2.3 The surrounding area is predominately residential in nature however there are a number of commercial properties which are located primarily to the north and western aspects of the site.

3.0 PROPOSAL:

- 3.1 The application seeks planning permission for the erection of a second floor extension. The extension would be located above an existing two storey element which forms part of the eastern most aspect of the school building and was approved under planning application reference 2014/90414.
- 3.2 The extension would have a width of 20m and a maximum of length of 21m, when including the external staircase, to match the dimensions of the two storey extension below. The extension would have a height of 10.5m. The external stairs to the west of the extension would be extended up to the new second floor level.
- 3.3 The extension would be constructed from aluminium cladding and would be designed with a flat roof form finished in a flat single ply membrane to match the materials of the existing extension.
- 3.4 The extension would provide new teaching space which would replace the temporary classrooms which are located within the middle courtyard.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2014/90414 – Erection of two storey extension. Granted. (S106 Agreement).
- 4.2 There are a number of previous applications on this site relating to extensions and external alterations. The above application, which relates to the two storey extension on which the proposed second floor extension would be located, is considered to be relevant to the current application.

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

- 5.1 No negotiations have been held during the course of the application and no revisions have been made or requested to the scheme.
- 5.2 Confirmation was however sought from the applicant's agent regarding the use of the extension and whether the proposal would result in the number of students at the school being increased. It was confirmed by email received from the applicant's agent on 11.06.2021 that the number of students would not be increased as a result of the proposal. The extension would provide safer, permanent classrooms which would replace the existing temporary classrooms in the middle yard, subsequently freeing more external area for use.

6.0 PLANNING POLICY:

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

6.3 Kirklees Local Plan (2019):

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highway safety and access
- LP 22 – Parking
- LP 24 – Design
- LP 49 – Educational and health care needs
- LP 50 – Sport and physical activity
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality
- LP 53 – Contaminated and unstable land

6.4 National Planning Guidance:

- Chapter 2** – Achieving sustainable development
- Chapter 8** – Promoting healthy and safe communities
- Chapter 12** – Achieving well-designed places
- Chapter 14** – Meeting the challenge of climate, flooding and coastal change
- Chapter 15** – Conserving and enhancing the natural environment

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised in accordance with the Kirklees Development Management Charter. Publicity expired on 16th June 2021.

7.2 As a result of the publicity period, 49 representations have been received. These include two representations, one of which takes the form of a petition containing 48 signatures. The grounds of the petition are as follows:

- Impact on quality of life
- More traffic congestion
- More anti-social behaviour
- More littering
- Impact on road safety
- More noise and disturbance

The second representation raised the following additional concerns:

- The existing 6th form building and extension affect vision, privacy and sunlight and have increased traffic congestion and parking.
- More children would attend following the new extension

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

KC Highways Development Management (HDM): As part of the initial response, it was noted that insufficient information had been submitted regarding the use of the extension. Following confirmation from the applicant's agent that the new classrooms would replace the existing temporary classrooms with no increase in the number of students at the school, no objections have been raised.

8.2 Non-Statutory:

None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of Policy LP1 of the Kirklees Local Plan (KLP). The policy suggests that the Council will always work pro-actively with applicants jointly to find solutions, which means that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 10.2 Proposals which accord with policies in the KLP will be approved without delay unless material considerations indicate otherwise.
- 10.3 Policy LP24 is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the neighbouring occupiers, to promote highways safety and sustainability.
- 10.4 With further regard to highway safety, Policy LP21 of the KLP requires that all proposal ensure the safe and efficient flow of traffic within the development and on the surrounding highway network.
- 10.5 The proposal relates to a school building and as such Policies LP49 and LP50 of the KLP are considered to be relevant. LP49 relates to educational and health care needs where Policy LP50 relates to sport and physical activity and seeks to protect and enhance existing open space and outdoor and indoor sport facilities.
- 10.6 Subject to further assessment against the material planning considerations and policies, it is considered that the principle of development has been established given that the site is an existing grammar school located on unallocated land. The proposed extension would be located above an existing two storey aspect of the school to provide permanent classroom space for the existing students, resulting in the existing temporary classrooms no longer being required. The location of the extension at second floor level would mean that no open space or outdoor sports or leisure facilities would be lost or affected by the development.

Visual Amenity

- 10.7 The proposal is for the erection of a second floor extension which would be located above an existing two storey extension to the grammar school.
- 10.8 The extension, by virtue of its dimensions, design, materials of construction and fenestration would be in keeping with the existing extension on top of which it would be located. By introducing a second storey, the proposal would however increase the scale and prominence of this existing two storey element.
- 10.9 Heckmondwike Grammar School comprises a mixture of buildings, some of which are traditional in appearance, and others which are more contemporary. One of the most visually prominent elements of the building comprises a three storey flat roofed extension which is located within close proximity of the boundary with High Street. On the submitted drawings, the north elevation of the proposed elevations demonstrates that the height of the new extension would not exceed that of the existing three storey element. The new extension would also be set back within the site in relation to this existing extension. When considering these factors, along with the design of other aspects of the school, the proposed extension is considered to harmonise with the buildings immediately surrounding it and officers consider that the extension would not appear incongruous either within the school complex, street scene or wider area.
- 10.10 The grammar school has been extended significantly previously. Whilst the extension would introduce additional classrooms to the school, it has been confirmed during the course of the application that these would replace the existing temporary classrooms which are located within the middle courtyard, freeing more of the existing outdoor space. When taking this into consideration, along with the second floor nature of the proposal and the fact that student numbers would not be increased, officers consider that the proposal would not amount to an overdevelopment of the site in this instance.
- 10.11 In conclusion, it is considered that the proposed development would be acceptable in terms of its design and the impact on the visual amenity of the host building as well as the character of the immediate surroundings. On this basis, officers are satisfied that the proposal complies with Policy LP24 of the KLP as well as the aims of Chapter 12 of the NPPF.

Residential Amenity

- 10.12 The site is located within a predominantly residential area. This section will assess the relationship between the development and the neighbouring properties.
- 10.13 The closest residential properties to the proposed extension are located approximately 30m to the north east, to the south of High Street with the closest property being 60 High Street. The proposed extension would not project any closer to the property than the existing two storey aspect of the building. It would however introduce an additional storey, and would be located due south west. The extension, due to its positioning due south west, would not have a direct relationship with the side or rear elevation of the dwelling or its rear amenity space. When taking this into consideration, along with the distance

retained, it is considered that the extension would not have a significant overbearing impact. Due to the positioning of the extension, there may be some additional overshadowing impact. Though it is considered that the distance retained, along with its location due south west, would reduce this impact to an acceptable level. The indirect relationship between the extension and the dwelling is considered to prevent there from being any overlooking directly towards the property which would be detrimental to the amenity of occupiers.

- 10.14 The properties to the north of High Street are located approximately 50m away from the location of the proposed extension. Whilst a number of these properties appear to benefit from amenity space to the boundary of High Street, a distance of 40m would be retained between the boundaries of the properties. The residential properties to north of High Street, with the closest being no. 79A, are located slightly to the west and as such, would not hold a direct relationship with the proposed extension. The extension would not project any closer to the properties than the existing two storey extension. Whilst it would occupy an elevated position located due south, when considering the 40m distance retained, it is considered that any additional overbearing or overshadowing impact would not be significant enough to be detrimental to the amenity of the occupiers of the properties. The extension would serve classrooms, with the northern most element comprising an external staircase. The new classrooms would not be any closer to the properties than the existing classrooms at ground at first floor level. Whilst the extension would occupy an elevated position, it is considered that the distance retained, and indirect relationship would be sufficient to prevent any overlooking and loss of privacy which would be detrimental to the occupants.
- 10.15 Whilst the proposal would introduce additional classrooms to the school, these would replace existing temporary classrooms within the middle yard and would not result in an increase in the number of students. It is therefore considered that the proposal would not result in a significant increase in noise over and above the existing relationship which would be detrimental to the amenity of the occupiers of the neighbouring residential properties.
- 10.16 For the reasons set out above, the proposed development is considered acceptable with regards to the impact on the amenity of the surrounding residential properties. This is in accordance with Policies LP24 and LP52 of the KLP as well as the aims of Chapter 12 of the NPPF.

Highway issues

- 10.17 The proposal is for the erection of a second floor extension which would be located above an existing two storey extension to the school.
- 10.18 The Council's Highways Development Management officer has reviewed the submitted plans and information. Due to the location of the extension at second floor level, it is noted that the existing access and parking arrangements would not be affected by the development.
- 10.19 The Highways DM officer however drew on the lack of information submitted regarding the use of the classrooms. It has been confirmed by the applicant's agent that the classrooms would replace the existing temporary classrooms within the middle yard. As such, there would be no increase in the number of students at the school. On this basis, the proposal would not result in additional traffic traveling to or from the school, nor would it require additional parking to be provided.

10.20 For the reasons set out above, the Highways DM officer has raised no objections to the development and the proposal is considered acceptable from a highway safety perspective. This is in accordance with Policies LP21 and LP22 of the KLP.

Representations

Residential Amenity Concerns

- Impact on quality of life
- More noise and disturbance

Officer comments: The impact of the proposed development on the residential amenity of the neighbouring properties has been addressed from section 10.12 of this report. The impact on residential amenity is considered to be acceptable.

Highway Safety Concerns

- More traffic congestion
- Impact on road safety

Officer comments: The impact of the proposed development on highway safety has been addressed from section 10.17 of this report. Additional clarification has been sought from the applicant's agent during the course of the application and following confirmation that the number of students at the school would not be increased by the proposed development, the impact on highway safety is considered to be acceptable.

Other Matters

- More anti-social behaviour
- More littering
- The existing 6th form building and extension affect vision, privacy and sunlight and have increased traffic congestion and parking.
- More children would attend following the new extension

Officer comments: The proposal is for an extension to an existing school building which would not result in an increase in the number of students at the school. This has been confirmed by the applicant's agent during consideration of the application. It is therefore considered that the proposal would not result in an increase in anti-social behaviour or littering at the site. The comments regarding the existing building and extension at the site are noted.

Cllr Hall's comments regarding concerns raised by members of the public relating to:

- Loss of privacy
- Massing
- Noise and disturbance resulting from its use and the building process

Officer comments: The impact of the proposed development on both visual and residential amenity have been addressed from section 10.7 of this report. Whilst concern relating to disruption as a result of the building of the extension

is a material consideration relating to residential amenity, there is an expectation that there will be such an effect as part of the activities associated with construction and such affects would be transient. It is therefore considered that this would not be sufficient reason to warrant refusal of the application.

Other Matters

Coal Mining Legacy

- 10.21 The site is identified as being located with a high coal mining risk area and, as such, consideration must be given to the impact of the proposed development on past coal mining activity.
- 10.22 The proposal is for the erection of a second floor extension which would be located above an existing two storey aspect of the school. No other ground works would be carried out as part of the development. For these reasons, the proposal, by virtue of its nature, falls under The Coal Authority exemptions list and as such, the submission of a Coal Mining Risk Assessment is not required. The Coal Authority have therefore not been formally consulted and the proposal is considered to comply with Policy LP53 of the KLP.

Climate Change

- 10.23 The application is for an extension to an existing school building, and it has been confirmed that the proposal would not result in an increase in the number of students at the school from existing. As such, it is considered that the proposed development would not have a negative impact in the context of the climate change emergency. For this reason, the proposed development is considered to comply with Policy LP51 of the Kirklees Local Plan as well as the aims of Chapter 14 of the NPPF.

11.0 CONCLUSION

- 11.1 To conclude, it is considered that the proposal would have an acceptable impact with regards to visual amenity, residential amenity and highway safety as discussed in the above report.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Standard timeframe for implementation of development (3 years).
2. Development in accordance with the submitted plans.
3. Materials to match the existing extension.

Background Papers:

Application details can be viewed using the link below:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91659>

Certificate A was submitted as part of this application, signed and dated 09.04.2021.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

Subject: Planning Application 2021/91961 Erection of single storey extension
Gladstone House, Gladstone Street, Cleckheaton, BD19 3BH

APPLICANT

J Harrison

DATE VALID

14-Jun-2021

TARGET DATE

09-Aug-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: 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 Cllr A Pinnock for the reasons outlined below.

1.2 *"I would like members to consider the proposals in terms of the additional impact the extension and intensification of the business would have on the residents of Gladstone Street in terms of both noise and additional traffic implications."*

1.3 The Chair of the Sub-Committee has confirmed that Cllr Pinnock'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 Gladstone House is a light industrial site in Cleckheaton that is occupied by Harrison Trim Suppliers, a small-scale company that manufactures carpets and trims for vehicles. The buildings on site form a U-shaped footprint comprising the main two storey gable roofed building which sits to the south, a single storey mono-pitched wing which sits horizontally to the east and a small single storey flat roofed wing which sits horizontally to the west. The site has recently been extended with a two-storey extension on the front elevation of the main building. The buildings are faced in render; however, the main two storey wing is also finished in red brick to the side and rear elevations. There are two storage containers on site, one on the north-western corner of the plot and the other on the north-eastern corner of the plot. Parking for the premises is accommodated within the main yard area and vehicle access is provided from Gladstone Street.

2.2 Gladstone House is situated on a mainly residential street although there are other businesses in the vicinity. It is bordered by residential dwellings to the north, east and south and a light industrial site to the west.

3.0 PROPOSAL:

3.1 The applicant is seeking permission for a single storey extension.

3.2 The main body of the extension would have a projection of 9m from the north elevation with a width of 5.9m attaching to the side of the adjacent terraced property with a flat roof. The smaller area would project a further 1.9m with a width of 2.9m with a lean-to roof form from the side of the terraced dwelling.

3.3 The walls would be constructed using blockwork and render.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 1999/93005 – Erection of offices/store extensions, refused due to lack of parking

4.2 2015/91470 - demolition of existing single storey extension and erection of two storey extension - granted and built

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

5.1 None

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2
- LP 01 – Achieving sustainable development
 - LP 02 – Place shaping
 - LP 21 – Highway safety and access
 - LP 22 – Parking
 - LP 24 – Design
 - LP 30 – Biodiversity
 - LP 52 – Protection and improvement of environment quality

Supplementary Planning Guidance / Documents:

6.3 None

National Planning Guidance:

- 6.4
- Chapter 2 – Achieving sustainable development
 - Chapter 6 – Building a strong, competitive economy
 - Chapter 12 – Achieving well-designed places
 - Chapter 15 – Conserving & enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised by letter giving until 22/07/2021 for comments.

7.2 As a result of the above publicity, eight representations have been received.

7.3 The material considerations raised are summarised as:-

- Highway safety,
- Noise generation,
- Intensification of the business use on a residential street,
- Increased business hours resulting in nuisance to neighbouring residents.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C. Highways Development Management – Support proposal.

K.C. Environmental Health – support subject to conditions

8.2 Non-statutory:

None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

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

Visual Amenity

10.2 Gladstone House is an established business albeit on a residential street. The building itself is larger than the others on Gladstone Street and has been previously extended and altered. However, dependant upon design, scale and detailing, it may be possible to support further, carefully curated extension.

10.3 The area of the site to be extended already hosts a smaller extension and a storage contained which both abut the adjoining 11 Gladstone Street. The proposed extension would replace these structures with a moderately larger extension. Although this is not a particularly high-quality design with the use of a flat roof form, it would be in keeping with the business premises and on balance is considered to be acceptable in terms of visual amenity.

- 10.4 Having taken the above into account, the proposed extension would not cause any significant harm to the visual amenity of either the main building or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan and the aims of chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 10.5 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.
- 10.6 *Overshadowing, overbearing*: The extension itself would replace an existing building albeit on a slightly larger footprint. The proposed building, due to its position and scale, would not have any significant impact on the occupants of the neighbouring properties.
- 10.7 *Noise generation*: The submitted plans detail the new extension is to be used for storage and garaging. Given the use of the forecourt now for the moving of vehicles, the extension for storage would not be likely to give rise to an increase in noise generation long term. Although it is appreciated that there will be associated noise generated during construction, however this would be a transient effect. That being said, Environmental Health have suggested a condition regarding noise levels for the extension which would require the noise levels to be kept below a specified level. Such a condition would aid in minimising the impact on nearby residents and comply with Policy LP24 and LP52 of the KLP as well as chapter 15 of the NPPF.
- 10.8 Having considered the above factors, with the inclusion of the above recommended condition, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 130 (f) of the National Planning Policy Framework.

Highway issues

- 10.9 The proposals would replace an existing extension and would not reduce the parking nor would the proposed use as storage/garaging intensify the business use. Furthermore, a large parking area has recently been formed next to the business which is considered to represent a sufficient provision to serve the business as extended. The scheme would not represent any additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan.

Representations

- 10.10 The material considerations raised in the eight objections received are summarised as: -

- Highway safety,
- Noise generation,
- Intensification of the business use on a residential street,
- Increased business hours resulting in nuisance to neighbouring residents,

- 10.11 These issues have been addressed in the residential amenity section and the highways section of this report.

Other Matters

- 10.12 *Biodiversity*: After a visual assessment of the building by the officer, the building is in good order, well-sealed and unlikely to have any significant bat roost potential. Even so, a cautionary note should be added that if bats are found during the development then work must cease immediately and the advice of a licensed bat worker sought. This would comply with the aims of chapter 15 of the NPPF.
- 10.13 *Coal Mining Legacy*: The application site 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. In response to the above, a Coal Mining Risk Assessment by Michael D Joyce Associates LLP dated June 2015 (ref: 3553) has been submitted. The report details that there may be shallow coal workings associated with the Lime Coal seam which is believed to underlie the site. As such, the report recommends that rotary openhole drilling is undertaken to establish the coal mining legacy at the site. The Coal Authority concur with the recommendations of the Coal Mining Risk Assessment Report and recommend conditions requiring intrusive site investigations to be carried out prior to the commencement of development. It is acknowledged that there is an existing building/structure in the location of the new extension however, it is considered to be reasonable and necessary that the condition is imposed in order to establish the exact situation regarding coal mining legacy issues on the site and for the proposal to comply with Policy LP53 of the KLP and the guidance contained within chapter 15 of the NPPF.
- 10.14 *Land contamination*: The application site is currently in use as a light industrial site as such, K.C. Environmental Services have been consulted on the scheme. Conditions that require the provision of a phase 2, remediation strategy and a validation report have been recommended. This condition is considered to be necessary and reasonable given the potential contamination on site. The inclusion of such conditions would ensure compliance with Policy LP53 of the KLP and the guidance contained within chapter 15 of the NPPF.
- 10.16 *Climate Change* - On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.17 The proposal is for an extension to the existing business unit. As such, no specific measures are required in terms of the planning application, with regards to carbon emissions.

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

11.0 CONCLUSION

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

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

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

1. Time scale for implementation of development
2. In accordance with the approved details
3. Restriction of noise levels to ensure background sound levels do not exceed specified levels/
4. Submission of a phase two intrusive site investigation report.
5. Submission of a remediation strategy.
6. Implementation of the remediation strategy.
7. Submission of a validation report.

Background Papers:

Application and history files:

Current application

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91961>

Recent approval

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f91470>

Certificate of Ownership –Certificate B signed as the extension would be built off the end terrace wall.

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

Subject: Planning Application 2021/92608 Erection of front porch, single storey rear and first floor side extensions 416, Lees Hall Road, Thornhill Lees, Dewsbury, WF12 9EN

APPLICANT

M Altaf

DATE VALID

25-Jun-2021

TARGET DATE

20-Aug-2021

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Dewsbury South

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed first floor side extension, by reason of its design and scale, would result in the formation of an incongruous feature within the street scene because it would dominate the host dwelling and would therefore cause subsequent harm to visual amenity. To permit the proposed first floor extension would be contrary to Policy LP24 of the Kirklees Local Plan, Key Principals 1 and 2 of the House Extensions and Alterations Supplementary Planning Document, and advice within Chapter 12 of the National Planning Policy Framework which sets out, at paragraph 130, that planning decisions should “add to the overall quality of the area”.

1.0 INTRODUCTION:

1.1 This application is brought to committee at the request of Ward Cllr Masood Ahmed for the following reasons:

1.2 *“There are many identical double storey side extensions already approved along Lees Hall Road and Ouzelwell Lane, Ouzelwell Crescent, Thornhill Lees, Dewsbury etc which do not have a set back at first floor level. The SPD has been recently updated but should have reflected what has already been approved along the same street and area in general. There has to be consistency in the application of the new SPD in view of the historically approved and built extensions generally in the area and the same street. The objective of the 0.5m set back in the SPD is to eliminate a terracing affect, this is not possible at [416 Lees Hall Road](#) as we have no neighbours. The side extension does not need to be subservient to the host dwelling as the SPD is not applicable to this application. No terracing affect”.*

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

2.0 SITE AND SURROUNDINGS:

2.1 416 Lees Hall Road is a two-storey, semi-detached dwelling. The external walls are faced in red brick with a hipped roof finished in tiles. The property is accessible via an unadopted highway and there is off-street parking to the front of the dwelling. The property has had a single storey side extension and conservatory approved and erected under application 2001/91599.

2.2 The property is located on a residential street with other properties of a variety of ages, designs and sizes. The property is set back significantly from Lees Hall Road. Due to the orientation of this building, the rear of the property faces Lees Hall Road. The application site it on a corner plot and therefore the property is prominent, being visible from Forge Lane too.

3.0 PROPOSAL:

3.1 The applicant is seeking planning permission for the erection of a front porch, single storey rear and first floor side extension.

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. The materials used would all match the existing dwelling.

3.3 The front porch would project 1.5 metres out the existing front elevation with a width of 4.4 metres. It would have a lean-to roof with a maximum height of 3.6 metres. There would be a door and two adjacent windows proposed in the front elevation.

3.4 The proposed single storey rear extension would replace the existing conservatory and would project 3 metres out from the rear elevation. It would be 8.7 metres wide to align with the existing single storey side extension. It would have a lean-to roof with a maximum height of 3.5 metres. The proposed extension would serve a lounge and WC and would have bi-folding doors, and an additional door and window on the rear elevation.

3.5 The first-floor side extension would project 5.5 metres out from the side elevation of the existing dwelling, to align with the existing single storey side projection. It would follow the same roof ridge and sit flush with the front elevation of the existing dwelling. There would be a window proposed in the front, rear and side elevation of the proposed first floor extension.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2001/91599 Erection of garage extension and extension to existing conservatory - Conditional full permission.

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

5.1 Officers had concerns regarding the lack of subservience of the proposed side extension and the impact this would have on the unbalancing of the semi-detached property. Amended plans were requested for the proposed side extension to be set back 0.5 metres, to reduce the roof height and to ensure the proposal complies with the adopted House Extensions and Alterations SPD and policy LP24 of the Kirklees Local Plan. Amended plans were not received. An adequate justification for lack of compliance with the SPD was not provided either.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2 **LP1** – Achieving sustainable development
LP2 – Place shaping
LP21 – Highways and access
LP22 – Parking
LP24 – Design
LP53 – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

- 6.3 On the 29th June 2021, Kirklees Council adopted its supplementary planning document on house extensions and alterations. This document indicates how the Council will interpret its policies regarding such built development, with the advice aligning with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. The SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions and alterations and carries full weight as part of the decision-making process.

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 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.
- 6.5 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.
- Chapter 2 – Achieving sustainable development
 - Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by neighbour letter. Final publicity expired 16/08/2021.
- 7.2 No representations were received.
- 7.3 Ward Councillor Masood Ahmed has commented on the scheme and requested that the application be decided by the Heavy Woollen Planning Sub-Committee for the reasons outlined at paragraph 1.2 of this report.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory:

KC Strategic Waste – no objections.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.
- 10.2 In addition to the above, Kirklees has adopted a House Extension and Alterations Supplementary Planning Document (SPD). High quality house extensions and alterations can, amongst other things, enhance the appearance of an area (paragraph 1.1 of the SPD) and as such, a number of 'principles' are set out in regard to specific types of extensions and alterations. For example, Principle 2 sets out that extensions should not dominate or be larger than the original house and, so as to achieve this, in the case of first floor side extensions, they should be "set back at least 500mm from the front of the original house to provide a vertical break from the roof plane and for the lowering of the ridgeline from the original house (paragraph 5.22 of the SPD).
- 10.3 These issues along with other policy considerations will be addressed below.

Impact on Visual Amenity

- 10.4 The property is located on a residential street with other two-storey properties of a variety of ages, designs and size. The property is set back from Lees Hall Road and there is minimal boundary treatment. Due to the orientation of the property, the rear faces Lees Hall Road. The application site is on a corner plot and is also visible from Forge Lane.

- 10.5 The proposed front extension would be relatively small in scale and given the orientation of the host dwelling, it would not be visible from the street scene. It is also noted that the adjoining property has a front porch erected. Therefore, this element of the proposals is considered acceptable and would not result in significant harm to the visual amenity of the host dwelling or wider street scene.
- 10.6 The proposed rear extension would replace an existing conservatory. It would be 8.7 metres wide which would be wider than the existing dwelling and would have a negative impact on the subservience. However, on balance, this is considered acceptable in this instance as it would have an appropriate projection of 3 metres and would be single storey.
- 10.7 The proposed side extension would be 5.5 metres wide, almost doubling the width of the existing dwelling which measures 6.3 metres. Furthermore, it has been designed following the same roof ridge height and the front and rear elevations would also sit flush with the existing dwelling (all features that do not comply with the Council's adopted SPD, outlined at paragraph 10.2 above). Therefore, it is considered that the proposed first floor extension would not appear subservient to the host dwelling as the existing dwelling would not remain the dominant feature following development. The property is a semi-detached dwelling and so the proposed extension would create unacceptable bulk to the host dwelling and would unbalance the neighbouring property.
- 10.8 To further reiterate, the House Extension and Alterations SPD outlines that first-floor side extensions should be visually smaller in relation to the original house and be set back 500mm (0.5 metres) from the front elevation to create a vertical break from the roof plane and to lower the ridgeline from the original dwellinghouse. Due to the orientation of this dwelling a projection from the rear may be acceptable but the set down roof ridge is considered a vital design feature in order to maintain the subservience of the proposed first floor extension.
- 10.9 Although it is acknowledged that the proposed dwelling and subsequent extension would be set back from the street, the property would still be visible due to the lack of boundary treatment and the expanse of hardstanding. As the application site is a corner plot, the proposed extension would also be visible from Forge Lane and the adjacent roundabout, therefore appearing prominent within the wider streetscene. Taking this into account, it is considered by officers that the proposed first floor extension would cause unacceptable harm to the visual amenity of the wider street scene, contrary to policy LP24 of the KLP, the principles of the adopted SPD as well as chapter 12 of the NPPF which sets out, at paragraph 130, that planning decisions should "add to the overall quality of the area.
- 10.10 It is acknowledged that the existing side extensions and conservatory have been approved under application 2001/91599. The cumulative impact of the existing extensions and the proposed extensions must be taken into consideration and they would more than double the floorspace of the original dwelling. The original dwelling is approximately 106m² and the floor space of the dwelling with the existing and proposed extensions would be 230m². This is considered an unacceptable cumulative impact to the existing dwelling when taking into account the design of the first floor extension in particular.

10.11 Having taken the above into account, it is considered the proposed first floor extension would cause significant harm to the visual amenity of the host dwelling and the wider street scene, failing to comply with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would form a subservient addition to the property in keeping with the existing building, Principles 1 & 2 of the adopted House Extension and Alterations SPD and the aims of chapter 12 of the National Planning Policy Framework.

Impact on Residential Amenity

10.12 The application site is located due east of the neighbouring property and the proposed rear and front extensions would both be set in from the boundary shared with 414 Lees Hall Road. The proposed single storey rear extension would have similar relationship with the neighbouring property as the existing conservatory and there would be no openings proposed in the side elevation.

10.13 The proposed first floor side extension would be on the opposite side of the host dwelling to the neighbouring property and therefore would remain a significant distance from the neighbouring property to ensure no additional harm would be caused to the amenity of the occupants of the neighbouring property.

10.14 There are no neighbouring properties to the north, west or southern boundary's of the application site.

10.15 Taking the above into consideration, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5, 6 & 7 of the House Extension SPD and Paragraph 130 (f) of the National Planning Policy Framework. However, this is not considered to outweigh the significant concern in regard to visual amenity.

Impact on Highway Safety

10.16 As part of the extensions would serve an additional two bedrooms it is, considered to result in the intensification of the domestic use of the dwelling when taking into account Policy LP22 of the KLP as well as the adopted Highways Design Guide SPD. In this instance, the existing garage would remain and there is adequate off-street parking to the front of the dwelling to serve the dwelling as extended. Therefore, the existing parking provision is acceptable. Furthermore it is considered that any on-street parking on the unadopted highway would not cause any significant harm to highway safety or efficiency. The scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extension SPD.

Other matters

- 10.17 *Historic Landfill Site* – Kirklees Council Strategic Waste were consulted as the application site is within 250 metres of a historic landfill site. Very low levels of methane and carbon dioxide were recorded during the last landfill gas monitoring. However, given the distance between the site and generation source and the lack of built environment between the application site and former tip, a precautionary footnote is recommended to be added to the decision notice. The proposal therefore complies with LP53 of the Kirklees Local Plan.

Representations

- 10.18 No public representation was received during the course of the application.
- 10.19 The comments received from Ward Councillor Ahmed have been carefully considered. In response, the House Extension and Alterations SPD is now adopted and carries full weight in the decision-making process. The purpose of the SPD is to help to achieve good design and to provide some consistency in decision-making. It is acknowledged that there have been other properties extended in the wider vicinity however, as set out, officers accept the principle of extending however, the basic principle of ensuring that the original building remains the dominant feature is recommended to be followed. Amendments have been sought to help to ensure that the original building remains the dominant feature but, as outlined above, none have been forthcoming.

11.0 CONCLUSION

- 11.1 This application to erect single and first floor extensions at 416 Lees Hall Road, Thornhill Lees, 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 first floor side extension, by reason of its design and scale, would result in the formation of an incongruous feature within the street scene because it would dominate the host dwelling and would therefore cause subsequent harm to visual amenity. To permit the proposed first floor extension would be contrary to Policy LP24 of the Kirklees Local Plan, Key Principals 1 and 2 of the House Extensions and Alterations Supplementary Planning Document, and advice within Chapter 12 of the National Planning Policy Framework which sets out, at paragraph 130, that planning decisions should “add to the overall quality of the area”.

Background Papers:

Application weblink:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f92608>

Certificate of Ownership – Certificate A signed.