

Public Document Pack



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

Julie Muscroft

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Wednesday 17 November 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 25 November 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 Steve Hall
Councillor Gwen Lowe
Councillor Fazila Loonat
Councillor Mussarat Pervaiz
Councillor Adam Gregg
Councillor Joshua Sheard
Councillor Melanie Stephen
Councillor Kath Taylor
Councillor John Lawson
Councillor Andrew Pinnock
Councillor Jackie Ramsay

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
C Scott

Liberal Democrat

PA Davies
A Marchington
A Munro

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Sub-Committee

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

2: Minutes of Previous Meeting

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

3: Declaration of Interests and Lobbying

1 - 2

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

4: Admission of the Public

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

5: Deputations/Petitions

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

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

6: Public Question Time

To 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

3 - 4

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 22 November 2021.

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

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

7: Planning Application - Application No: 2021/91871

5 - 52

Erection of residential development (55 dwellings) including access and associated infrastructure at land adjacent to High Street and Challenge Way, Hanging Heaton, Batley.

Contact: Nick Hirst, Planning Services

Ward affected: Dewsbury East

8: Planning Application - Application No: 2019/94147

53 - 62

Demolition of shop and erection of community centre at Quality Food Store, Ravenshouse Road, Dewsbury.

Contact: Sarah Longbottom, Planning Services

Ward affected: Dewsbury West

9: Planning Application - Application No: 2021/90509 63 - 80

Erection of extensions and external alterations at 4 Hopton Hall Lane, Mirfield.

Contact: Olivia Roberts, Planning Services

Ward affected: Mirfield

10: Planning Application - Application No: 2021/92279 81 - 96

Siting of static caravan for agricultural worker for temporary 3 year period and livestock building at Upper Langly Farn, Langley Lane, Clayton West.

Contact: Callum Harrison, Planning Services

Ward affected: Denby Dale

Planning Update

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

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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: 25-Nov-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

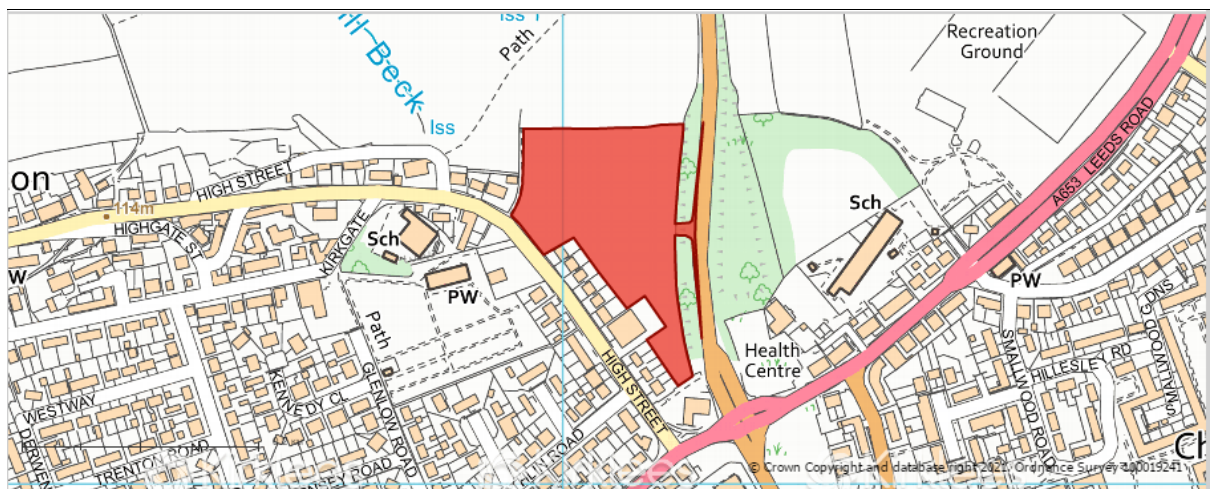
EXTENSION EXPIRY DATE

02-Dec-2021

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Dewsbury 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 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 report relates to application 2021/91871, which is a full planning permission for residential development of 55 dwellings and associated works.

1.2 The application was previously considered by the Heavy Woollen Planning Committee held on the 14th of October 2021. The committee resolved to defer the application to enable further discussions to take place with the applicant with regards to the following matters:

- Flooding and drainage
- Specific noise mitigation measures that would be required
- further clarification in regard to the red line boundary / correct notice served
- right-hand turn off Challenge Way.

- 1.3 The applicant has provided a statement in response to the reasons for deferral. This may be found in appendix 1. This is supplemented by additional supporting information and recent survey data.
- 1.4 Officer's assessment and commentary on the reasons for deferral may be found as follows:
- Flooding and drainage
 - Please see paragraphs (10.69 – 10.76)
 - Specific noise mitigation measures that would be required
 - Please see paragraphs (10.41 – 10.48)
 - Further clarification regarding the red line boundary / correct notice served
 - Please see paragraphs (5.6 – 5.9)
 - Right-hand turn off Challenge Way.
 - Please see paragraphs (10.53 – 10.57)

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.

Proposal updates since the sub-committee meeting on the 14th October 2021

- 3.6 The boundary fencing between plots 47 – 43 and dwellings on High Street has been amended. The 1.8m wide access route is to be retained, and this amendment is to the fencing on the side of the new dwellings. Previously it was to be 1.8m high close bordered fencing. It is now proposed as 1.8m high close boarded fencing, with a 0.3m high trellis topper (for a combined height of 2.1m).
- 3.7 The applicant has undertaken the following additional surveys:
- Traffic Survey – 21st of October 2021
 - Noise Survey – 21st of October 2021

The applicant has submitted a statement in response to the deferral reasons, which may be found in appendix 1.

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.

Updated negotiations since the sub-committee meeting on the 14th October 2021 and further clarification in regard to the red line boundary/correct notice served

- 5.5 Post the committee meeting on the 14th officers and the applicant discussed the concerns raised by members. The applicant decided to undertake new surveys, to address member's concerns over the previous surveys being done during lockdown. They also decided to amend the new fencing between plots 47 – 43 and dwellings on High Street to attempt to address amenity comments. The applicant then proceeded to write and submit a response statement on the reasons for deferral.
- 5.6 Members also queried whether the applicant had served the correct notices of ownership and / or whether the red-line plan encroached into 3rd party land. For the avoidance of doubt, this query does not form part of the applicant's planning merits and is a matter of procedure. Officers have reviewed the submission and comment as follows.

5.7 Planning applications must be submitted with a land ownership certificate signed. This is a declaration from the applicant that confirms that appropriate notice has been served on any other landowners. There are four types of certificates (A – D), with certificates A and B being relevant in this case:

- *Certificate A – Sole Ownership and no agricultural tenants*

This should only be completed if the applicant is the sole owner of the land to which the application relates and there are no agricultural tenants.

- *Certificate B – Shared Ownership (All other owners/agricultural tenants known)*

This should be completed if the applicant is not the sole owner, or if there are agricultural tenants, and the applicant knows the names and addresses of all the other owners and/or agricultural tenants.

5.8 The applicant has signed certificate B and has listed 'Kirklees Council' as having been notified. Major development's serving notice on The Council is typical because their road access (and the sightlines for the access) encroach into Council owned land (the highway).

5.9 Neighbouring residents have claimed that the applicant should have served notice upon them, either because the red line encroached into their owned land or because they have a right of access to the rear of their fences. Officers have neither received nor seen any substantive evidence to evidence that the land in question is owned by a 3rd party. Conversely the applicant has submitted various documents, including land registry documents and deeds along with a solicitor's opinion, to support their claim. In the absence of any contradictory evidence, officers are satisfied that the land ownership issue has been resolved for the purposes of deciding this planning application. On the matter of access, whether the right exists or not is unclear. Regardless, access rights would not necessitate notice to be served for planning purposes.

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 original end date for public comments, prior to the committee on the 14th of October, was the 24th of September 2021. In total, 81 public representations were received in response to the proposal's initial period of advertisement and prior to the first committee. These are listed below.
- 7.6 The applicant submitted a statement in response to the deferral reasons, new noise and traffic surveys, and made a minor amendment to a fence between plots 47 – 43 and dwellings on High Street. Because of this the applicant was re-advertised to members of the public. The additional period of publicity expires on the 22nd of November 2021, prior to the committee but after this report will be published. Any representations received between these dates will be reported in the Member's Update. To date three additional representations have been received. The following is a summary of the comments made (followed by the original public representations):

Comments received during the public representation period post the 14th of Committee.

- Queries regarding the sightlines of the development, including within the site and the access onto Challenge Way.
- Concerns that the separation distances between plots 47 – 43 and dwellings on High Street does not comply with the Householder Design Guide SPD.
- The proposed development will exacerbate existing traffic issues, including speeding, around the site.
- The removal of trees is detrimental to the environment and is not green friendly.
- The new information submitted does not address the fundamental issue that the proposal is introducing too many new houses.

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 proposed 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.

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

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

7.9 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 advice 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.

8.3 **Updated Consultee Responses since the sub-committee meeting on the 14th October 2021**

The following consultee's have been re-consulted given the further details provided by the application.

K.C. Environmental Health: Have reviewed the updated Noise Survey and confirmed its findings are in line with that of the previous Noise Survey. No changes to their previous comments and recommendation.

K.C. Highways: Have assessed the new Traffic Survey. It is noted that the October 2021 survey shows an increase in the evening peak hour in northbound traffic, however it is not a material increase and the applicant has demonstrated arms of the proposed site access are expected to operate well within capacity. No changes to their previous comments and recommendation.

K.C. Lead Local Flood Authority: No new technical drainage information has been provided to review. Remain their previous recommendation of support (subject to conditions). However, they have reviewed the applicant's statement on drainage / flood risk matters and offer no contradictory or adverse comments.

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.

- 10.39 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 Noise pollution is considered below. To summarise other matters pertinent to residential amenity, 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.

Noise pollution and mitigation

- 10.41 The site is adjacent to Challenge Way and a Working Men's Club. Each of these are potential noise pollutants which could affect the amenity of future residents.
- 10.42 The applicant undertook an initial noise survey in March 2021 to determine the current noise climate. This was undertaken during lockdown and residents raised concerns over the survey's validity, findings, and recommendations, due to reduced traffic movements. These concerns were noted, however the applicant's methodology was done in accordance with industry standards and COVID guidance, and deemed acceptable by officers and K.C. Environmental Health, as detailed within paragraphs 10.36 – 10.38 of the original report. Notwithstanding this, members shared residents' concerns.
- 10.43 To address member's concerns the applicant has commissioned a second noise survey. This took place in late October 2021 when the country was not under lockdown. While it is accepted that a portion of the population is currently still working from home, the findings of the Dept for Transport Provisional Road Traffic Estimate data for July 2020 to June 2021 show all motor vehicle traffic decreased by 5.5% during this period. However, there is a noticeable increase in road traffic from the first quarter of 2021 and this would be expected to continue as the country continues to recover from the measures introduced by the Government to combat the Coronavirus pandemic. The Design Manual for Roads and Bridges (Vol 11, S3, Part 7 - Traffic Noise and Vibration) provides guidance on the assessment of noise from road traffic to establish the magnitude and significance of any change due to a road scheme. It states that where traffic is likely to increase by 25% or more or reduce by at least 20%, a change in noise level of at least 1dB(A) will occur. This is the minimum change that can be detected by the human ear in the short term (A change in the noise level of 1 dB(A) is generally only perceptible under controlled conditions). A doubling or halving of the total flow

of traffic would cause the noise level to change by 3 dB(A) which is considered the minimum perceptible change under normal conditions. Therefore, any decrease in road traffic noise due to Covid restrictions is unlikely to be perceptible to the occupiers of this development (or others).

- 10.44 The Noise Survey was also undertaken over a period when the Working Men's Club was open and COVID restrictions would not have required it to be closed at the time of the survey. Furthermore, 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 continued noise breakout / music. In light of these considerations, officers raise no concerns with the October survey's methodology.
- 10.45 The October survey identifies a 2dB increase over the March surveys. This is in line with the March survey's expectations and 2dB is a near-imperceptible volume difference, as noted above. This does not change the original noise survey's conclusion or recommendations.
- 10.46 The Noise Survey identifies the daytime and night-time period over the BS8233 limits by between 4dB-9dB and 5dB-10dB respectively if windows were open for the entire duration. To overcome this, the report recommends an appropriate glazing specification (thickness) to act as noise mitigation features. The specification proposed '*should be achievable by the majority of standard double glazing*' therefore not being substantial or atypical.
- 10.47 The updated Noise Survey has been reviewed by K.C. Environmental Health who support its methodology and recommendation, with exception to the ventilation proposed. Nonetheless the ventilation is not a prohibitive issue and may be addressed via condition. A condition is proposed requiring a fully detailed mitigation strategy, based on the supported recommendations, to include specific information on which plots require mitigation alongside a ventilation strategy, followed by post implementation verification. This is considered reasonable by officers and is recommendation as a condition.
- 10.48 In summary, whilst members concerns are noted, given the consistent findings of the October 2021 noise survey, officers maintain that subject to conditions the future residents would not suffer from noise pollution, and that the development complies with policies LP24 and LP52 of the Kirklees Local Plan.

Highway

- 10.49 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.
- 10.50 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.

- 10.51 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 |

- 10.52 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.

- 10.53 Consideration was given to whether the proposal warranted a dedicated right turn lane into the site from Challenge Way. Based on the identified traffic generated by the development and anticipated 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.

- 10.54 At the committee on the 14th of October members also considered whether a dedicated right turn out of the site may be suitable. Given the low volume of departures from the site, which amounts to one every two minutes in the AM peak (departure), a dedicated right turn exit is not justified. Such a facility would also widen the access, requiring additional tree felling. Consideration was also given to whether a box junction (keep clear) should be imposed. In discussion with K.C. Highways Safety, Highways Development Management has said (traffic would be queuing in the north bound lane up to the Leeds Road junction on the opposite side of Challenge Way from the site, so there is no need for a keep clear marking or a box junction).

- 10.55 Members, at the committee on the 14th of October, queried the validity of the applicant’s traffic survey, as a 2017 survey inflated by Government issue traffic growth data. The applicant’s methodology was accepted by K.C. Highways, however in response to member concerns the applicant elected to undertake a new traffic survey in October 2021, outside of a lockdown period.

- 10.56 The 2021 survey shows that in the evening peak (1700 – 1800) northbound traffic increased by 50 vehicles (less than one per minute) compared to the inflated 2017 survey, however the southbound traffic was reduced by a similar amount. Given this change the applicant re-assessed traffic impacts upon the new junction, which concluded there was no material difference. This has been reviewed by K.C. Highways, who do not oppose the findings.
- 10.57 As noted, most of the 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.
- 10.58 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.
- 10.59 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.
- 10.60 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.

- 10.61 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.
- 10.62 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.
- 10.63 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.
- 10.64 Challenge Way currently hosts a combined cycle / pedestrian footpath along its east side (the development and its new access is on the west side). To improve connectivity and to support residents making use of this facility, a condition is proposed requiring a dropped kerb onto the combined cycleway, to improve connectivity.
- 10.65 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 appropriate, 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.
- 10.66 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.

- 10.67 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.
- 10.68 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

- 10.69 The site is within Flood Zone 1, with there being no concerns relating to fluvial flooding. Potential pluvial flooding is addressed via the drainage strategy.
- 10.70 The applicant has considered the surface water drainage hierarchy and discounted infiltration as a discharge method due to prohibitive ground conditions. There are watercourses in the field to the north which are viable discharge points; the proposal is to discharge to Green Hill Beck. Surface water will flow through a subterranean attenuation tank, designed to accommodate the 1 in 100-year event plus 30% climate change, at a discharge rate of 3.5 litres a second. A discharge of 3.5 l/s is the minimum viable rate and would approximate existing greenfield discharge rates, which is welcomed. This design is supported by the LLFA, with full details to be secured via condition. The management and maintenance of the drainage system is to be detailed via condition and secured via S106, until its intended adoption by Yorkshire Water.
- 10.71 Concerns were raised by members over flooding, both on site and on neighbouring land / roads. First considering on-site flooding, Environment Agency plans do show a pre-existing flow path from hardstanding run-off on High Street into the site. This comes down the Working Men's Club car park's entrance, into the site and along the east boundary following natural depressions, before leaving the site to the north. Of this, the applicant has stated:

The overland flow route is identified and has been accounted for in the surface water design. Current depressions in the ground will be removed to prevent surface water ponding and surface water flows will be channelled through the development, before continuing along existing offsite routes into the watercourse to the north.

Overland surface water flows will not be obstructed by development and will therefore not be transferred to adjacent properties. The surface water flow route will also be kept separated from the proposed houses and therefore not create a flood risk for future residents.

The applicant has demonstrated with a flood routing plan that any surface water entering the site (from High Street or otherwise) or that is caused by an exceedance event would be directed through the site, avoiding residential curtilages, to discharge into the open land to the north. The proposal will not result in increased flood risk to neighbouring development, nor water flowing onto Challenge Way, thus not exacerbating existing issues.

- 10.72 Any existing flooding on neighbouring land, be it highways or domestic properties, is beyond the remit of this application to address. This is as long as the proposal would not exacerbate issues, which it would not. Therefore, any drainage issues are the responsibility of the relevant landowner. This includes Challenge Way, where members raised concerns over water on the road.
- 10.73 Residents have provided images of flooding events on neighbouring land, specifically water fountaining out of a manhole in the adjacent Working Men's Club car park. This manhole serves a Yorkshire Water's combined sewer which connects to several properties on High Street (high point). It then flows into the site (lower point), where the development's layout has been designed with an easement to prevent building upon on, before turning west. The proposal and design are supported by Yorkshire Water (subject to conditioning the easement), who are responsible for the management and maintenance of the sewer, as well as the review of new connections to the sewer.
- 10.74 Finally, have referenced culverts / drains under their land connecting into the application site. The Yorkshire Water sewer has been considered above. The applicant has responded:

Residents of the adjacent houses report the presence of sewers and culverts running beneath their property and into the site. In March 2020, a services and sewer scan was undertaken upon the development site. This is a scan for below ground infrastructure and services. The extensive survey identified the presence of sewers and water mains upon the site. It did not identify any infrastructure running into the site directly from the properties on High Street, which accords with statutory service records

As shown in appendix 4, various sewers and water mains are known to be present and crossing the site at various points. This includes a foul sewer that runs to the north of 191 High Street, the position of which was confirmed via a CCTV survey. Their presence is accounted for in our layout design.

The survey results accord with the statutory service records, which confirms there are no such services or infrastructure. The homes on High Street are positively drained into the existing Yorkshire Water sewer network, as shown in appendix 5.

- 10.75 The Council likewise hold no records of culverts or other services under the site, beyond the Yorkshire Water sewer. The applicant's appendix 5, Yorkshire Water sewer network plan, does show the foul sewer for nos. 191 to 199 (and presumably 201) High Street but not where it leads to. This is not unusual, given these dwellings pre-date Yorkshire Water as a body. It is assumed that their foul sewer will connect to the Yorkshire Water system either on High Street or running through the land to the rear, which would not be affected by the development. Nonetheless, if the developer finds an unmapped pipe, they'd have a responsibility to divert (or provide an easement) at the instruction of Yorkshire Water.
- 10.76 Concluding on the above, the LPA and LLFA are satisfied that the applicant has considered flood risk and drainage, and demonstrated that the proposed development complies with the aims and objectives of LP27 and LP28.

Planning obligations

- 10.77 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

- 10.78 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.

- 10.79 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.

- 10.80 The offered units all comply with the Nationally Described Space Standards. It is noted that the applicant proposes all of the proposed 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

- 10.81 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.
- 10.82 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

- 10.83 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

- 10.84 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

- 10.85 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.
- 10.86 The application proposes 3,080sqm of on-site Public Open Space, with an off-site contribution of £84,233 agreed, which is accordance with the Public Open Space SPD. The contribution is recommended to be secured within the S106 and would be spent within the local area. This is considered appropriate to comply with policy LP63 of the Kirklees Local Plan.

Sustainable travel measures

- 10.87 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
- 10.88 The provision of this contribution is considered to comply with the aims of LP20 of the KLP

Other Matters

Air quality

- 10.89 The development is not in a location, nor of a large enough scale, to require an Air Quality Impact Assessment.
- 10.90 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.
- 10.91 Subject to a condition requiring this provision, the proposal is considered to comply with LP24(d) and LP51 of the Local Plan.

Contamination

- 10.92 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.
- 10.93 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.
- 10.94 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

- 10.95 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.

- 10.96 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

- 10.97 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.
- 10.98 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.
- 10.99 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.
- 10.100 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.
- 10.101 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.

10.102 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 as 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

10.103 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

10.104 Following the deferral on the 14th of October the applicant submitted further details. These are currently being advertised, with three comments having been received prior to the publishing of this report. The comments received are considered below. Any comments received after the publishing of this report will be outlined in the Member's Update.

Comments received during the public representation period post the 14th of Committee.

- Queries regarding the sightlines of the development, including within the site and the access onto Challenge Way.
- Concerns that the separation distances between plots 47 – 43 and dwellings on High Street does not comply with the Householder Design Guide SPD.

Response: The further details submitted by the applicant did not change the site's layout or separation distances.

K.C. Highways have reviewed the site layout and considered turning heads and light lines. They raise no objection.

Officers have considered the Householder Design Guide SPD in their assessment. As set out in paragraphs 10.31, the separation distances are considered appropriate, and the proposal is not considered harmful to the amenity of neighbours or future residents.

- The proposed development will exacerbate existing traffic issues, including speeding, around the site.
- The new information submitted does not address the fundamental issue that the proposal is introducing too many new houses.

Response: The development's highways implications are considered in paragraphs 10.49 – 10.68, which includes consideration of the proposal's impact upon the highway. The proposal includes a contribution towards highway improvements (Shaw Cross junction).

- The removal of trees is detrimental to the environment and is not green friendly.

Response: The tree loss is considered within paragraph 10.99, with landscaping to include tree planting secured via condition. The further information has not changed the impact upon trees.

10.105 A total of 81 representations were received to the original public representation period. 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 paragraphs 10.97 – 10.102

- 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 10.97 – 10.102.

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 10.12 – 10.40.

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 10.71. 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 10.49 – 10.68.

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 hectare 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 would not be appropriate giving due regard to the site's constraints
- 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 material 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 At the committee on the 14th of October 2021 members deferred the application on the following grounds:

- Flooding and drainage
- Specific noise mitigation measures that would be required
- further clarification in regard to the red line boundary / correct notice served
- right-hand turn off Challenge Way.

The applicant has responded to the concerns raised, through the provision of further information and the attached Appendix 1, and officers have elaborated upon the concerns raised within this report.

11.6 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 ginnels.
6. Stone boundary wall within the site to be retained.
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. Implementation of dropped kerb on Challenge Way (for cyclists)
17. Technical details of retaining walls.
18. Scheme to improve PROW BAT/45/20
19. Electric Vehicle Charging Points
20. Contaminated Land investigation
21. Submission of technical drainage strategy.
22. Development to be done in accordance with flood route plan or notwithstanding flood route plan, updated version to be provided for review.

23. Easements preventing building over sewerage infrastructure.
24. Temporary drainage strategy during construction period.
25. Lighting design strategy for ecology
26. No vegetation clearance within the bird breeding season, without prior survey
27. 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.aspxid=2021/91871>

Certificate of Ownership

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

Appendix 1: Applicant's response to the reasons for deferral

CHALLENGE WAY, HANGING HEATON COMMITTEE DEFERRAL – RESPONSES NOTE

1. Flooding and surface water drainage

- 1.1. We appreciate the committee's concerns in respect of drainage. These items are comprehensively addressed within the submitted flood risk assessment (FRA).
- 1.2. Whilst the FRA has been approved by KMDC consultees, as part of this application, sections 2, 3 and 4 provide an overview of the key points.

2. Drainage

- 2.1. Surface water that falls upon the site will drain to a large subterranean storage tank. The flow of water out of this tank into the local watercourse is restricted by a hydrobrake (flow control device). The flow from the tank will match the existing rate of surface water runoff from the site, calculated before it is developed. This will be a maximum of 5 litres per second, therefore there will be no increased drainage flow into the local watercourse, post-development.
- 2.2. The calculations that determine the volume of surface water storage assume increased rainfall due to climate change, therefore the tank includes additional storage capacity for these peak rainfall events.
- 2.3. The proposed drainage system and hydrobrake controls, will result in the surface water flow rates entering the local watercourse remaining unchanged, even after the site is developed.

3. Flood Risk - Overland Flows

- 3.1. The entire site lies within flood zone 1, which is the lowest flood risk zone. A copy of this plan is attached in appendix 1.
- 3.2. Environment Agency data and modelling confirms the vast majority of the site is at a very low risk of surface water flooding. This means the site has less than a 1 in 1000 annual exceedance probability of flooding.
- 3.3. A surface water flow route crossing the site is identified by the Environment Agency. This is a pre-existing flow path originating from hardstanding runoff upstream of, and outside the boundaries of the site. Water gathering on High Street flows over the dropped kerb, into the parking area of the Working Men's Club and onto the site. The water then flows along localised depressions in the site, along the eastern boundary and eventually into the local watercourse north of the site, as shown on Figure 2 of the Flood Risk Assessment Issue 1 (attached as appendix 2). Evidence of existing overland water flows is further corroborated by the Kirklees Council surface water flood maps (attached as appendix 3).

- 3.4. The overland flow route is identified and has been accounted for in the surface water design. Current depressions in the ground will be removed to prevent surface water ponding and surface water flows will be channelled through the development, before continuing along existing offsite routes into the watercourse to the north.
- 3.5. Overland surface water flows will not be obstructed by development and will therefore not be transferred to adjacent properties. The surface water flow route will also be kept separated from the proposed houses and therefore not create a flood risk for future residents.
- 3.6. Neither the Kirklees Council historic flood map nor the DEFRA flood map identified historic flooding of the site, as confirmed in appendices 1, 2 and 3.
- 3.7. As with current legislation, the scheme design includes a surface water exceedance design. This design will ensure water is diverted away from both the proposed properties and existing properties during periods of peak rainfall. This has been submitted as part of the FRA and is approved by the relevant consultees.
- 3.8. Residents of the adjacent houses report the presence of sewers and culverts running beneath their property and into the site. In March 2020, a services and sewer scan was undertaken upon the development site. This is a scan for below ground infrastructure and services. The extensive survey identified the presence of sewers and water mains upon the site. It did not identify any infrastructure running into the site directly from the properties on High Street, which accords with statutory service records. The survey is included in appendix 4.
- 3.9. As shown in appendix 4, various sewers and water mains are known to be present and crossing the site at various points. This includes a foul sewer that runs to the north of 191 High Street, the position of which was confirmed via a CCTV survey. Their presence is accounted for in our layout design.
- 3.10. The survey results accord with the statutory service records, which confirms there are no such services or infrastructure. The homes on High Street are positively drained into the existing Yorkshire Water sewer network, as shown in appendix 5.
- 3.11. Ward members raised a query in respect of aquaplaning on Challenge Way. Challenge Way is a modern public highway, benefitting from highway drainage. It also slopes downhill to the north, therefore water will flow down the hill away from the site at times of rainfall.
- 3.12. The development site will be installed with both plot and highway drainage. It will not be permitted for water to flow from the development site onto Challenge Way, therefore development of the site will not increase water flow on the surrounding highway network.

4. Flood Risk – Groundwater

- 4.1. The Kirklees Council groundwater susceptibility map shows the site has less than 25% risk of groundwater emergence (as shown in appendix 3).

- 4.2. The ground investigation confirmed that the site is underlain by low permeability clay soil. Consequently, the land will naturally stay wetter after periods of rainfall, but this is similar to large areas of Kirklees, and indeed the United Kingdom. It is not unusual to develop on sites underlain by clay, given that this is a very common ground strata.
- 4.3. As part of the site investigations, undertaken in mid-Autumn, three locations found trapped groundwater, however the ground engineer confirmed that this is not representative of the water table. The vast majority of trial pits and trenches remained dry.

5. Noise attenuation

- 5.1. Ward Members raised concerns that the initial noise survey was undertaken during lockdown, imposed in response to the coronavirus pandemic.
- 5.2. The initial survey was undertaken in line with industry standards and met with the approval of KMDC consultees.
- 5.3. Given the concerns raised at the October committee, an updated noise survey was completed and submitted as part of the application. This was undertaken after the October committee, outside of lockdown restrictions.
- 5.4. The second survey was undertaken in position B, which picks up noise from both Challenge Way and the Working Men's Club.
- 5.5. The second survey identified an increased average daytime noise (2 decibels), however the noise consultant confirms this increase does not change their recommendations in the first report.
- 5.6. The survey conclusions confirm that satisfactory amenity levels can be achieved through standard construction design details and that no additional attenuation measures are required for plots to enjoy desirable levels of amenity area noise.
- 5.7. In summary, the findings of the second report reinforce the findings of the first. The scheme can be developed satisfactorily, in respect of noise.

6. Address amenity on future occupiers

- 6.1. The officer's presentation to committee made it clear that the proposals are compliant with the adopted policy with regard to separation distances to No's 193 to 201 High Street.
- 6.2. Whilst this is the case, we have increased the boundary fence height to the rear of plots 47-53 to further enhance privacy. This is now a 1.8m high close boarded fence, with a 300mm trellis, therefore giving a total boundary height of 2.1m. These proposals are shown on the revised enclosure plan.
- 6.3. It is also worth noting that only No 195 High Street has 21.3m separation, all other separation distances to homes on High Street exceed this.

- 6.4. No's 191 and 193 have no new homes backing onto them. No 195 have 21.3m separation, but over 50% of their rear elevation has no new homes backing onto it.
- 6.5. No's 197 and 199 have circa 22m separation and No 201 has over 25m separation.
- 6.6. In summary, whilst the position is already confirmed as satisfactory by the case officer, the applicant has further enhanced the boundary proposal to address local representations.

7. Traffic

- 7.1. Whilst traffic was raised as a concern by Members, it has been confirmed by the applicants' consultants and KMDC that the local highway network has capacity to accommodate this development.
- 7.2. In the past five years, there have been three collisions locally, which whilst unfortunate, resulted in slight casualties, rather than serious incidents. Two accidents were at the A653 / B6128 signalised junctions. The third occurred at the Leeds Rd, High St junction. This level of accident frequency demonstrates there are not safety problems with the road network surrounding the site.
- 7.3. Clause 109 of the NPPF is clear that applications should be approved unless residual impacts on the highway network are severe:
- 7.4. *109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*
- 7.5. At the October committee, Ward Members sought further information in respect of the highway network. Concerns were raised that the previous traffic survey was undertaken during lockdown and therefore may not reflect an accurate position.
- 7.6. The initial survey was undertaken during lockdown, but the data was subject to further modelling to reflect typical traffic movements for the location.
- 7.7. Given the concerns, the applicant commissioned a second traffic survey, with the purpose of validating the original data set. This took place after the October committee.
- 7.8. The initial traffic modelling was based on 2017 data, so it preceded the various lockdowns. This data was then inflated using Government software, to show increased traffic flows. This is a standard, nationally approved procedure.
- 7.9. The revised traffic survey was undertaken in October on a Thursday. October is the second highest month for travel and Thursday and Friday are the peak days for traffic levels too. As such, it is reflective of the highest local traffic levels Challenge Way will encounter.
- 7.10. The updated survey results confirmed the results of the previous modelling. The site access will operate satisfactorily as a priority junction, as proposed and supported by KMDC highway officers.

8. Right turn coming out of the new development.

- 8.1. Access onto Challenge Way was recommended by KMDC at pre-application stage.
- 8.2. The principle of access here was supported when the site was allocated.
- 8.3. At pre-application stage, there was ward member support for access to ChallengeWay, indeed this was deemed to be preferable.
- 8.4. Within a 30mph speed limit a visibility splay onto Challenge Way of 2.4m x 43m is acceptable.
- 8.5. Whilst this is the case, the layout design illustrates a 2.4m x 70m visibility splay, so this minimum standard is exceeded.
- 8.6. In practice, the actual splay is 2.4m x 90m to the left (north) and 2.4m x 90m to the south. This is appropriate for a highway with speeds greater than those identified on Challenge Way, through our surveys.
- 8.7. As confirmed in section 7 above, the traffic survey data confirms that the proposed junction will operate satisfactorily and the visibility splay dimensions exceed those required for this highway.

9. Red line boundary (ownership).

- 9.1. As per our previous submissions, the red line boundary does not include third party land, other than the adopted highway on Challenge Way.
- 9.2. Whilst land ownership of the Saville Trustees has been questioned by the owners of properties backing onto the site, no evidence has been presented to back these assertions.
- 9.3. The information supplied by the residents on High Street, actually confirms the landowner's position and ownership. The landowner's solicitor has subsequently written to the resident on High Street to confirm this. The landowner's solicitor has also advised the adjacent owners to take legal advice in the matter, but no correspondence from the legal representatives of those on High Street has been forthcoming.
- 9.4. The boundary between the properties on High Street and the development site is clearly identified in the deeds and reflects the position of our application.
- 9.5. The 2002 Land Registry Act confirms that adverse possession is not possible for land owned by Trustees (as is the case here), so this scenario is not possible.
- 9.6. To provide further clarity to KMDC on this position, a separate letter and enclosures have been provided to the case officer, which confirm the position. We would encourage KMDC's legal team to review this.

- 9.7. Notwithstanding this, the applicant has accommodated the request from the residents of 191-201 to take access at the rear of their properties. This is not an existing right they benefit from, however it is being included as a gesture of goodwill. This access is provided on the layout plan.
- 9.8. With regard to suggestions that Certificate B should have been served on the adjacent owners, this notice is not required, as the residents of 191-201 High Street do not own any part of the site.
- 9.9. The same owners do not benefit from access rights either, nonetheless rights of access do not require notice of Certificate B to be served. Notwithstanding this, the residents of High Street were notified of the forthcoming application, by letter, prior to submission by the applicant.

10. Challenge Way Construction Application

- 10.1. Ward Members raised concerns that the tree belt on Challenge Way was installed to protect the residents of High Street from noise and pollution.
- 10.2. The case officer confirmed that the planning application file for Challenge Way did not include such representations.
- 10.3. The KMDC environmental health consultees confirmed that (a) these trees have no benefit in terms of reducing noise levels, given the low density of planting, and (b) they offer no benefits in respect of absorbing pollution.
- 10.4. The removal of trees to facilitate the access is minimal, with a gap of circa 10m proposed.
- 10.5. In summary, the proposed gap to be created is minimal, whilst the assumed benefits of the tree belt, in terms of noise and pollution reduction do not exist.

11. Conclusion

- 11.1. In summary, the notes above address the reasons for deferral, providing various clarifications, as requested by Ward Members.
- 11.2. The findings of the revised highways and noise surveys have been presented through a formal planning submission. The revised surveys confirm the application remains acceptable, both in terms of noise levels and vehicular access/egress into the proposed development.
- 11.3. These clarifications reflect principles for the development that have been agreed with officers, who have no objections to the submitted proposals.

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Nov-2021

Subject: Planning Application 2019/94147 Demolition of existing building and erection of two storey community centre Quality Food Store, Ravenshouse Road, Dewsbury Moor, Dewsbury, WF13 3QU

APPLICANT

Mohaddis-E-Azam

Mission

DATE VALID

05-Feb-2020

TARGET DATE

01-Apr-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 West

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

REFUSE

- 1 The proposed development, by reason of its bulk and mass in such a prominent, corner location, would result in a strident feature within the street scene and detract from the character of the area. To approve the application would be contrary to Policy LP 24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework.
- 2 The proposed development, by reason its bulk, mass and close proximity to No.1 Low Road would result in an oppressive and overbearing impact upon the occupants of that property and result in overshadowing of the garden area, contrary to Policy LP24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework.
- 3 The proposed development would result in the loss of a local shop which supports the day to day needs of the local area. It has not been demonstrated that there is adequate alternative provision in the locality to serve the local community which is in an equally accessible location. As such, to permit the development would be contrary to Policy LP 48 (c) of the Kirklees Local Plan.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee at the request of officers due to previous Committee involvement in the wider site.
- 1.2 The Chair of the Sub-Committee has confirmed that the reason for referring the application to committee is valid having regard to the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an existing split level building in use as a retail shop with ancillary accommodation within the roofspace and to the rear, attached to a Mosque and Education Centre on the western side of Ravenshouse Road, Dewsbury Moor, Dewsbury. The site is located within a predominantly residential area, with dwellings to the east and west, and the Spen Valley Country Park further to the west. The site is separated from another commercial unit to the south by a partly surfaced parking area.

3.0 PROPOSAL:

- 3.1 Permission is sought for the demolition of the shop and erection of two storey building to be used as a community centre. The submitted plans indicate that the ground floor of the development would comprise a day centre with ancillary facilities (toilets, reception, office and kitchen), whilst the first floor would comprise a multi use games area, office/conference room, computer room, kitchen and toilet.

The proposed development would have an overall height of 9.5m, with parapet roof, faced in natural stone to the front and side elevation and brick to the rear.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 Application Site

98/92514 – Variation of condition 3 relating to hours of opening on previous approval 94/93332 for change of use from shop to hot food takeaway - refused

97/93494 – Variation of condition 3 relating to hours of opening on previous approval 94/93332 for change of use from shop to hot food takeaway - refused

97/91669 – Removal/variation of condition 2 relating to hours of opening on previous permission 96/90995 for variation of condition 3 on previous permission 94/93332 for change of use from shop to hot food takeaway - refused

96/90995 – Removal/variation of condition 3 relating to hours of opening on permission 94/93332 for change of use from shop to hot food takeaway - approved

95/93706 – Variation of condition 3 relating to hours of opening on previous permission 94/93332 for change of use from shop to hot food takeaway - refused

94/93332 – Change of use from shop to hot food takeaway - approved

93/05085 – Erection of two storey extension – approved

93/01489 – Erection of two storey extension and dormer extension – refused

92/05484 – Installation of shutters - approved

Adjacent Mosque and Education Centre

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

2019/92515 – Erection of extensions and alterations – approved

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

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

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

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

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

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

5.1 Through the course of the application the applicant was made aware of Officers' concerns relating to the impact of the development in respect of visual and residential amenity and highway safety. They have submitted some additional and amended information to attempt to address these concerns.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

6.2 **LP 1** – Achieving sustainable development
LP 21 – Highway Safety and Access
LP 22 - Parking
LP 24 – Design
LP 48 – Community Facilities and services

National Planning Policy Framework:

6.3 **Chapter 8** – Promoting Healthy and Safe Communities
Chapter 12 – Achieving well designed places
Chapter 15 – Conserving and enhancing the natural environment

6.4 Supplementary Planning Guidance / Documents:

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

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

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 As a result of site publicity, 93 representations have been received in relation to the application (92 in objection, including a petition of 139 signatures, and 1 in support). The concerns raised by objectors are addressed as follows:

Loss of existing shop

- The shop to be demolished is supporting the community and has continued to be stocked up through the coronavirus pandemic, also delivering to the elderly
- There is a greater need for a shop than a community centre; there are other community centres nearby

Highway Safety

- Existing traffic and parking problems already exist as a result of the Mosque. The proposal would exacerbate this.

Impact on amenity

- The proposals would destroy the character of the area.

Other Matters

- There is an existing problem of anti-social behaviour here

One representation has been received in support which states:

“Permission should be granted in order to provide a better education for children”

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

The Coal Authority: No objections subject to the imposition of conditions relating to intrusive site investigations and remediation

KC Highways DM: No objections in principle to the application.

KC Environmental Services: Recommend conditions relating to noise, hours of opening and site investigation works

8.2 Non-statutory

KC Crime Prevention officer: No objections, however has provided advice on incorporation of security measures within the development.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.
- 10.2 Policy LP24 of the KLP is relevant to the proposal, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the proposed building would be attached to the existing Mosque, which has recently received planning permission for the erection of extensions.
- 10.3 The application relates to the loss of a community facility (local shop) and its replacement with a different type of community facility (community centre) and therefore Policy LP48 of the KLP is relevant which states that "*Proposals will be supported for development that protects, retains or enhances provision, quality or accessibility of existing community, education, leisure and cultural facilities that meets the needs of all members of the community*". This matter will be assessed in greater detail below.
- 10.4 The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues, along with other policy considerations, will be addressed below.

Urban Design issues

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

- 10.7 The proposals would result in a two storey building with parapet roof, comparable in scale to the resultant development approved at the adjoining Mosque (ref 2019/92515), with an overall height of approximately 9.5m. The submitted plans indicate the use of Yorkshire buff stone for the front and side elevations and red brick for the rear elevation, with grey slate roof. In relation to the proposed materials of construction, stone is not predominantly used within the vicinity of the site and the applicant has previously been advised that a mixture of materials would be more appropriate to reflect the appearance of the existing building.
- 10.8 Whilst it is acknowledged that the proposed building would be comparable in scale to the resultant development at the adjoining Mosque as a result of approval ref 2019/92515, Officers consider that the cumulative bulk and mass of the two elements would result in a strident feature within the streetscene which would detract from the character of the area. As such, the proposal would be contrary to Policy LP24 of the KLP and guidance contained within Chapter 12 of the NPPF.

Residential Amenity

- 10.9 The application site is located on a predominantly residential street, and the existing building is located opposite residential properties to the north, east and west. Furthermore, the topography of the site is such that the land falls away to the west.
- 10.10 Due to topography, the properties to the rear are set down in relation to the application site. Taking this into account in relation to the distance of the application property from the dwellings to the rear (approximately 20m). The properties to the east would also be located a similar distance from the proposed building, however No.1 Low Road would face the side of the proposed building at a distance of approximately 15m. Whilst the existing relationship between this property and the existing retail shop exists, this is a single storey building. The proposed development would result in a solid stone wall with parapet approximately 9.5m in height in close proximity to the principal elevation and main amenity space of 1 Low Road. Officers consider that there would be an overbearing and oppressive impact upon the occupiers of that property as a result of this relationship.
- 10.11 The proposed building would contain several window openings within the front and rear elevations, however the submitted plans indicate that the rear openings would be obscurely glazed. The side (north elevation) would be blank.
- 10.12 In summary, the proposal would have a detrimental impact upon the amenities of the occupiers of 1 Low Road, contrary to Policy LP24 of the KLP and guidance contained within Chapter 12 of the NPPF.

Highway issues

- 10.13 Ravenshouse Road is a 30mph, two-way, single carriageway, unclassified, distributor road of approximately 9m width with a hatched central reserve to protect right turn lanes, a pedestrian refuge, footways on both sides and street lighting present. It hosts a medium frequency bus route with stops within 130 metres of the application site. To the north of the site, the main road turns in to

Low Road while the narrow estate road to the rear of the site also takes up the name of Ravenshouse Road. This 'Back' Ravenshouse Road is a narrow (4.75m to 5.5m) estate road that serves a small number of residential properties. There have been a number of recorded complaints regarding car parking and obstruction issues in the area

- 10.14 Whilst this application has been under consideration, the change of use of land to car parking area to the south of the Mosque on Ravenshouse Road has been approved (ref: 18/92581), however the car park will require the cabins that are currently in place to be removed before the car park can be fully utilised.
- 10.15 In addition to the above, the applicant provided additional information on 26 October 2021 which states that the application site *would "primarily be used by the residents of the local area . . . with possibly some others from within a 500m radius"*. This cannot be guaranteed or enforced through the planning process and so holds little influence on trip generation. The applicant has not stated how this local use will be prioritised and how trips to the site from outside the immediate area will be discouraged. However, KC Highways DM still consider that, due to the size of the proposed site based on the submitted drawing AIB/CC/04 showing proposed floor plans, the proposals will not generate sufficient vehicular trips as to have a severe impact on the highway peaks or the efficiency of the operation of the highway network. Notwithstanding this, it is considered that the proposals may have the potential to exacerbate an existing parking problem in the area.
- 10.16 The additional information submitted suggested that the application site would not be open or in operation during the Friday peak times for the adjacent mosque, however this should also include a closure of the site during any other arranged high demand event at the mosque and it is the view of Officers that as the two sites are connected, this should be achievable and should be controlled by condition or set within an appropriate planning mechanism should planning permission be granted.
- 10.17 The additional information states that the now approved car park will be made available for the use of the community centre, however this is not included within the red line boundary of the current application site and should permission be granted, its use would need to be secured by an appropriate planning mechanism e.g. s106 legal agreement, so that the use of the car park by the proposed community centre will be guaranteed for the lifetime of the development. The car park should be made available for the full operating hours of the proposal site.
- 10.18 Officers do not consider that the now approved car park will address all parking problems in the area, however the provision of the additional 23 spaces will help alleviate them. It should be noted that the car park may be able to take over 23 cars if they are "packed" sufficiently, which could be available for the mosque peak times when arrivals and departures are expected to be at the same time.
- 10.19 The Kirklees Highway Safety Team are still receiving numerous complaints relating to parking, highway obstruction and highway safety in the immediate area of the site. Due to this, KC Highways DM recommend the applicant to consider the use of a Travel Plan for the site (and the adjacent mosque as part of the same trip generation site using a shared car park). This should identify

how car trips to the site will be discouraged and sustainable and active modes are promoted, what SMART targets can be set and what penalties will be included for failure to meet the targets. Monitoring of the travel plan should be in conjunction with the local highway authority or via membership of the West Yorkshire Travel Plan Network. Should planning permission be granted, this would need to be secured via a legal agreement (S106 agreement).

- 10.20 On balance, the application is considered to be acceptable on highways grounds with conditions or appropriate planning mechanisms (e.g. s106 legal agreement) relating to restricted use during busy times at the adjacent mosque and securing the use of the car park and travel plan. This would ensure that the proposals accord with Policies LP 21 and LP 22 of the KLP.

Representations

- 10.21 The comments received in representations are addressed as follows:

Loss of existing shop

Response: This matter is addressed in paragraph 10.23 below. The proposal would result in the loss of a local shop which supports the day to day needs of the local area. Whilst the proposed development would result in the creation of a community facility, this would not amount to a like for like replacement, and as such the proposal fails to comply with Policy LP48 of the KLP.

Highway Safety

Response: This matter is addressed above. An application for change of use of the land to the south of the site has recently been approved which would provide 23 off street parking spaces to serve the Mosque and proposed development.

Other Matters

Loss of Community Facility

- 10.22 The proposed development would result in the loss of a local shop which supports the day to day needs of the local area. Whilst it is acknowledged that the proposed development would result in the provision of a community facility in its own right, this would not be a like for like replacement of the existing community facility.

It has not been demonstrated that there is adequate alternative provision in the locality to serve the local community which is in an equally accessible location. As such, to permit the development would be contrary to Policy LP 48 (c) of the Kirklees Local Plan.

Coal Mining Legacy

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

Crime Prevention

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

11.0 CONCLUSION

11.1 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. The development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. The recommendation is therefore to refuse the application.

Background Papers:

Application files:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f94147>

Approval ref 2019/92515 (Extensions and alterations to adjacent Mosque).

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/92515>

Approval ref: 2018/92581 (Change of use of land to car park):

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f92581>

Certificate of Ownership – Certificate A signed and dated.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Nov-2021

Subject: Planning Application 2021/90509 Erection of extensions and external alterations 4, Hopton Hall Lane, Mirfield, WF14 8EL

APPLICANT

A Zarif

DATE VALID

09-Feb-2021

TARGET DATE

06-Apr-2021

EXTENSION EXPIRY DATE

30-Nov-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

1. The proposed first floor front extension and associated ground floor alterations, by reasons of design, fenestration and use of large areas of black glazing, would appear out of keeping with the design and character of the host dwelling. The extension would introduce a dominating feature to the principal elevation of the dwelling which would appear incongruous within the street scene. To permit the proposed front extension and alterations would be contrary to Policy LP24 of the Kirklees Local Plan, Key Design Principles 1 and 2 of the House Extensions and Alterations Supplementary Planning Document and the aims of Chapter 12 of the National Planning Policy Framework.

2. The proposed first floor rear extension, by reason of its design, scale and massing, would fail to appear subservient in relation to the main dwelling. To permit the proposed first floor rear extension would be contrary to Policy LP24 of the Kirklees Local Plan, Key Design Principle 2 of the House Extensions and Alterations Supplementary Planning Document and the aims of Chapter 12 of the National Planning Policy Framework.

3. The proposed front and rear extensions, by virtue of their design, scale and relationship with the adjacent grade II listed church and Upper Hopton conservation area boundary, would result in less than substantial harm to the setting of the listed building and the setting of the conservation area. No clear and convincing justification or public benefit has been demonstrated which would weigh against this harm. To permit the proposal in its current form would be contrary to Policy LP35 of the Kirklees Local Plan and the aims of Chapter 16 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 The application is brought to the Heavy Woollen Planning Sub-Committee at the request of Ward Cllr Martyn Bolt for the following reasons:

1.2 *“To my mind, the proposed scheme does not have a significant impact on the setting of the Church because views of the house (as extended) from various viewpoints around the Church are severely limited and the propose scheme has been designed to mitigate impacts on the adjacent site as far as is practicable. Also, officers do not seem to have fully considered two additional matters –*

Firstly, an application for 2 detached dwellings on the site (2010/90332) was approved in September 2010 and, again to my mind, there has been no material change in national or local planning policy in terms of heritage considerations from that point to this and the scheme as approved has, I believe, a far greater impact on the setting of the Church.

Secondly, the property retains its permitted development rights, which would allow two storey extensions to both sides of the property and a two storey 3m extension to the rear. Alternatively to the two storey rear extension, the owner could apply for Prior Approval for a single storey, full-width, flat roof extension that projects 8m from the rear of the house. To my mind, if the owner implemented any of these schemes under permitted development rights, then the overall house as extended would have a far greater impact on the significance of the setting of the Church than the current, well-designed scheme.

Therefore, I would like the decision made by members rather than it being a delegated decision by officers, in order that members can assess the potential fallback positions of the applicant as outlined above against the merits of the design contained within the current application.”

- 1.3 The Chair of the Sub-Committee has confirmed that the reason for referring the application to committee is valid having regard to the Council’s Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to 4 Hopton Hall Lane in Upper Hopton, Mirfield. The site comprises a two-storey detached dwelling which is constructed from stone for the external walls. It is designed with a gable roof form which is finished in concrete tiles. The dwelling incorporates a flat roofed integral garage to the side elevation.
- 2.2 The dwelling is sited within a large plot with a driveway to the front and a large garden area which extends to the rear. There is a detached garage to the rear of the dwelling. The rear garden area comprises a number of trees which are protected by a Tree Preservation Order.
- 2.3 The surrounding area is predominantly residential in nature which comprises properties which vary in terms of their style and design. Notwithstanding this, the predominant material of construction is stone. The site is located immediately to the north east of a grade II listed church which forms the boundary of the Upper Hopton conservation area.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the erection of extensions and alterations. Each element of the proposal shall be set out below:

Front Extension and Alterations

- 3.2 A first floor front extension would be located above a section of an existing flat roofed element to the front of the dwelling. It would have a width of 4m and would be designed with a gable roof form which would be set down from the ridge of the host dwelling by approximately 1.3m. The extension and ground floor element to which it would adjoin would feature large areas of obscure black glazing.

First Floor Side Extension

- 3.3 A first floor side extension would be located above the existing integral garage and flat roofed elements to the side and rear of the dwelling. It would be designed with a gable roof form which would form a continuation of the roof form of the dwelling.

Two Storey Rear Extension

- 3.4 A two storey rear extension would project 5m from the rear elevation of the host dwelling and proposed first floor side and rear extensions. It would sit flush with the south western side elevation of the dwelling and would be set in from the north eastern side elevation of the integral garage and first floor side extension by 0.7m. It would be designed with a gable roof form which would have an eaves and ridge height to match that of the host dwelling.

Single Storey Rear Extension

- 3.5 A single storey extension would project an additional 3m beyond the rear elevation of the two storey rear extension, having a total projection of 8m from the rear elevation of the host dwelling. It would be designed with a flat roof form which would include three lantern style roof lights.

External Alterations

- 3.6 Two new openings are proposed for the south western side elevation of the dwelling. A high level window is proposed at ground floor level which would serve an open plan lounge/kitchen. A window at first floor level would serve the primary opening to an office.
- 3.7 The external materials would be stone and render for the external walls and concrete tiles for the roof.

3.8 The existing detached garage would be demolished as part of the proposal.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2021/93360 – Prior notification for single storey extension of 8m projection. Prior Approval not required.

4.2 2021/93359 – Certificate of lawfulness for proposed erection of extensions and alterations. Refused.

4.3 2010/90332 – Erection of two detached dwellings. Granted.

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

5.1 During the course of the application, the applicant and the applicant's agent were made aware of officers' concerns regarding the proposed development with regard to the impact on the on the host property and wider area which includes the Upper Hopton Conservation Area and Grade II Listed church building.

5.2 The applicant submitted an application for the prior approval of a single storey rear extension and a certificate of lawful development for a two storey rear extension and first floor side extension to demonstrate a realistic fall-back position. The two applications were determined alongside the current application.

5.3 A set of amended plans were also submitted, reducing the footprint of the proposed first floor front extension and demonstrating off-street parking at the site. Due to the nature of the amended plans which reduced the scale of the front extension and demonstrated the existing parking arrangements, the amended plans were not advertised in this instance. The revisions made were considered not to be sufficient to address the concerns raised by officers which also covered the scale of the development to the rear of the site.

5.4 Following discussions between officers' and the applicant, a meeting was held with the applicant on site to discuss potential amendments to the scheme. A number of revisions to the proposal were suggested by officers, which subject to the review of the amended plans and extended publicity, officers considered could be supported. A set of alternative amended plans were submitted for consideration under the current application, which reduced the projection of the first floor rear extension by 0.7m, however the revisions were considered not to be sufficient to overcome the concerns regarding the scale of the extension and the matter that it would not be subservient to the host dwelling. Following further discussions, the applicant requested that the application be heard at the Heavy Woollen Planning Sub-Committee on the basis of the originally amended plans.

5.5 It is noted that there is a discrepancy between the location of the openings at first floor level in the side elevation of the proposed side and rear extensions on the submitted floor plans and elevation drawings. Amended plans have been requested to rectify this discrepancy.

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.

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 30 – Biodiversity and geodiversity

LP 33 – Trees

LP 35 – Historic environment

LP 51 – Protection and improvement of local air quality

Supplementary Planning Guidance / Documents:

6.4 On the 29th of 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.

6.5 National Planning Policy Framework (NPPF):

Chapter 2 – Achieving sustainable development

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

Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notice, neighbour letters and in the press. Final publicity expired on 1st April 2021.

7.2 As a result of the above publicity, one general comment has been received. A summary of the comments made are as follows:

- Supportive of the extensions as work is required to bring the property up to a modern standard.
- The trees and shrubs in the rear garden and adjacent church grounds support a variety of wildlife in the area. If these can be maintained, then it would be good for the natural environment.

7.3 Officer comments in response to the comments received will be made within section 10 of this report.

7.4 Ward Councillor Martyn Bolt 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 KC Conservation & Design – Object to the proposal on the harm that would be caused to the setting of the Upper Hopton conservation area and listed church building due to the scale and design of the extensions.

9.0 MAIN ISSUES

- Principle of development
- Visual amenity
- Heritage issues
- Residential amenity
- Highway issues
- 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 which states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with the House Extensions and Alterations Supplementary Planning Guide and Chapter 12 of the NPPF, regarding design.

- 10.2 The site is immediately adjacent to a Grade II listed St John's Church and the boundary of the Upper Hopton Conservation Area. Policy LP35 of the KLP together with Chapter 16 of the NPPF are relevant in this case.
- 10.3 In addition, it is noted that application 2021/93360 is considered a material consideration which will be assessed below. It is considered to establish the principle of having a single storey extension with an 8m projection at the property.
- 10.4 The planning history at the site is noted which includes an application for the demolition of the existing dwelling and the erection of two new dwellings (2010/90332). Whilst the time period for the application to be implemented has lapsed, it still forms a material consideration and shall be considered below.
- 10.5 In this case, the principle of extending the dwelling is considered to be acceptable. The proposal shall be assessed against the considerations above and all other relevant matters within the following sections of this report.

Visual Amenity

- 10.6 The proposal is for the erection of first floor front and side extensions, two storey and single storey rear extensions and external alterations. The dwelling is located in a predominantly residential area which comprises properties of a variety of ages, sizes and designs. The application dwelling is set back from Hopton Hall Lane with a driveway to its front elevation. The site is bound by stone walls to the front boundary. Whilst there is some planting to this elevation, this provides minimal screening of the property when viewed from Hopton Hall Lane.
- 10.7 The proposed first floor front extension would be located above an existing projecting element to front of the dwelling. Paragraph 5.13 of the House Extensions and Alterations SPD draws on how front extensions are highly prominent within the street scene and can erode the character of an area if they are not carefully designed. In this case, the extension would be set back from the access road. Whilst the site is relatively open to its principal elevation, there are a number of trees planted along the boundary of Hopton Hall Lane which would reduce the views of the extension when traveling in either direction. Whilst the extension is considered to be subservient to the host dwelling due to its scale, and set down position in relation to the main roof form of the property, the extension would be of a contemporary appearance, and alterations are proposed to the ground floor aspect of the building to create a two storey feature to the front of the dwelling. The use of full length openings and black glazing at first and second floor level would result in the majority of the front of the two storey element being constructed from glazing. This would create a contemporary addition to the dwelling which, in the opinion of officers, would not respect the character of the property or the design and scale of the

existing fenestration, creating an incongruous feature which would appear out of place within the street scene. This would be contrary to the guidance contained with Paragraph 5.14 of the House Extensions and Alterations SPD which sets out how front extensions should not harm the character of the original house or wider area and that the design should match the existing features of the original house.

- 10.8 The proposed two storey rear extension would project 5m from the rear elevation of the host property. It would extend the full width of the rear elevation of the main dwelling and would be set in from the side elevation of the existing integral garage and proposed first floor side extensions by 0.7m. Paragraph 5.8 of the House Extensions and Alterations SPD sets out how two storey rear extension should not normally project out more than 4m from the rear elevation of detached dwellings. In this case, it is noted that the extension would be to a detached dwelling of a relatively large footprint. Subject to consideration of the impact on the neighbouring properties below, it is considered that the additional 1m projection could potentially be supported at the property. Notwithstanding this, the extension, with a width of 14.5m to extend across the majority of the host building, including the proposed first floor side extension, would introduce a significant amount of bulk and massing to the dwelling which would dominate the rear elevation of the property. The two storey extension, by virtue of its width and overall scale, would fail to remain subservient to the main dwelling. This is contrary to the Key Design Principle 2 of the House Extensions and Alterations SPD which sets out how extensions should not dominate the original house.
- 10.9 At ground floor, a single storey extension would project an additional 3m to the rear of the property, extending a total of 8m from the rear of the host dwelling. The House Extensions and Alterations SPD sets out guidance relating to the single storey rear extensions, including how they should be in keeping with the scale and style of the original house and not have a projection greater than 4m in the case of a detached property. In this case, the prior notification for the erection of an 8m extension is considered to provide a realistic fall-back position which would justify the construction of an extension of an 8m projection in this case. Whilst the extension would be designed with a flat roof form, the principle of this has been established by the prior approval application. The extension would feature lantern-style roof lights and would be of an overall modern appearance. When considering the realistic fall-back position, the impact of the single storey rear extension on the visual amenity of the host property and wider area is considered acceptable.
- 10.10 The proposed first floor level side extension would be located above the existing flat roofed, integral garage. The House Extensions and Alterations SPD notes that first floor side extensions should be set back from the front elevation of the dwelling and down from the ridge. In this case, the extension is considered to be subservient by virtue of its projection and design which would be in keeping with the host dwelling. Given the design of the rear extensions, it is considered

that the set down of the ridge would not be feasible in this case. For the above reasons, the impact on the dwelling itself is acceptable. The extension would be set in from the boundary shared with the neighbouring property. The neighbouring property is also set in significantly from the shared boundary, with a flat roofed garage to its side elevation, and is also located at a lower land level. This is considered sufficient to prevent the creation of a terracing effect in this case. The extension would be set back in relation to the access road, and when considering the above factors, is considered not to have a harmful impact on the street scene or wider area. Access to the rear of the property would be retained to either side of the dwelling. For the above reasons, the design of the first floor level side extension is considered to be acceptable.

- 10.11 New openings are proposed to the side elevation of the dwelling. One of these openings would be taken from the existing rear elevation and would therefore reflect the design of the existing openings on the dwelling. The impact on visual amenity is therefore considered acceptable.
- 10.12 Whilst the proposal would introduce a substantial amount of development to the site, a large rear garden area would be retained as a part of the proposal and there would be access to the rear garden to either side of the dwelling.
- 10.13 The application form states that the extensions would be constructed from stone and render, though the submitted plans do not demonstrate the proposed materials for each elevation of the extensions. Given the use of the stone within the surrounding area, should the application be recommended for approval, it is considered that it would be appropriate to condition that the external walls of the extension should be finished in stone.
- 10.14 In summary, the first floor front and two storey rear extensions would result in a significantly adverse impact to the visual amenity of the host property, street scene and local context. The proposal therefore fails to comply with the House Extensions and Alterations SPD, Policy LP24 of the KLP and the aims of Chapter 12 of the NPPF.

Heritage Issues

- 10.15 The application site is located within the setting of the Grade II listed St John's church and the setting of the Upper Hopton conservation area. At its closest point, the proposed rear extensions would be located within 3.7m of the boundary of the Upper Hopton conservation area and 8.2m of the Grade II listed church building.
- 10.16 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 a listed building or its setting or any features of special architectural or historic interest which it possesses.

- 10.17 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority shall pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 10.18 Paragraph 199 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). St John's Church is of national importance and is grade II listed. The character and appearance of the Upper Hopton Conservation Area is of importance.
- 10.19 Policy LP35 of the Local Plan requires that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. Chapter 16 of the NPPF, more specifically Paragraph 199, states that great weight should be given to the asset's conservation irrespective of the level of harm caused by the development. The Conservation and Design officer has been consulted during the consideration of the application. Whilst the trees within the grounds of the church and the garden of the application dwelling provide some screening of the application dwelling, the property is visible within views of the church and outside of the conservation area, particularly when viewed from the south. The proposed front extension, by virtue of its design and fenestration, and the rear extensions in terms of their scale and massing, would not be in keeping with the existing building, the local vernacular or the design of the surrounding suburban development. The extensions as such, are considered to detract from important views north eastwards of the conservation area.
- 10.20 Turning to the setting of the listed building, the rear extensions would be visible in views from the burial ground towards the west tower of the church, most notably the proposed first floor rear extension. The rear extensions, due to their bulk, massing and close proximity to the boundary shared with the listed building, are considered to have a harmful impact on these important views and would as such, result in less than substantial harm to the significance of the listed building.
- 10.21 Where any harm to the significance of a listed building or conservation area would be caused, Paragraph 200 of the NPPF sets out how clear and convincing justification would be required. Policy LP35 and Paragraph 202, states that the harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use. In this case, no clear and convincing justification has been provided and it is noted that the proposal is for extensions to a private dwelling. As such, there is no public benefits which would weigh against this harm.

10.22 In summary, the proposed development, due to the design and scale of the extensions, would result in less than substantial harm to the setting of the grade II listed building and the setting of the Upper Hopton conservation area. No clear and convincing justification or public benefit has been demonstrated which would weigh against this harm. The scheme is therefore contrary to the Policy LP35 of the KLP and Chapter 16 of the NPPF.

Residential Amenity

10.23 The site is located within a residential area. This section will assess the relationship of the proposed development with the neighbouring properties.

Impact on 4A Hopton Hall Lane

10.24 The proposed front extension would be set in from the boundary shared with the neighbouring property. It is considered that the distance retained would be sufficient to prevent the extension from having a harmful overbearing or overshadowing impact towards the property. Whilst openings are shown to the side elevation of the extension and also at ground floor level, these would be obscure glazed. Together with the fact that these openings would serve a hall and secondary opening to a bathroom, this is considered to prevent the potential for harmful overlooking towards the neighbouring property.

10.25 The proposed first floor side extension would be located to the side elevation of the neighbouring property, which other than an entrance door at ground floor level, does not benefit from openings in this elevation. The impact of this element on the residential amenity of the property is considered to be acceptable. Whilst there would be two openings in the side elevation of the extension, these would serve a secondary bedroom opening and an ensuite. The ensuite opening is shown on the submitted plans to be obscure glazed. Due to the change in levels, the bedroom opening would look over the neighbouring property. Any overlooking of the amenity space of the property would be at an oblique angle and is therefore considered not to be detrimental to the amenity of the occupiers of the property.

10.26 The proposed rear extensions would project 5m from the rear elevation of the dwelling at first floor and 8m at ground floor. The application dwelling is located at a higher land level to the neighbouring property and is located to the south west. Paragraphs 5.6 and 5.8 of the House Extensions and Alterations SPD set out the general characteristics of single and two storey extensions respectively, both stating that extensions should not project out more than 4m from the rear elevation of a dwelling. Paragraph 5.9 however, states that larger extensions may be acceptable in certain circumstances if this can be justified.

- 10.27 In the case of the ground floor extension, the principle of an 8m single storey extension has been established by the prior notification application. The extension would be set in from the boundary shared with the property by 5m which, when considering the fact that the neighbouring property is also set in from the boundary, with a single storey integral garage to its south western elevation, the impact on the neighbouring property is considered acceptable. No openings are proposed for the side elevation of the extension which would prevent harmful overlooking. In the interest of residential amenity, and in accordance with Key Design Principles 3 and 4 of the House Extensions and Alterations SPD, should the application be recommended for approval, it is considered that it would be appropriate to condition that no openings shall be installed in this elevation of the extension in the future.
- 10.28 Turning to the first floor extension, whilst there would be the potential for some additional overshadowing to the rear amenity space of the property from existing, when considering the distance retained between the extension and the shared boundary, it is considered that this impact would be limited. When taking into account the existing relationship between the two dwellings, with the habitable openings to the rear of the neighbouring property set in significantly from the shared boundary, it is considered that the proposed extension would not have a harmful overbearing or overshadowing impact. The relationship between the properties is considered to justify the extra 1m projection in this case. In the interest of residential amenity, and to prevent harmful overlooking towards the amenity space of the property, it is considered that it would be appropriate to condition that no openings shall be installed in this side elevation of the extension in the future should the application be recommended for approval.
- 10.29 The proposed extensions would not establish a direct relationship with any other of the neighbouring properties and it is considered that the relationships, along with the distance retained, would be sufficient to prevent the proposal from having a harmful impact by way of overbearing, overshadowing or overlooking.
- 10.30 For the reasons set out above, the proposed development is considered to result in no adverse impact upon the residential amenity of any surrounding neighbouring occupants, thereby complying with Policy LP24 of the KLP (b), Key Design principles 3, 4, 5 and 6 of the House Extensions and Alterations SPD as well as Paragraph 130 (f) of the NPPF.

Highway issues

- 10.31 The proposal would introduce a significant amount of the development to the property, including the addition of 3 new bedrooms. Paragraph 4.42 of the House Extensions and Alterations SPD sets out how the number of parking spaces required are dependent on the size of the property and the prevailing

local characteristics and will be considered on a case-by-case basis. As an initial point of reference, it advises that 4+ bedrooms dwellings should provide a minimum of 3 parking spaces. The amended site plan demonstrates one parking space within the integral garage and four on the driveway. Whilst the garage would not be of a sufficient length to accommodate a vehicle, the plan demonstrates that at least 3 parking spaces could be accommodated. Bin storage at the dwelling currently appears to take place to the side of the integral garage, and this would be unaffected by the proposed development.

- 10.32 As such, the scheme would not represent additional harm in terms of highway safety complying with Policies LP21 and LP22 of the KLP as well as Key Design Principles 15 and 16 of the House Extensions and Alterations SPD.

Other Matters

Previous Application

- 10.33 Application reference 2010/90332 was previously approved at the site. Whilst the permission has lapsed, the application forms a material planning consideration. The application proposed the demolition and replacement of the existing dwelling and the erection of a new dwelling within the rear garden of the property. Each application must be assessed on its own merits and considered against the relevant planning policies at the time of its determination. The impact on the conservation area and listed building was assessed as part of the consideration of the application. The current proposal is for extensions to the existing building and is considered not to be directly comparable to the previous scheme which did maintain an open aspect immediately adjacent to the listed church building. Furthermore, this previous application was assessed in relation to now superseded national and local planning policy. In this case, the impact of the proposal has been considered with regard to the KLP, NPPF and House Extensions and Alterations SPD and cannot be supported due to its impact on the visual amenity of the host property and wider area which comprises the Upper Hopton conservation area and grade II listed St John's Church.
- 10.34 Application reference 2021/93360 has been previously approved at the site. The application is for the prior notification of a single storey rear extension and is considered to establish the principle of a having a single storey extension with an 8m projection at the property. The prior notification application is considered to represent a realistic fall-back position should the application for the proposed development be refused. This fall-back position has been afforded weight within the assessment of the application and it is considered, on this basis, that the proposed single storey rear extension could be supported. Whilst the applicant has submitted a certificate of lawful development application (2021/93359) to establish the principle of constructing a two storey rear extension at the property, this application has been refused. Nevertheless, should the principle of erecting a two storey rear extension under

permitted development at the property be established, it is noted that the only one of the single storey rear extension and two storey extension would be able to be constructed. There is considered to be no realistic fall-back position for the erection of further extensions to the property under permitted development, and as such, weight can only be afforded to the single storey rear extension and the fall-back position which has been established by the prior notification application.

Biodiversity

- 10.34 The site is located within the bat alert layer and therefore consideration has to be given to the impact of the proposed development on bats and bat roosts. A site visit was undertaken as part of the application and there was no evidence of bats or bat roosts. Should the application be recommended for approval, a footnote could have been added to the decision notice in accordance with Policy LP30 of the KLP, Key Design Principle 12 of the House Extensions and Alterations SPD and the aims of Chapter 15 of the NPPF.

Trees

- 10.35 There are a number of trees which are protected by a Tree Preservation Order which are located within the rear garden of the property. The trees within the grounds of the church are protected by the designation of the Upper Hopton conservation order. A large area of the trees within the grounds of the church are also protected by a Tree Preservation Order. Whilst the rear extensions would have a significant projection, the protected trees are located towards the rear of the site, and it is considered that sufficient distance would be retained to prevent the proposal from impacting these protected trees in this instance. The trees within the church grounds are located to the front and side of the dwelling. The front extension would be located within the existing footprint of the dwelling. When considering this, along with the distance retained, it is considered that this element would not impact on the amenity of the protected trees in this case. The rear extensions would not project beyond the side elevation of the dwelling and are therefore not considered to impact on the amenity of the trees which are located within close proximity of the boundary to the side elevation of the dwelling.
- 10.36 Key Design Principle 13 of the House Extensions and Alterations SPD sets out how extensions and alterations should seek to retain existing vegetation and trees and enhance the provision through landscaping where possible. Key Design Principle 12 states that proposals should consider how they might contribute towards the enhancement of the natural environment and biodiversity. The application form states that no trees would be pruned or removed as part of the proposal. Whilst the previous hedging to the side of the dwelling has been removed, this would be replaced as part of the development. When taking the above into consideration, the impact on the natural environment and biodiversity as a result of the proposal is considered acceptable, complying with Policy LP30 of the KLP and the aims of the NPPF.

Coal Mining Legacy

- 10.37 The site is located within a 'high risk' coal mining area. The proposed development is for householder extensions and therefore this falls under the 'exemptions' on the Coal Authority's exemptions list. For this reason, a Coal Mining Risk Assessment or consultation with The Coal Authority has not been undertaken and the proposed development is considered acceptable in this regard.

Climate Change

- 10.38 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.
- 10.39 The proposal represents domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards. For this reason, the proposed development is considered to comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.
- 10.40 There are no other matters considered relevant to the determination of this application.

Representations

- 10.41 One general comment was received during the course of the application. A response to each of the comments made follows:
- Supportive of the extensions as work is required to bring the property up to a modern standard.

Officer comment: This comment is noted. An assessment of the proposal has been set out within this report.

- The trees and shrubs in the rear garden and adjacent church grounds support a variety of wildlife in the area. If these can be maintained, then it would be good for the natural environment.

Officer Comment: The comments relating to trees and ecology have been covered in the other matters section of this report. The impact on trees and ecology is considered to be acceptable.

- 10.42 The comments received from Ward Councillor Bolt have been carefully considered. The impact on the conservation area and Grade II listed church have been considered as part of this assessment of the application and are set out in detail in the heritage section of this report. It is considered that the proposal, as a result of the scale and design of the rear extensions and their proximity to the boundary of the listed building and conservation area, would result in harm to their setting. Whilst this harm would be less than substantial, the proposal is for development to an existing residential property, and as such, there would be no public benefit from the scheme which would weigh against the harm caused.
- 10.43 The application for two detached dwellings (2010/90332), whilst lapsed, does form a material consideration and has been addressed within this report. Each application must be considered on its own merits and the impact on the listed building and conservation were addressed within the assessment of the application. The current application relates to extensions to an existing dwelling, and the two proposals are considered not to be directly comparable. It is also noted that since the granting of the previous permission, the NPPF, KLP and House Extensions and Alterations SPD have been adopted and the application must be considered against the current planning policies and guidance.
- 10.44 As previously set out, application 2021/93360 has been approved at the site and is considered to establish the principle of having an 8m single storey extension at the property. This has been afforded weight in the consideration of the application and the single storey rear element of the proposal, is considered acceptable. Whilst a Certificate of Lawful Development application (2021/93359) was submitted for a two storey rear extension and first floor side extension, this was refused as the extension would project beyond a side wall of the original dwelling. Whilst it is acknowledged that a two storey rear extension, to the rear of the main dwelling only could potentially be constructed under permitted development, this has not been supported through the submission of a further Certificate of Lawful Development application. In any case, it is noted that should this fall back position be established, the applicant would not be able to construct both the two storey rear extension and larger single storey rear extension together. The design of the scheme, considered against the NPPF, KLP and House Extensions and Alterations SPD, has been set out within the main body of this report.

11.0 CONCLUSION

11.1 The application for extensions and alterations to 4 Hopton Hall Lane, Upper Hopton, Mirfield, has been assessed against relevant policies in the development plan, as listed in the policy section of this report. It is considered that the development proposals do not accord with the development plan and the adverse impact of granting planning permission on the host building and wider area, which comprises the Upper Hopton Conservation Area and Grade II listed St John's church, would significantly and demonstrably outweigh any benefits of the development, when assessed against policies in the NPPF taken as a whole.

11.2 the 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.

12.0 Reasons for Refusal are set out at the beginning of this report.

Background Papers:

Application weblink:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/90509>

Certificate of Ownership – Certificate A signed.

Weblink to previous applications referred to in section 4.0 of this report:

2021/93360 – Prior notification for single storey extension of 8m projection. Prior Approval not required –

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f93360+>

2021/93359 – Certificate of lawfulness for proposed erection of extensions and alterations. Refused –

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f93359+>

2010/90332 – Erection of two detached dwellings. Granted –

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2010%2f90332+>

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 25-Nov-2021

Subject: Planning Application 2021/92279 Siting of static caravan for agricultural worker and livestock building for temporary 3 year period Upper Langley Farm Former, Langley Lane, Clayton West, Huddersfield, HD8 9HY

APPLICANT

E Tipler

DATE VALID

11-Jun-2021

TARGET DATE

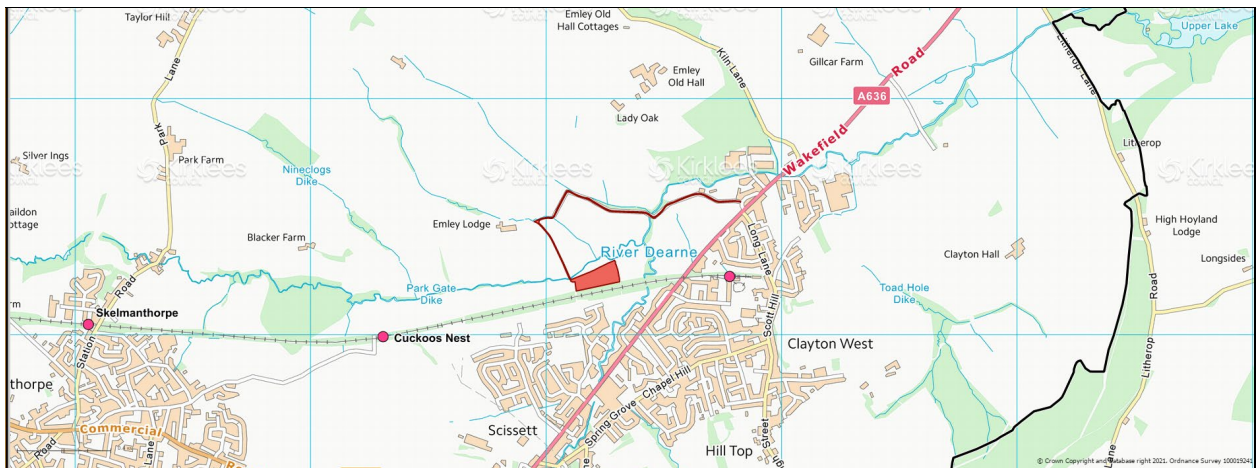
06-Aug-2021

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

Wards affected: Denby Dale Ward

Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE planning permission, for the reasons set out below:

1. The application site is located upon land designated as Green Belt on the Kirklees Local Plan, within which development is severely restricted. The applicant has failed to demonstrate that there is the agricultural need for the temporary siting of the static caravan. The proposed temporary siting of the static caravan is clearly contrary to the purposes of granting a temporary permission and the purposes of Local Plan Policy LP55. As such, the proposal constitutes inappropriate development in the Green Belt for which there are no very special circumstances that would justify allowing the proposal contrary to Green Belt policy. As such, the application fails to comply with the aims of Policies LP24 and LP55 of the Kirklees Local Plan as well as the aims of Chapters 12 and 13 of the National Planning Policy Framework and would result in significant harm to the openness of the Green Belt and its rural character.

2. The proposed agricultural building, by virtue of the design, fails to respect the rural character of the Green Belt setting and does not constitute good design. The building would therefore materially detract from the Green Belt setting and character of the area. To permit such development would be contrary to Local Plan Policies LP24 and LP54 as well as Chapter 12 of the National Planning Policy Framework.

3. The proposed intensification of the Public Right of Way, without any improvement, would not represent suitable access for vehicles nor ensure safe usage for pedestrians. Furthermore, due to insufficient information regarding the structure of the beck crossing, there is an unacceptable risk that an intensification of use could see the structure fail within the three-year period. For these reasons, to permit such development would be contrary to Local Plan Policies LP21 and LP22 as well as Chapter 9 of the National Planning Policy Framework.

1.0 INTRODUCTION

1.1 Planning permission is being sought for the siting of a static caravan for an agricultural worker and for the erection of a livestock building for a temporary 3 year period on land to the north of the former Upper Langley Farm, Langley Lane in Clayton West. The application is brought to Heavy Woollen Planning Committee in accordance with the scheme of delegation as the size of the site is over 0.5 hectares. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS

2.1 The application relates to a rectangular-shaped parcel of land located to the north of the former Upper Langley Farm. To the south, the site is bounded by the railway embankment of the Kirklees Light Railway and beyond this, the Pilling Lane residential development scheme is currently under construction. To the north, east and west of the site is agricultural land. A water course, Park Gate Dike, runs to the north of the site.

- 2.2 The red line boundary illustrates the site access from the adopted highway; this extends through the field to the north of the site and then eastwards along the existing track known as Langley Lane. Public Rights of Ways run around the edges of the site and along the access. There is a bridge over the watercourse which provides access to the site.
- 2.3 The applicant previously occupied Upper Langley Farm, which was located on the site of the current residential development scheme to the south. It is understood that the applicant tenanted this land prior to development commencing, and surrendered his land and farmstead following the grant of planning permission for the residential development scheme. The applicant has since moved onto the site which remains in his ownership and is currently living in a large caravan on the site to which this application relates. The applicant has also moved many belongings onto this land too, which include vehicles, farm machinery, scrap metal/building materials, containers and the stone acquired from the demolition of the farmhouse.

3.0 PROPOSAL

- 3.1 Planning permission is sought for the siting of a static caravan for an agricultural worker and a livestock building both for a temporary 3 year period. This proposal is retrospective given both these elements of the proposal are already sited.
- 3.2 The static caravan has a length of 11.4m and a width of 5.4m creating a square footage of 61.56m². The static caravan has a pitched roof with the eaves set at a height of 2.4m and the ridge set at a height of approximately 3m. The design and appearance of the static caravan is atypical, with the walls being externally faced in a neutral colour render. The static caravan formally has two bedrooms. The static caravan is to be used as an agricultural worker's dwelling by the applicant.
- 3.3 The livestock building appears to be a 'homemade' structure. It has a length of 24.9m, a width of 7.35m and a maximum height of 2.75m as per the submitted plans. It has a purpose of providing shelter for new-born calves as per the submitted Design and Access Statement. The structure has been formed using timber logs as supports for one wall and beams for the roof. The roof has then been finished with metal sheeting, whilst the one side is finished with metal barriers. The other side is formed by using two shipping containers whereby the log beams rest on to the roof of the containers set end on to one another. Metal, agricultural style gates secure the structure at each end.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

- 2021/N/92459/E – Prior notification for erection of agricultural building – Approval of details withheld (refused).
- 2018/94162 – Erection of dwelling and 3 outbuildings and works to access – refused at Heavy Woollen Planning Sub-Committee in line with officer recommendation on 04/11/2020 – Appeal lodged but withdrawn.
- 2018/91387 – Erection of dwelling and 3 outbuildings – withdrawn.
- Enforcement: COMP/18/0009: Alleged siting of residential caravan and storage use on the site.

4.1 ENFORCEMENT

As a result of officer's previous investigations into the unauthorised siting of the residential caravan and storage uses an enforcement notice was issued on the 10 December 2018. This notice required the cessation of the storage and caravan uses and the removal of the caravan and other items from the site within 2 months of the notice coming into effect. The notice came into effect on the 8 May 2019 following an unsuccessful appeal and as such should have been complied with before 8 July 2019. The owner has since submitted several applications in an attempt to regularise the matter as set out in the planning history section of this report despite the owner being in breach of the notice. Upon determination of this application officers will be considering whether or not criminal sanctions against the owner/occupier of the caravan are in the public interest should the notice not be complied with forthwith.

5.0 HISTORY OF NEGOTIATIONS

5.1 Under application 2018/94162 extensive discussion took place between the Authority and the applicant/agent. This included a meeting, a joint site visit and consultation with an agricultural consultant.

5.2 The scheme now submitted still raised significant concerns in terms of the principle of development in the Green Belt. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. As the issues go to the heart of the application and relates to the principle of development, and, considering the extensive negotiations/discussions on application 2018/94162, officers and the agent agreed that negotiations on this application would not be beneficial, and that the application should be progressed towards a decision.

5.3 Notwithstanding the above, the agent was contacted just to clarify whether they are seeking permanent or temporary permission for the siting of the livestock building as that matter was unclear in the submitted documents. The agent stated that they wished for the livestock building to be proposed for a temporary three year permission alongside the static caravan.

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 application site lies within the Green Belt.

Kirklees Local Plan (2019):

6.2 Relevant Kirklees Local Plan Policies are set out below:

- LP 1 – Sustainable Development
- LP 21 – Highway Safety
- LP23 – Core Walking and Cycling Routes

- LP24 – Design
- LP27 – Flood Risk
- LP28 – Drainage
- LP30 – Biodiversity and geodiversity
- LP33 – Trees
- LP51 – Protection and improvement of local air quality
- LP53 – Contaminated and unstable land
- LP54 – Buildings for agriculture and forestry
- LP55 – Agricultural and forestry workers dwellings

Supplementary Planning Guidance / Documents:

6.3 Kirklees Highways Design Guidance Supplementary Planning Document.

National Planning Guidance:

6.4 Relevant sections of the National Planning Policy Framework are set out below:

- Chapter 5 – Delivering a sufficient supply of homes (rural housing and isolated homes – paragraph 80)
- Chapter 6 – Building a strong, competitive economy (Supporting a prosperous rural economy – paragraph 84)
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 15 – Conserving and Enhancing the Natural Environment

7.0 PUBLIC/LOCAL RESPONSE

7.1 As a result of this application 1no. representation was received. This representation was against the proposal. It is summarised as follows:

- The site is not of an adequate standard for people to live on.
- The access track cannot stand any further vehicle movement.
- The site is not adequate to support livestock due to its poor condition.
- The site harms the visual amenity of the area.

7.2 Denby Dale Parish Council comments: No objection.

8.0 Consultation Responses

8.1 The following is a brief summary of the consultee advice (more details are contained within the assessment section of the report, where appropriate). Consultation responses from application 2018/94162 are still applicable.

8.2 Statutory:

- KC Highways Development Management: Object due to concerns regarding the suitability of the access.
- The Environment Agency: No material change from 2018/94162 response of no objection. Should it become apparent that works are reviewed to strengthen the bridge, they should be reconsulted.

- KC Environmental Health: No objection subject to conditions regarding air quality and contaminated land.

8.3 Non statutory:

- KC Planning Policy: Object due to insufficient evidence to demonstrate the requirement for an agricultural dwelling even on a temporary provision. Object also due to the design not being appropriate in the Green Belt/rural setting.
- KC Public Rights of Way (PROW): No comments received.
- KC Ecology: No comments received but raised no objection on 2018/94162 response.

9.0 MAIN ISSUES

- Principle of development
- Design, visual amenity and openness of the Green Belt
- Residential amenity
- Highway Safety and PROW
- Drainage issues
- Ecology issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of Development

- 10.1 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).
- 10.2 The site is located within the green belt on the Kirklees Local Plan, and the proposal is for the siting of a static caravan and erection of a livestock building. The caravan is to be used as an agricultural workers dwelling. Paragraph 147 of the NPPF stipulates that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In paragraph 148, it goes on to state that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 148 stipulates a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt. The proposal does not fall under one of the exceptions in Paragraph 148 and is therefore inappropriate development.
- 10.3 Chapter 5 – rural housing - paragraph 80 of the NPPF states that 'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: (a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the

countryside.’ As such the proposal could be considered under very special circumstances if it is demonstrated that there is both an essential and permanent need for a worker to be housed at their place of work. This ‘essential need’ was assessed under application 2018/94162 and was not found to meet the requirement of Paragraph 80, hence this application for a temporary permission for the siting of static caravan.

- 10.4 Policy LP55 of the Kirklees Local Plan relates to agricultural and forestry workers dwellings and as such is relevant in the determination of the application. This sets out that in such cases, this type of development will normally be acceptable where there is both ‘an essential and permanent need for the dwelling based on the functional requirements of the enterprise it is intended to serve’ in the same vein as paragraph 80 of the NPPF. This policy sets out key considerations on the matter in relation to agricultural need, siting, availability of existing accommodation, temporary permissions, and security of the long-term control, scale of the proposal and history of the holding. Previous planning applications have discounted the acceptable of a residential dwelling in this location, however, now the applicant proposes the siting of a static caravan on temporary notice, thus further policy must be considered. Local Plan policy LP55 covers temporary permissions for static caravans etc. ‘Where there would be no other justification for such accommodation, consideration will be given only to the grant of planning permission for the siting of a mobile home or other suitable form of temporary accommodation for a maximum of three years. If at the end of this period viability cannot be demonstrated the temporary accommodation would be expected to be removed and the site restored, unless there is clear evidence that a permanent need will be established within a period to be agreed with the local authority.’
- 10.5 Paragraph 19.17 within the policy justification for Local Plan policy LP55 explains the standpoint of temporary dwellings for agricultural workers in more depth. It reads ‘Where a new dwelling is being proposed to support a new agricultural or forestry enterprise, or where immediate viability cannot be established but there is a clear functional need, only a temporary planning permission will be granted initially so as to allow the enterprise to be developed or viability to be established. Temporary permission will normally be for a period of three years. Permission for a temporary dwelling should not be approved where a permanent dwelling would not be acceptable. If by the end of the initial three year period the viability of the enterprise cannot be demonstrated temporary permission will not normally be renewed nor will permission be granted for a permanent dwelling.’
- 10.6 Paragraph 19.17 clearly sets out that temporary permission should only be granted to allow the enterprise to be developed or viability to be established. The agent references paragraph 14 of The Use of Planning Conditions Guidance as justification to make a case that this temporary period is required to help the applicant ‘consolidating and expanding the agricultural enterprise’ which would meet the reasons for temporary permission set out in paragraph 19.17 of the KLP. However, officers wholly disagree with the agent’s case. As per information submitted on previous applications, the farm business has been operating for 174 years. Therefore, the applicant and the previous operators have had plenty of time to ‘consolidate and expand’ the farm to justify the functional need. Figure 1 below shows what appears to be the same static caravan in situ since 2018. This demonstrates the applicant specifically has already had at least 3 years to help the business be developed or viability to be

established. Furthermore Paragraph 19.17 states 'Permission for a temporary dwelling should not be approved where a permanent dwelling would not be acceptable.' Previous planning application 2018/94162 concluded that a dwelling on this site would result in significant harm to the openness of the Green Belt and its rural character, showing that a permanent dwelling is not acceptable in this location, thus, as per paragraph 19.17, a temporary dwelling should also not be approved on this site.



Figure 1 - Aerial imagery from 2018 showing the static caravan

- 10.7 Policy clearly states that, if by the end of the initial three year period the viability of the enterprise cannot be demonstrated, temporary permission will not normally be renewed nor will permission be granted for a permanent dwelling. Whilst the applicant has not formally benefitted from a temporary permission previously, the fact they have had three years in this static home on site to establish the need must carry weight. After the 3 years of living on site, the applicant has failed to provide any evidence to demonstrate the viability of the enterprise. Within the three years since the static home was sited, the business has in fact been substantially reduced in size.
- 10.8 The entire planning history clearly demonstrates that this is a business in decline where there is clearly no need for a dwelling on site, permanently or temporarily. This was clearly shown when the applicant vacated and gave up a large amount of the farmstead. Previous application 2018/94162 saw an application for a dwelling refused on the grounds that there was neither an essential nor permanent requirement for a new dwelling on this site, despite the business being operating for 174 years. Considering this, and that the applicant has already been living on site in a static home for at least three years, it can be clearly seen that the purpose of the temporary permission route is not meant for a site of this nature. The applicant has already had sufficient time to demonstrate the viability of the enterprise by living on site. The application for temporary planning permission on this site has not been made for the purposes of allowing the enterprise to be developed or viability to be established, but just to support the applicant's own wishes/situation.

- 10.9 The application also is seeking permission for the erection of an agricultural building, for the purposes of providing shelter for livestock. As fore mentioned, this element of the scheme is also retrospective, with the applicant seeking a temporary siting for three years also. Paragraph 149 of the NPPF sets out that buildings for agriculture in the Green Belt are not considered inappropriate development. Local Plan policy LP54 states: 'Proposals for new buildings for agriculture and forestry will normally be acceptable, provided that:
- a. the building is genuinely required for the purposes of agriculture or forestry;
 - b. the building can be sited in close association with other existing agricultural buildings, subject to the operational requirements of the holding it is intended to serve. Isolated new buildings will only be accepted exceptionally where there are clear and demonstrable reasons for an isolated location;
 - c. there will be no detriment to the amenity of nearby residents by reason of noise or odour or any other reason; and
 - d. the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.'
- 10.10 The livestock building as previously described, is supported by the roof being sat on two shipping containers. This represents poor quality design which materially detracts from the Green Belt setting. The use of shipping containers as an integral part of the building cannot be considered to respect the rural setting in the slightest. For this reason, the livestock building is contrary to policy LP54(a) of the KLP with regard to the principle of development too.
- 10.11 In conclusion requirement for the temporary siting of the static caravan on this site has not been demonstrated to the satisfaction of officers. All evidence clearly shows the business to be in decline. The business has been operating for 174 years according to the applicant, thus, has had generations to be established. A significant part of the holding was lost when the applicant gave up the land for the development of houses. Despite the applicant alleging there was a need for a permanent dwelling on application 2018/94162, the applicant is now stating they need a temporary permission for three years to 'consolidate and expand the business'. Furthermore, since the applicant sited the caravan in 2018, the business has declined. The applicant has also failed to submit any suitable agricultural information *under this application* to demonstrate the business is at a point where expansion and long term viability is a realistic expectation if the temporary permission were to be granted. Nevertheless, officers have been pragmatic considered all information submitted through previous applications, which all pointed to the agricultural activity on the site being minimal, in decline and clearly not demonstrating the need for a worker to live permanently on site. This shows that a temporary permission would not help to secure the viability of the business, but just harm the Green Belt setting. The proposed siting of the static home therefore clearly does not accord with the purposes of granting a temporary permission or the purposes of Local Plan Policy LP55. As such, the proposed static caravan constitutes inappropriate development in the Green Belt for which there are no very special circumstances that would justify allowing the proposal contrary to Green Belt policy. Furthermore, the proposed agricultural building does not respect the

Green Belt setting as required by Local Plan policy LP54. The application therefore fails to comply with the aims of policies LP54 and LP55 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework, thus, the principle of development is not considered acceptable

Impact on Visual Amenity and Openness in the Green Belt

- 10.12 Policy LP24 of the Kirklees Local Plan requires good design to be at the core of planning decisions. This echoes the guidance contained within Chapter 12 of the National Planning Policy Framework which also asserts the importance of achieving high quality design through the planning process. As set out above, the site and its access lie within Green Belt land and at Chapter 13 of the NPPF, the Government place great weight on protecting the openness of the Green Belt also.
- 10.13 Located adjacent the railway embankment, this site is nonetheless highly visible from public vantage points. PROW's bound the site on three sides and the southern boundary of the site is formed by the embankment itself. This makes the site highly visible to users of the Kirklees Light Railway from an elevated position. The current state of the site is poor. There are mounds of rubble, what appears to be abandoned machinery, trailers amongst other items littered across the site, with the grass worn down. The state of the site is currently under enforcement action.
- 10.14 In terms of the design of the static caravan, it is atypical in design. However, when considered as a part of the rural setting in which it is proposed, introducing the proposed static caravan, would result in substantial harm to the openness of the Green Belt. Furthermore, as set out in paragraph 10.10, the design of the proposed livestock building does not respect the Green Belt setting. The use of shipping containers as an integral part of the structure does not reflect the rural setting as well as representing poor quality design. The details and form do not respect nor enhance the character of the townscape and landscape as required by Local Plan policy LP24.
- 10.15 The harm identified above is not outweighed by any very special circumstances. Officers consider that significant weight would be afforded to this harm. As such, it is considered that the proposed development would represent an unacceptable level of harm to the openness of the Green Belt and the rural character of the area. There are no very special circumstances to outweigh this harm and the application is considered to conflict with the aims of Policy LP24 of the KLP as well as Chapters 12 and 13 of the NPPF.

Impact on Residential Amenity

- 10.16 Policy LP24 of the Kirklees Local Plan together with the aims of the National Planning Policy Framework require a good standard of amenity to be achieved through planning decisions for the existing and future occupiers of neighbouring land.
- 10.17 In this instance, the proposed development and associated works are located a significant distance away from residential properties. As such, there would be no significant adverse impact on the residential amenity of occupants of existing dwellings as a result of this application.

- 10.18 In terms of the amenity of the future occupants, the dwelling would have ample internal floorspace which complies with the technical housing standards – nationally described space standards. Officers do note that there is however no formal amenity space in the form of gardens or parking provision. However as the proposal is for temporary permission, formal arrangements for these matters are not crucial. The caravan is set within a large site meaning there is sufficient amenity space in an informal arrangement. As such, the occupants would have, on balance, a good standard of amenity as required by Local Plan policy LP24. Given the proposed use of the static caravan which is to be associated with farm activities, an agricultural occupancy condition would be relevant if the proposal was to be approved.
- 10.19 In summary, the proposed development is considered to be acceptable in relation to residential amenity and complies with the aims of Policy LP24 of the Kirklees Local Plan and the aims of the NPPF.

Impact on Highway Safety

- 10.20 The previous applications on the site included in-depth detail of how a number of highway issues would be addressed as the proposals would be substandard for a regular domestic dwelling; for example, the nearest suitable bin collection point is several hundred metres away from the proposed caravan location. This application does not offer the same level of detail, and ideally, Highways DM would wish to see further information supplied to allow for a full highways assessment.
- 10.21 Highways DM and PROW officers met with the applicant and agent following a previous application in 2018 to try and resolve a number of highway issues. Advice was given in terms of what information would be required to provide an informed assessment. These included surfacing details of the proposed new access, structural details of the bridge over the Park Gate Dike and details of any improvements, and information in terms of sustainability (refuse collection, emergency vehicle access).
- 10.22 Highways DM asked for details to be resubmitted to ensure the access issues have been addressed as per the 2018 application, however the agent confirmed that the applicant would not be able to propose the same works to the access given the temporary nature of the application. Officers recognise that the temporary nature of the application may also make it economically unviable to carry out all of the improvements required to make up the access to an acceptable standard. Given this, an assessment needs to be made on the existing vehicular arrangement.
- 10.23 Any intensification of the PROW of which some is presently just unmade ground, would be unacceptable for any period of time without some improvements. Furthermore, the structure of the beck crossing would need to be assessed and potentially improved; without this information there is always the risk that an intensification of use could see the structure fail within the three-year period. Therefore, the proposed development is also recommended for refusal on highways grounds.

Flood Risk and Drainage Issues

- 10.24 The main section of the site is situated south of Park Gate Dike. This is classed as a statutory main river. This river was modelled under application 2018/94162 by the Environment Agency to show the risk zones associated with this watercourse. The buildings proposed on this site are all within flood zone 1, this is the lowest risk zone from fluvial flooding sources.
- 10.25 Unlike the 2018/94162 application, no works are being proposed to the access or the bridge over the river or have even been referred to by the applicant. A separate planning application would be required if these works were required. For this reason, the LLFA were not reconsulted on this application. In align with their comments on application 2018/94162, there are no objections to the proposal with regard to flooding, subject to a condition in relation to surface water drainage. It is known that Park Gate Dike may become impassable in extreme weather events. In this event there are sufficient alternative routes for leaving the site to the south via the PROW's that bound the site to the side.
- 10.26 As the proposal is no longer seeking permission for the works to the access, discussion with the Environment Agency was not required per se, however their previous comments on the 2018/94162 application are still applicable. As set out the proposal is not seeking permission for any works to the bridge, nevertheless, it is currently unknown as to whether any structural works to be bridge would be required to support the proposed use. The Environment Agency should be contacted if any future application for works to the bridge is submitted. It is understood that this is to ensure that any proposed works would have an acceptable impact on flows through the river. No objections have been raised in principle. This work would be subject to the EA's Environmental Permitting and informative details have been passed on for the attention of the applicant should this application be approved.

Ecology issues

- 10.27 The application site lies within the Kirklees Wildlife Habitat Network, bat alert layer and an area where Great Crested Newts have been previously recorded within 500m of the site. During the course of the application, a Preliminary Ecological Appraisal (PEA) was provided to support the proposed development. The PEA provides adequate assessment to conclude that negative ecological impacts will be limited provided certain mitigating measures are applied.
- 10.28 There are some concerns should work be required on the bridge to provide access to the site across Park Gate Dike, updated surveys are recommended prior to the commencement of works in relation to Otter, Water Vole and White Clawed Crayfish, nevertheless, these would need to be addressed, if applicable, on a separate application for works to the bridge (should one be submitted). Whilst the PEA is adequate, no ecological enhancements have been proposed. Therefore, should the application be approved, in order to prevent significant ecological harm and secure a biodiversity net gain on the site, KC Ecology Officers would recommend conditions relating to the production of a CEMP, a lighting design strategy for biodiversity and an Ecological Design Strategy. This would allow the proposed development to

comply with the aims of Policy LP30 of the KLP and the aims of Chapter 15 of the NPPF.

Trees

- 10.29 The proposal would not impact any protected trees, nor are there are no trees which would meet the criteria for a new Tree Preservation Order to be served that would be affected by this proposal. The proposed development is considered to comply with the aims of Policy LP33 of the KLP and the aims of Chapter 15 of the NPPF.

Land Contamination and Stability

- 10.30 KC Environmental Health Officers have reviewed the application and raise no objection in principle. However, due to the former use of the site, the land is registered as being potentially contaminated and a suite of conditions are recommended should the application be approved. These relate to the submission of contaminated land reports, including a remediation strategy and validation report, where required.
- 10.31 The land where building operations are proposed to take place is registered as a low-risk area with respect to coal mining legacy. As such, no consultation with the Coal Authority has taken place. With a stretch of the access track that would be surfaced and widened under this application does lie within a high risk coal mining area, given the nature of the works, which are non-invasive into the ground, the proposal is considered acceptable from this perspective.
- 10.32 In summary, the proposed development is considered to comply with the aims of Policy LP53 of the KLP and the aims of Chapter 15 of the NPPF.

Climate Emergency

- 10.33 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.
- 10.34 Considering the small-scale nature of the proposed development, it is not considered that the proposed development would have a significant impact on climate change that requires mitigation. The imposition of a condition for an electric vehicle charging point is not applicable on this application given it is for temporary permission. To impose such a condition would be unreasonable, thus failing the six tests for conditions. The proposed development complies with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

Representations

10.35 As a result of this application 1no. representation was received. This representation was against the proposal. It has been summarised as follows:

- The site is not of an adequate standard for people to live on.
- The access track cannot stand any further vehicle movement.
- The site is not adequate to support livestock due to its poor condition.
- The site harms the visual amenity of the area.

Response: All these points have been noted and considered in the main assessment.

11.0 CONCLUSION

11.1 In conclusion the applicant has failed to demonstrate the requirement for a temporary static caravan for residential purposes on this site. The site and business is in decline and has already been established for generations, thus, the proposal is entirely against the purposes of granting a temporary permission for a dwelling. As such, the proposal constitutes inappropriate development in the Green Belt, for which there are no very special circumstances that would justify allowing the proposal contrary to Green Belt policy. The proposed livestock building also fails to respect the rural setting in terms of details and design. The application fails to comply with the aims of Policies LP24, LP54 and LP55 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework. Furthermore, the proposal is not considered acceptable in regard to the impact on users of the public right of way either, contrary to Policies LP21 and LP22 as well as Chapter 9 of the National Planning Policy Framework.

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

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

12.0 REFUSE FOR THE REASONS SET OUT AT THE BEGINNING OF THIS REPORT.

Background Papers:

Application and history files:

- 2021/92279 - Siting of static caravan for agricultural worker for temporary 3 year period and livestock building - Application to which this report relates. Available to see here: - <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/92279>
Certificate of Ownership –Certificate B signed.
- 2018/94162 – Erection of dwelling and 3 outbuildings and works to access – refused at Heavy Woollen Planning Sub-Committee in line with officer recommendation on 04/11/2020 – Appeal lodged but withdrawn. Available to see here: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f94162>

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