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Service Director – Legal, Governance and Commissioning
Julie Muscroft

The Democracy Service

Civic Centre 3

High Street

Huddersfield

HD1 2TG

Tel: 01484 221000

Please ask for: Andrea Woodside

Email: andrea.woodside@kirklees.gov.uk

Wednesday 26 January 2022

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 3 February 2022.

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.

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 Adam Gregg

Councillor John Lawson

Councillor Gwen Lowe

Councillor Fazila Loonat

Councillor Mussarat Pervaiz

Councillor Andrew Pinnock

Councillor Jackie Ramsay

Councillor Joshua Sheard

Councillor Melanie Stephen

Councillor Kath Taylor

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

Substitutes Panel

Conservative B Armer V Lees-Hamilton R Smith M Thompson D Hall J Taylor	Independent C Greaves T Lyons	Labour M Akhtar E Firth M Kaushik M Sokhal C Scott	Liberal Democrat PA Davies A Marchington A Munro
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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. 1 - 12 2: **Minutes of Previous Meetings** To approve the Minutes of the Meetings of the Sub-Committee held on 14 October 2021 and 25 November 2021. 3: 13 - 14 **Declaration of Interests and Lobbying** Sub-Committee Members will advise (i) if there are any items on the Agenda upon which they have been lobbied and/or (ii) if there are any items on the Agenda in which they have a Disclosable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests. 4: Admission of the Public Most agenda items will be considered in public session, however, it shall be advised whether the Sub-Committee will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972. 5: **Deputations/Petitions** The Sub-Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to

something on which the body has powers and responsibilities.

deputation.

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

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

15 - 16

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 31 January 2022.

To pre-register, please email 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: 2019/94147

17 - 30

Demolition of existing building and erection of two storey community centre at Quality Food Store, Ravenshouse Road, Dewsbury Moor.

Contact: Sarah Longbottom, Planning Services

Ward affected: Dewsbury West

8: Planning Application - Application No: 2021/90509

31 - 48

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

Contact: Olivia Roberts, Planning Services

Ward affected: Mirfield

9: Planning Application - Application No: 2021/91801

49 - 58

Outline application for erection of petrol filling station at 151 Heckmondwike Road, Dewsbury Moor.

Contact: Lyle Robinson, Planning Services

Ward affected: Dewsbury West

10: Planning Application - Application No: 2021/92601

59 - 66

Erection of single storey extension at 22 Northorpe Lane, Mirfield.

Contact: Jennifer Booth, Planning Services

Ward affected: Mirfield

11: Planning Application - Application No: 2021/93329

67 - 78

Partial change of use of building from Sui Generis (drinking establishment) to B8 (storage and distribution), partial demolition of existing building and erection of two storey extension to comprise ground floor B8 Use (storage and distribution) and first floor C2 Use (residential dwelling) and other associated works at The Six Lanes Ends Public House, Leeds Road, Heckmondwike.

Contact: Callum Harrison, Planning Services

Ward affected: Heckmondwike

Planning Update

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



Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 14th October 2021

Present:

Councillor Adam Gregg Councillor Steve Hall

Councillor Manisha Kaushik Councillor John Lawson Councillor Gwen Lowe Councillor Fazila Loonat Councillor Mussarat Pervaiz Councillor Andrew Pinnock Councillor Jackie Ramsay Councillor Mohan Sokhal Councillor Melanie Stephen

Apologies: Councillor Joshua Sheard

Councillor Kath Taylor

1 Appointment of Chair

In the absence of Councillor Mumtaz Hussain, Councillor Steve Hall was appointed as Chair for this meeting of the Sub-Committee.

2 Membership of the Sub-Committee

Councillor Sokhal substituted for Councillor M Hussain.

Councillor Kaushik substituted for Councillor Dad.

Apologies for absence were received from Councillors Sheard and K Taylor.

3 Minutes of Previous Meeting

That the Minutes of the Meeting held on 2 September 2021 be approved as a correct record.

4 Declaration of Interests and Lobbying

Councillors Gregg, S Hall, Lawson, Lowe, Pervaiz, A Pinnock and Stephen declared that they had been lobbied on Application 2021/91871.

Councillor S Hall declared that he had been lobbied on Application 2020/93472.

Councillors Loonat, Pervaiz and Ramsay declared that they had been lobbied on Application 2020/94412.

Councillors S Hall, Loonat and Lowe declared that they had been lobbied on Application 2021/91659.

Councillors Gregg Lowe declared that they had been lobbied on Application 2021/91170.

Councillors Lawson and A Pinnock declared that they had been lobbied on Application 2021/91961.

5 Admission of the Public

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

6 Deputations/Petitions

No deputations or petitions were received.

7 Public Question Time

No questions were asked.

8 Planning Application - Application No: 2021/91871

The Sub-Committee gave consideration to Application 2021/91871 – Erection of residential development (55 dwellings) including access and associated infrastructure at land adjacent to High Street and Challenge Way, Hanging Heaton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Laura Shaw, Stephen Crossley, Derek Crossley, Rodney Lyle and Jan Foster (local residents) and Kester Horn (applicant's agent).

Under the provisions of Council Procedure Rule 36(3), the Sub-Committee received representations from Councillors Lukic and Scott (ward members).

RESOLVED – That the consideration of the application be deferred to enable further information to be submitted in relation to flooding ad drainage, noise mitigation measures, the red line boundary and right hand turn access off Challenge Way.

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

For: Councillors S Hall, Lawson, Lowe, A Pinnock, Ramsay and Stephen (6 votes) Against: Councillors Gregg, Kaushik, Loonat, Pervaiz and Sokhal (5 votes)

9 Planning Application - Application No: 2020/94055

The Sub-Committee gave consideration to Application 2020/94055 – Erection of 7 dwellings and associated access works at land opposite 4 Coalpit Lane, Upper Denby.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Angus Ellis (applicant's agent).

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

- commencement of development within 3 years
- development to be in accordance with the approved plans
- submission of facing and roofing materials
- submission of full details, including materials and height, for all boundary treatments
- provision of electric vehicle charging points
- reporting of unexpected land contamination
- coal mining investigative works
- submission of noise assessment report
- submission of details of internal estate roads scheme
- surfacing and drainage of road and parking areas
- submission of an ecological design strategy
- removal of permitted development rights for the addition of windows/openings within the side elevation of proposed dwellings
- provision of bin collection points

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

For: Councillors Gregg, S Hall, Kaushik, Lawson, Loonat, Lowe, Pervaiz, A Pinnock, Ramsay, Sokhal and Stephen (11 votes) Against: (no votes)

10 Planning Application - Application No: 2020/93471

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

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Andy Rushby (applicant's agent) and Mark Sawyer (Dewsbury RLFC).

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

RESOLVED –

- 1) That authority be delegated to the Head of Planning and Development to approve the application and issue the decision notice.
- 2) That a monitoring report be submitted to the Sub-Committee after a period of 12 months.

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

For: Councillors Gregg, S Hall, Kaushik, Lawson, Loonat, Lowe, Pervaiz, A Pinnock, Ramsay, Sokhal and Stephen (11 votes)

Against: (no votes)

11 Planning Application - Application No: 2020/94412

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

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Haris Kasuji (applicant's agent)

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

- standard timeframe for implementation of development (3 years)
- development in accordance with submitted plans
- reporting of unexpected contamination

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

For: Councillors S Hall, Lawson, Loonat, Lowe, Pervaiz, A Pinnock, Sokhal and Stephen (8 votes)

Against: Councillor Ramsay (1 vote)

Abstained: Councillor Gregg

12 Planning Application - Application No: 2021/91170

The Sub-Committee gave consideration to Application 2021/91170 – Erection of detached garage with first floor storage at 20 Steanard Lane, Mirfield.

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

RESOLVED – That the application be refused on the grounds that (i) the proposed development would be inappropriate in the greenbelt by definition, with no very special circumstances to which clearly outweigh the harm caused by inappropriateness and other harm. There would be additional harm to the spatial and visual aspects of the openness of the greenbelt. To approve the application would be contrary to chapter 13 of the National Planning Policy Framework (ii) the proposed development, by virtue of its scale and design, would cause harm to the heritage asset – the grade II listed building – with no public benefits to justify this harm. The proposal therefore contravenes policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework and (iii) the proposed development fails to meet the expectations for development on developed functional flood plain in flood zone 3ai as set out in policy LP27 of the Kirklees Local Plan. The site edged red and adjacent areas are wholly within flood zone 3b and 3ai and a sequential approach cannot be achieved.

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

For: Councillors S Hall, Lawson, Loonat, Lowe, Pervaiz, A Pinnock, Ramsay, Stephen (8 votes)

Against: Councillors Kaushik and Sokhal (2 votes)

Abstained: Councillor Gregg

13 Planning Application - Application No: 2021/91659

The Sub-Committee gave consideration to Application 2021/91659 – Erection of second floor extension at Heckmondwike Grammar School.

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

- commencement of development within 3 years
- development to be in accordance with the approved plans
- materials to match existing extension

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

For: Councillors Gregg, S Hall, Kaushik, Lawson, Loonat, Pervaiz, A Pinnock, Ramsay, Sokhal and Stephen (10 votes)

Against: (no votes)

14 Planning Application - Application No: 2021/91961

The Sub-Committee gave consideration to Application 2021/91961 – Erection of single storey extension, Gladstone House, Gladstone Street, Cleckheaton.

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

- timescale for implementation of development
- in accordance with approved details
- restriction on noise levels to ensure background sound levels do not exceed specified levels
- submission of a phase two intrusive site investigation report
- submission of a remediation strategy
- implementation of a remediation strategy
- submission of a validation report

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

For: Councillors Gregg, S Hall, Kaushik, Lawson, Lowe, Pervaiz, A Ramsay, Sokhal and Stephen (9 votes)

Against: (no votes)

Abstained: Councillors Lawson and A Pinnock

15 Planning Application - Application No: 2021/92608

The Sub-Committee gave consideration to Application 2020/92608 – Erection of front porch, single storey rear and first storey side extensions at 416 Lees Hall Road, Thornhill Lees, Dewsbury.

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

RESOLVED – That, contrary to the Officer's recommendation, the application be delegated to officers to approve on the grounds that, due to the location of the site,

the first floor extension would not appear overly dominant to the host building, or be out of keeping with the character of the area.

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

To Refuse:

For: Councillors Gregg, Lawson, A Pinnock, Stephen (4 votes)

Against: Councillors S Hall, Kaushik, Pervaiz, Ramsay and Sokhal (5 votes)

Abstained: Councillor Loonat

To approve;

For: Councillors S Hall, Kaushik, Pervaiz, Ramsay and Sokhal (5 votes) Against: Councillors Gregg, Lawson, A Pinnock, Stephen (4 votes)

Abstained: Councillor Loonat

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 25th November 2021

Present: Councillor Mumtaz Hussain (Chair)

Councillor Nosheen Dad
Councillor Steve Hall
Councillor Gwen Lowe
Councillor Mussarat Pervaiz
Councillor Adam Gregg
Councillor Joshua Sheard
Councillor John Lawson
Councillor Andrew Pinnock
Councillor Joshua Sheard
Councillor Joshua Sheard
Councillor Mohan Sokhal

Apologies: Councillor Fazila Loonat

Councillor Melanie Stephen

1 Membership of the Sub-Committee

Councillor Sokhal substituted for Councillor Ramsay.

Councillor D Hall substituted for Councillor K Taylor.

Apologies for absence were recived on behalf of Councillors Loonat and Stephen.

2 Minutes of Previous Meeting

(Minutes to be submitted to the next meeting of the Sub-Committee)

3 Declaration of Interests and Lobbying

Councillors Gregg, D Hall, S Hall, M Hussain, Lawson, Lowe, Pervaiz, A Pinnock and Sheard advised that they had been lobbied on Application 2021/91871.

Councillors M Hussain and Pervaiz advised that they had been lobbied on Application 2019/94147.

Councillor M Hussain advised that he had been lobbied on Application 2021/90509.

4 Admission of the Public

It was noted that no exempt information had been submitted.

5 Deputations/Petitions

No deputations or petitions were submitted.

6 Public Question Time

The Sub Committee received the following questions;

(i) Question from Laura Shaw

"Should public consultation periods be allowed to expire before Officers produce any Committee report to which consultation may apply?"

A reponse was provided by the Development Management Group Leader.

(ii) Question from Stephen Crossley

"Should undertaken surveys be relevant to the actual site that's being undertaken, should there be mitgating circumstances or is it just a survey?"

It was noted that a written response would be provided.

7 Planning Application - Application No: 2021/91871

The Sub-Committee gave consideration to Application 2021/91871 – Erection of residential development (55 dwellings) including access and associated infrastructure at land adjacent to High Street and Challenge Way, Hanging Heaton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Laura Shaw, Alan Sargant, Derek Crossley and Stephen Crossley (local residents), Mark Eastwood MP, and Kester Horn, Chris Hodge, Bryan Wood and Dave Young (on behalf of the applicant).

Under the provision of Council Procedure Rule 36 (3), the Sub-Committee received a representation from Councillor Cathy Scott (Ward Member).

RESOLVED -

- 1) That authority be delegated to the Head of Planning and Development to approve the application, issue the decision notice and complete the list of conditions including matters relating to;
 - three years to commence development
 - development to be carried out in accordance with the approved plans and specifications
 - material samples to be provided
 - landscaping strategy (to include compensatory tree re-plating)
 - boundary treatment details to be provided and implemented (including ginnels)
 - stone boundary wall within the site to be retained
 - 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
 - submission of construction environmental management plan
 - development in accordance with aboricultural method statement

- road to an adoptable standard
- submission of construction management plan
- road condition survey
- provision of waste collection areas
- construction phase waste collection strategy
- cycle storage facilities
- implementation of dropped kerb on Challenge Way (for cyclists)
- technical details of retaining walls
- scheme to improve PROW/BAT/45/20
- electric vehicle charging points
- contaminated land investigation
- submission of technical drainage strategy
- development to be in accordance with flood route plan or, notwithstanding flood route plan, updated version to be provided for review
- easements preventing building over sewerage infrastructure
- temporary drainage strategy during construction period
- lighting design strategy for ecology
- no vegetation clearance within the bird breeding season, without prior survey
- invasive non-native species removal strategy
- 2) That authority be delegated to the Head of Planning and Development to secure a S106 Agreement to cover (i) public open space off site commuted sum of £84,233 (ii) contribution of £40,307 for off-site highway work junction improvements to Challenge Way/John Ormsby VC Way/Leeds Road (Shaw Cross) junction (iii) £28,132 towards metro travel cards and/or other substantial travel method improvements (iv) 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) (v) £67,187 towards education requirements arising from the development and (vi) management and maintenance arrangements of on-site public open space in perpetuity and drainage features (prior to adoption).
- 3) That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Planning and Development shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Dad, S Hall, M Hussain and Sokhal (4 votes)

Against: Councillors Gregg, D Hall and Sheard (3 votes)

Abstained: Councillors Lawson, Lowe, Pervaiz and A Pinnock

8 Planning Application - Application No: 2019/94147

The Sub-Committee gave consideration to Application 2019/94147 – Demolition of shop and erection of community centre at Quality Food Store, Ravenshouse Road, Dewsbury.

Under the provision of Council Procedure Rule 37, the Sub-Committee received representations from Mohammed Raz (in objection) and Iqbal Mohammed and Danyal Akhtar (in support).

RESOLVED – That the application be deferred in order to enable further discussions to take place with the applicant with regards to the provision of a retail aspect within the scheme.

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

To refuse:

For: Councillors Lawson and A Pinnock (2 votes)

Against: Councillors Dad, Gregg and Sheard (3 votes)

Abstained: Councillors D Hall, S Hall, M Hussain, Lowe, Pervaiz, Sokhal

To delegate approval;

For: Councillors Dad, Gregg and Sheard (3 votes)

Against: Councillors D Hall, Lawson, A Pinnock (3 votes)

Abstained: Councillors S Hall, Lowe, M Hussain, Pervaiz and Sokhal

To defer:

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

Against: (no votes)

Abstained: Councillor Dad

9 Planning Application - Application No: 2021/90509

The Sub-Committee gave consideration to Application 2021/90509 – Erection of extensions and external alterations at 4 Hopton Hall Lane, Mirfield.

Under the provision of Council Procedure Rule 37, the Sub-Committee received representations from Amar Zarif (applicant) and Andrew Eyre (on behalf of the applicant).

RESOLVED – That the application be deferred to enable further discussions to take place with the applicant with regards to a reduction in the scale of the scheme and amended design.

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

For: Councillors S Hall, Gregg, M Hussain, Lawson, Pervaiz, A Pinnock, Sheard and Sokhal (8 votes)

Against: Councillors Dad and D Hall (2 votes)

10 Planning Application - Application No: 2021/92279

The Sub-Committee gave consideration to Application 2021/92279 – Siting of static caravan for agricultural worker for temporary 3 year period and livestock building at Upper Langley Farm, Langley Lane, Clayton West.

RESOLVED -

- 1) That the application be refused on the grounds that (i) the site is located upon land designated as Green Belt on the Kirklees Local Plan and has failed to demonstrate that there is an agricultural need for the temporary siting of the static caravan (ii) the proposed temporary siting of the static caravan is 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 special circumstances that would justify allowing the proposal contrary to Green Belt policy (iii) it fails to comply with the aims of policies LP24 and LP55 of the Kirklees Local Plan, and 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 (iv) 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, and to permit such development would be contrary to Local Plan Policies LP24 and LP54, and Chapter 12 of the National Planning Policy Framework and (v) 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 and due to insufficient information regarding the structure of the beck crossing there would be an unacceptable risk that an intensification of use could see the structure fail within the three year period, therefore to permit such development would be contrary to Local Plan Policies LP21 and LP22, and Chapter 9 of the National Planning Policy Framework.
- 2) That comments regarding enforcement actoon be noted and that Officers be asked to take action as appropriate.

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

For: Councillors Dad, D Hall, S Hall, Gregg, Lawson, M Hussain, Pervaiz, A Pinnock and Sheard (9 votes)

Against: (no votes)



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	DEC	LARATION O	DECLARATION OF INTERESTS AND LOBBYING	AND LOBBY	JNG	
		Planning Sub-Com	Planning Sub-Committee/Strategic Planning Committee	anning Committee		
Name of Councillor	illor					
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]	e interest require eting while the itε s under considera	you to em in which ation? [Y/N]	Brief description of your interest
LOBBYING		_				_
Date	Application/Page No.	Lobbied By (Name of person)	Applicant	Objector	Supporter	Action taken / Advice given
	-		-		1	_

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

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

either -

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

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 declared that you have been lobbied. A declaration of lobbying does not affect your ability to participate in the consideration or determination of the application.

Agenda Annex

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.

Agenda Item 7



Originator: Sarah Longbottom

Tel: 01484 221000

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 03-Feb-2022

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 TARGET DATE EXTENSION EXPIRY DATE

05-Feb-2020 01-Apr-2020 29-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.

Link to Public speaking at committee

LOCATION PLAN



Map not to scale - for identification purposes only

Electoral wards affected: Dewsbury West

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

REFUSE

- 1 The proposed 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. The application was deferred at the Sub-Committee on 25 November 2021 to enable further discussion to take place between Officers and the applicant in relation to the provision of a retail aspect to the proposed scheme, in addition to securing amendments to reduce the bulk and mass of the proposed building to overcome residential and visual amenity concerns.
- 1.2 Additional supplementary information was received from the applicant on 24 January 2022 in response to correspondence from the case officer on 3 December 2021. The additional information rebuts the 3 reasons for refusal set out by Officers as follows:

"With regards to the planning objection reason 1 relating to 'visual amenity', this assessment is ignoring the state of the existing building which is monstrosity and massive visual amenity issue at present. Given the choice no person would want to live next to the current shop building or choose to keep this over the proposed new building designed in line with the approved mosque plans. We would politely and strongly request you to reconsider this assessment and withdraw this reason for objection.

With regards planning objection reason 1 relating to size, bulk, and policies LP24 & LP28 of the KPL:

- a. Reducing the floorspace of the proposed building is not practical as this reduces the space available to provide the planned services required by the community.
- b. In my calls with you I asked several times for your feedback and advice on suggestions on how we could alter the design, without reducing the available floorspace, so that it would be acceptable to you, but none was provided. When asked if a flat roof would be acceptable, you advised that this would cause more of a visual amenity issue next to the new mosque that the parapet roof and would also be refused.
- c. Policy LP48 of the KLP states that 'Proposals will be supported for development that protects, retains or enhances provision, quality or accessibility of existing community, education, leisure and cultural facilities that meets the needs of all members of the community'. The proposed plans will 100% deliver this enhancement by replacing a single service that can be obtained close by with many more essential services that are not currently available.
- d. Policy LP24 (a) states; '[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'. Demolition of the existing very ugly and derelict looking shop building + rebuilding in the style of the new mosque building will immediately help achieve these requirements instead of breaching them.
- e. Based on the above + further details provided on page 7 of the attachment, we would politely and strongly request you to reconsider this assessment and withdraw this reason for objection.

With regards planning objection reason 2 relating to impact on 1 Low Road:

- f. The assessment, and the comments made at the committee meeting, shows the planning department to be more concerned about potential future residents of 1 Low Road than the wishes and wellbeing of the existing owner and residents, and the negative impact of the existing building. Any concerns for future residents are invalid as any prospective buyer who has an issue with the size of any neighbouring properties would obviously not buy it and look elsewhere!
- g. The assessment has ignored the huge negative impact of the existing shop building, visible from the living room and bedrooms, from a visual amenity, character of the street scene, and the residents of 1 Low Road.

- h. The state and condition of the existing shop building has a huge negative impact on the property values of nearby residential properties, including 1 Low Road.
- i. The point the planning officer made about having to consider the long-term impact of the new building size and bulk on future residents of 1 Low Road does not make sense and is invalid as any prospective buyer who has an issue with the size of any neighbouring properties would obviously not buy it and look elsewhere!
- j. The owner and residents of 1 Low Road have no intention to sell their home and are fully supportive of the planning application to demolish the existing horrible looking shop building and replace it with a brandnew purpose-built youth centre and community hub for the whole Dewsbury Moor Community.
- k. Based on the above + further details provided on page 8 of the attachment, we would politely and strongly request you to reconsider this assessment and withdraw this reason for objection.

With regards to planning objection reason 3 relating to loss of local shop:

- I. White Rose Catering is planning to start a full retail service to complement their trade business.
- m. There are **4** shops/grocers/convenience stores within 0.4 miles of the Quality Food Store. Full list provided on page 9 of the attachment.
- n. There are a further **4** shops/grocers/convenience stores within 1 mile of the Quality Food Store. Full list provided on page 9 of the attachment.
- o. Reason 3 for planning objection is therefore proven to be invalid and therefore we would request you to withdraw this reason for objection.

Some committee members raised a concern that if the plans were approved the residents of 1 Low Road having to look out onto a 'large' blank wall. Compared to the existing view, a stone wall would be an infinite improvement and much preferred. However, subject to consultation with the residents of 1 Low Road close by area, and cost, and planning approval, Mohaddis-e-Azam Mission Dewsbury is willing to consider making the end wall a design feature with either a mural, mosaic, wall sculpture, wall garden or other design features available and affordable".

1.3 The attachment referred to above by the applicant can be viewed here:

Link to application details

- 1.4 Some comments made by the applicant are not material to the assessment of the application and therefore, have not been included here.
- 1.5 The comments made by the applicant set out above, along with the attachment have been carefully reviewed by officers. However, for the reasons set out in the main assessment below, the recommendation by officers remains unchanged.

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.
- 3.2 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 The application was deferred at the Sub-Committee on 25 November 2021 to enable further discussion to take place between Officers and the applicant in relation to the provision of a retail aspect to the proposed scheme, in addition to securing amendments to reduce the bulk and mass of the proposed building to overcome residential and visual amenity concerns. The applicant was contacted by the case officer on 3 December 2021 where advice was given in respect of these matters, however no subsequent amendments have been received to date. As such, Officers consider that that original reasons for refusal are still applicable.

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.

<u>Urban Design issues</u>

- 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.
- 10.23 In their additional information received on 24 January 2022, the applicant includes a table of grocery and convenience stores which they state to be within 1 mile of the application site. Notwithstanding this, White Rose Catering, to the south of the application site, is a cash and carry business open to trade/wholesale and not a local convenience store. Roy's Mini-Market, to the north east, appeared to be vacant and have ceased trading at the time of the case officer's site visit. Ravenshouse Mini Market is the nearest convenience store which is currently trading, and is located approximately 0.4 miles to the south east. Whilst there is no distance set out within the KLP to define what is 'local', Officers consider that this would not constitute adequate alternative provision within 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

10.24 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

10.25 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:

Link to application details

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

Link to application details

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

Link to application details

Certificate of Ownership – Certificate A signed and dated.



Agenda Item 8



Originator: Olivia Roberts

Tel: 01484 221000

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 03-Feb-2022

Subject: Planning Application 2021/90509 Erection of extensions and external

alterations 4, Hopton Hall Lane, Mirfield, WF14 8EL

APPLICANT

A Zarif

DATE VALID TARGET DATE EXTENSION EXPIRY DATE

09-Feb-2021 06-Apr-2021 08-Feb-2022

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

Link to Public speaking at committee

LOCATION PLAN



Map not to scale - for identification purposes only

Electoral wards affected: Mirfield

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 **INTRODUCTION**:

- 1.1 The application was brought to the Heavy Woollen Planning Sub-Committee on 25th November 2021 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 confirmed that the reason for referring the application to committee were valid having regard to the Council's Scheme of Delegation.
- 1.4 This application was deferred at the Heavy Woollen Sub-Committee meeting on 25th November 2021 to facilitate further discussions between officers and the applicant/agent in order to reduce the scale of the scheme and amend the design.

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 Tree Preservation Orders.
- 2.3 The surrounding area is predominantly residential in nature, comprising 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. Amendments have been made to the scheme. Each element of the proposal, as being considered, shall be set out below:

Front Extension and Alterations

3.2 A two storey extension is proposed to the front of the property. The extension would project an additional 0.7m than the existing ground floor, flat roofed element of the dwelling with a total projection of 1.85m from the existing first floor. 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.

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 be set in from either side elevation of the host dwelling 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. The design to the rear of the extension would include Juliet balconies.

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 two 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. A window and entrance door would be introduced to the side of the existing integral garage and would serve an entrance door and WC.
- 3.7 The application form states that 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.
- 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 previously amended plans, which reduced the scale of the proposed front extension and demonstrated parking provision.
- 5.5 The application was first brought to the Heavy Woollen Planning Sub-Committee meeting on 25th November 2021 and was deferred to facilitate further discussions between officers and the applicant/agent in order to reduce the scale of the scheme and amend the design.
- 5.6 Following further negotiations between officers and the applicant and the applicant's agent, amended plans have been submitted setting the rear extensions in from either side elevation of the host dwelling by 0.7m. Whilst the projection of the front extension has been increased slightly to project 0.7m from the existing front addition, it would not exceed the projection demonstrated

under the original scheme. The openings to the front of the extension have been amended so that the opening at first floor corresponds with the existing first floor level openings to the front elevation of the dwelling. Due to the nature of the revisions made, which reduced the overall scale of the scheme, the amended plans have not been advertised in this particular case.

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

<u>Supplementary Planning Guidance / Documents:</u>

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 – Objected to the previous plans due to 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.

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- 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 a two storey front extension, first floor side extension, 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 the front. 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 two storey front extension would, in part, be located above an existing projecting element to the front of the dwelling with an additional projection of 0.7m. 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 majority of the extension would be located above an existing element at ground floor, it would project an additional 0.7m. Notwithstanding this, when taking into account the scale of the extension, its limited additional projection and the fact that it would be set down in relation to the main roof form of the property, it is considered that it would remain subservient to the host dwelling in this case. The fenestration to the front of the extension has been altered so that the first floor opening would reflect the design and scale of the existing first floor level openings on the property. Whilst more contemporary openings are proposed

at ground floor level and to the side elevations, these are considered not to detract from the visual amenity of the host property and wider area in this particular case. The extension is considered compliant with 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. 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. The extension would be of a substantial width, projecting across the majority of the rear elevation of the host dwelling. Amendments have been made to the scheme, setting the extension in 0.7m from the south western side elevation to match the set in shown to the north eastern side elevation. Whilst the extension would still be of a substantial size, the amendment made is considered, on balance, to ensure that the extension would not dominate the original house, compliant with the aims of Key Design Principle 2 of the House Extensions and Alterations SPD. The rear of the extension would include more contemporary elements, including full length glazing and Juliet balconies. Whilst the existing openings to the rear are of a more traditional appearance, the use of these openings and the impact on the host property is considered acceptable.
- 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, it is noted that application 2021/93360 is a material consideration which establishes the principle of having a single storey extension with an 8m projection at the property. As such, the projection of the extension is considered to be acceptable in this case. The design of the extension, and the fenestration, would correspond with the more contemporary design proposed to the rear of the two storey extension, and is considered an acceptable addition to the rear of the property in this case.
- 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 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 following development. 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 elevations of the dwelling. One of the openings to the south western elevation 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, it is considered that it would be appropriate to condition that the external walls of the extensions should be finished in stone.
- 10.14 In summary, when considered on balance, the proposed development is considered not to result in significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the KLP (a) and (c), Key Design Principles 1 and 2 of the House Extensions and Alterations SPD 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 4.4m of the boundary of the Upper Hopton conservation area and 8.9m 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 was 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. Under the previous plans, the Conservation and Design officer commented that the front extension, by virtue of its fenestration, and the rear extension in terms of its scale and massing, would not be in keeping with the existing building, the local vernacular, or the design of the surrounding suburban development. The development as such was considered to detract from important view north eastwards of the conservation area. Whilst the rear extension would still be large in scale, the amendments, which would reduce its width and overall height, are considered to reduce its impact on the existing building. The alterations to the fenestration to the front extension would be in keeping with the design of the host dwelling, reducing the impact on the street scene and wider area. As such, the impact on the conservation area, by virtue of the amendments made to the design and scale of the proposal, is considered to be acceptable.
- 10.20 Turning to the setting of the listed building, concern was raised under the previous plans to the impact to the significance of the listed building due to the bulk and massing of the rear extension and their proximity to the listed building. Under the amended plans, the width and overall height of the rear extension has been reduced, pulling the development away from the boundary shared with the listed building. Whilst the extensions would still be visible in view from the burial grounds towards the west tower of the church, due to the amendments made which would pull the development away from the listed building, the impact on the listed building is considered to be acceptable in this particular case.

10.21 In summary, the proposed development as amended, would not result in harm to the setting of the grade II listed building or the setting of the Upper Hopton conservation area. The scheme as such is considered to comply with Policy LP35 of the KLP and Chapter 16 of the NPPF.

Residential Amenity

10.22 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

- 10.23 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 serve secondary openings to a hall and first floor bathroom. Together with the distance retained, the use of these openings is considered to prevent the potential for harmful overlooking towards the neighbouring property.
- 10.24 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. A WC opening and entrance door are also proposed at ground floor level. The ensuite and WC openings are 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.
- 10.25 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.

- 10.26 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, 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.
- 10.27 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.
- 10.28 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.
- 10.29 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

10.30 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. An amended site plan has been submitted demonstrating that one parking space would be provided 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 the recommended 3 parking spaces could be accommodated within the application site. 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.

10.31 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

- 10.32 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. Under the amended plans, it is considered that the proposal would have an acceptable impact on the visual amenity of the host dwelling and wider area which comprises the Upper Hopton conservation area and grade II listed St John's Church.
- 10.33 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. It has been requested that the site plan, which is annotated to show the

replacement of this hedging, is amended to reflect the amendments made to the front and rear extensions. 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 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.
- 10.39 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.

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• 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 amendments made to the front and rear extensions are sufficient to address the concerns which were raised to the previous plans in terms of the impact on the setting of the conservation and listed building.
- 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 scheme, as amended, would accord with the development plan and would have an acceptable impact with regards to visual amenity, heritage, residential amenity and highway safety as discussed in the above report.

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

- 1. Standard timeframe for implementation of development (3 years).
- 2. Development in accordance with the submitted plans.
- 3. Materials to match existing.
- 4. No openings to be installed at ground floor level in the north eastern side elevation of the two storey and single storey rear extensions.

Background Papers:

Application weblink:

Link to application details

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 – Link to application details

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

<u>Link to application details</u>

2010/90332 – Erection of two detached dwellings. Granted – Link to application details

Agenda Item 9



Originator: Lyle Robinson

Tel: 01484 221000

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 03-Feb-2022

Subject: Planning Application 2021/91801 Outline application for erection of petrol filling station 151, Heckmondwike Road, Dewsbury Moor, WF13 3NS

APPLICANT

Acumen

DATE VALID TARGET DATE EXTENSION EXPIRY DATE

10-May-2021 05-Jul-2021 04-Feb-2022

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

Link to Public speaking at committee

LOCATION PLAN



Map not to scale - for identification purposes only

Electoral wards affected: Dewsbury West

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This planning application has received a large amount of public interest in the form of a significant number of representations, and it is for this reason that the application is being reported to the Heavy Woollen Planning Sub-Committee for decision. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The site is a vacant plot of brownfield land located at the west of Heckmondwike Road in the settlement of Dewsbury. A bungalow once stood on site which has now been demolished. The application site has extant planning permission for the erection of 6no. dwellings, approved by planning permission 2020/92309. A housing development is sited to the west in addition to a recently constructed care home to the north.

3.0 PROPOSAL:

- 3.1 This is an outline application for planning permission with all matters reserved for the construction of a petrol filing station.
- 3.2 The indicative plan submitted with the application shows a sales kiosk to the north of the site, to be used as part of linked trips associated with use of the petrol pumps. 6no. banks of petrol pumps are also indicated on plans.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2020/92309 Erection of 6 dwellings with associated parking *Approved* 13/NOV/2020

2017/92271 Erection of 6 no. dwellings with associated roadway and parking, demolition of existing bungalow *Approved 22/DEC/2017*

2005/93913 OUTLINE APPLICATION FOR ERECTION OF RESIDENTIAL DEVELOPMENT (3 NO. DWELLINGS AND 1 NO. GARAGE BLOCK) Approved 08/FEB/2006

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

- 5.1 KC Environmental Health requested a noise report in relation to the application. Although this is an outline planning application with all matters reserved, it was felt necessary to obtain this report at outline stage as matters relating to noise and issues around environmental health are central to whether a petrol filling station is acceptable in principle in this predominantly residential location. A revised indicative site plan has also been obtained showing the removal of the Jetwash element to ensure that the petrol filing station does not unduly impact on local residential amenity.
- Through the course of the application, further information was requested from Highways DM in the form of swept path manoeuvres to demonstrate that a tanker and service vehicle can adequately access and egress the site from all directions. This has been received and is considered to be acceptable.
- 5.3 In addition to the above, concern was raised by the Highway Safety team in respect of vehicles parking on the highway, should all the pumps on the forecourt be full. The agent's Transport Consultant has been asked to provide a calculation of the peak levels of customers in terms of numbers and if there is sufficient room within the site to accommodate this internally. This information is awaited and will be reported in the update.

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 Kirklees Local Plan (KLP):

- LP 01 Achieving sustainable development
- LP 02 Place shaping
- LP 21 Highway safety and access
- LP 22 Parking
- **LP 24** Design
- LP 52 Protection and improvement of environmental quality
- LP 53 Contaminated and Unstable Land

Supplementary Planning Guidance / Documents:

6.3 None relevant to this application proposal.

National Planning Guidance:

6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

Chapter 2 – Achieving sustainable development

Chapter 6 – Building a strong competitive economy

Chapter 8 – Promoting healthy and safe communities

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 26 no. letters of objection from members of the public received, as well as a petition with 60no. signatures.
- 7.2 Comments centre on three main issues: 1) traffic safety, 2) noise, particularly with reference to the neighbouring care home use and 3) pollution

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

KC Environmental Health – no objection subject to removal of jet wash element from the scheme.

KC Highways DM – requested further information on swept path analysis which has been provided by the applicant in respect of tanker movements.

The Coal Authority – no objection subject to standard Coal Authority conditions regarding a scheme of intrusive investigations and a signed statement.

8.2 **Non-statutory:**

KC Crime Prevention/West Yorkshire Police – makes recommendations on designing out crime; specifically ram raid bollards, lighting standards, natural surveillance, secure site perimeter and a defensible space around the ATM.

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 As this is an outline application for planning permission with all matters reserved, the sole material consideration to be assessed is the principle of whether a petrol filling station in this location would be acceptable.

- 10.2 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposal's that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.
- 10.3 The site is a brownfield site in a settlement where development is acceptable in principle subject to taking into account all material planning considerations. The site is unallocated in the Kirklees Local Plan. The proposed petrol filling station would constitute a sui generis use for the purposes of the Town & Country Planning Use Classes Order; there is no policy exclusion in this specific location relating to that use class.
- 10.4 In terms of the specific proposed use, it was considered necessary by the case officer to consult Environmental Health and to obtain a noise assessment from the applicants prior to the determination of the application, as the matter of noise in terms of the impact on residential amenity of nearby properties is considered to go to the heart of the permission as a matter of the principle of development in this location. KC Environmental Health have reviewed the noise report by Clover Acoustics dated 27 September 2021 (Ref: 4617- R1) and agree with the contents of the report. Due to the predicted measurements of forecourt ancillary equipment being +10dB above background noise levels they recommended the removal of the originally proposed Jet wash facility. As such, a revised indicative drawing has been obtained omitting the jetwash element from the scheme.
- 10.5 Overall it is considered that the principle of development of a sui generis petrol filling station in this area is acceptable.

Urban Design issues

10.6 The design of the scheme is to be dealt with at reserved matters stage. Notwithstanding this, the indicative plan demonstrates that a petrol filling station can be accommodated on the site. Based on the details submitted, the overall form and massing would not result in an overdevelopment of the site, and the proposed building would not appear incongruous in this roadside location, amongst development of a variety of forms. Officers are therefore satisfied that a scheme could be accommodated on the site which would have an acceptable impact on visual amenity, in accordance with the aims of policy LP24 of the KLP as well as chapter 12 of the NPPF.

Residential Amenity

10.7 Although this is an outline application with all matters reserved; matters relating to the impact on residential amenity arising from the jetwash element are considered fundamental in determining whether or not this is an acceptable location in principle. As stated above KC Environmental Health have no objection to the proposed petrol filling station on noise grounds now that the

- proposed jetwash element has been removed from the scheme. for clarification, should this outline application be approved there will no longer be a jetwash element included as part of the scheme.
- 10.8 The site is somewhat elevated in relation to the neighbouring western properties however the nature of the proposed canopy building at a petrol filling station would allow light to continue to transmit to these houses. It should be acknowledged that planning permission on this site has been granted previously for housing and in those circumstances, it was considered to have an acceptable impact on these neighbouring western houses in terms of privacy and amenity. In the application proposal now under consideration for the petrol filling station, 17m would be retained from the east facing rear elevations of these properties to the approximate centre of the nearest car lane on the indicative plan. However, at reserved matters stage this can be amended further to ensure an acceptable relationship between these properties and the petrol filling station.
- 10.9 The proposed lighting at the petrol filling station would be controlled by condition to ensure KC Environmental Health deem it acceptable prior to its installation. Further conditions relating to delivery hours (within reasonable times) is recommended to be conditioned and information will be sought at reserved matters stage relating to delivery detail to mitigate any further potential harm.
- 10.10 Overall, subject to the proposed layout complying with appropriate distances at reserved matters stage, the level of residential amenity with neighbouring properties would be retained. On this basis, and with the inclusion of appropriate conditions, the proposals would accord with Policies LP 24 and LP 52 of the Kirklees Local Plan (KLP) as well as chapter 12 of the National Planning Policy Framework (NPPF).

Highway issues

10.11 The site is accessed directly from Heckmondwike Road and the access and egress would operate as a one-way system. The southern access point would serve as the entry point whilst the northern access point would serve as the exit point, both these accesses are sufficiently wide at 10.5m to ensure access by larger vehicles can be achieved. Signage denoting entry and exit only points would be implemented. Swept paths are provided to show how a tanker and service vehicle can access and egress the site from Heckmondwike Road and how a standard car can manoeuvre around the site and into and out of the proposed pumps and parking spaces. The predicted traffic generation for the proposed site has been calculated using trip rates derived from TRICS database. This demonstrates that the proposed development would be used by around 54 and 62 vehicles in each peak hour. The number of spaces proposed in front of the kiosk is 6 for customers only who would be using the shop. The remaining car borne custom would be drawn from people who have also purchased fuel and so their vehicle would be stationary at the 6 pumps whilst the occupant goes into the shop. This report concludes that the development is considered acceptable in terms of traffic impact.

10.12 Through the course of the application, further details have since been provided by the applicant illustrating additional swept paths for the tankers. This has been received and is considered to be acceptable. Moreover, additional justification has also been sought from the applicant relating to the potential for vehicles parking/stacking on the highway should all the pumps on the forecourt be full, exacerbating existing on-street parking problems on Heckmondwike Road. This further additional justification will be reported in the update.

Representations

- 10.13 Comments centre on three main issues: 1) traffic safety, 2) noise, particularly with reference to the neighbouring care home use and 3) pollution.
 - It is acknowledged that careful regard will need to be had to the impact on the road network; whilst access is a reserved matter, the vehicular movements generated by a petrol filling station do need to be considered at this stage. KC Highways have reviewed additional information from the applicant relating to highway safety in terms of a swept path analysis and this is considered acceptable. Further information has been requested in regard to comments received from Highway Safety and will be reported in the update to members.
- 10.14 In terms of pollution and noise this has been assessed by KC Environmental Health. Officers have carefully considered the principle of a petrol filling station at this stage and the impact such a use would have upon the residential amenity of surrounding occupants. The noise report indicates that the jet wash element would not be acceptable in terms of noise levels and as such this has been omitted from the scheme. Although this is an outline application assessing the principle of development only and that matters relating to layout and scale are reserved at this stage; an indicative plan has been obtained removing the Jetwash element for clarification purposes.

Other Matters

- 10.15 Coal Mining Legacy The Coal Authority and KC Environmental Health have recommended conditions pertaining to coal mining legacy and land contamination to be appended to the decision notice, should permission be granted. This would ensure that the proposal complies with the aims of chapter 15 of the NPPF.
- 10.16 Climate Change On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

- 10.17 In this instance electric vehicle charging points will be required by condition as part of the approval of this application. Linked journeys with the on site sales kiosk would reduce trips further afield to neighbouring supermarkets. There is a strong economic sustainability argument and in this respect it is considered that in the overall assessment of sustainability, including environmental, that the scheme is appropriate in this regard.
- 10.18 Crime Prevention KC Crime Prevention have made recommendations relating to designing out crime; specifically ram raid bollards, lighting standards, natural surveillance, secure site perimeter and a defensible space around the ATM. They have also commented on the illumination of internal shop floor spaces and security glazing. These are advised to be incorporated into the design of the development at the reserved matters stage.
- 10.19 Contaminated Land KC Environmental Health have reviewed the Phase I Contaminated Land Report by Demeter Environmental Ltd dated June 2020 (Ref:17-04-03 Revision 1) and agreed with its conclusions. Conditions relating to the Preliminary Risk Assessment approved shall be appended to the Decision Notice. Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority. The inclusion of such conditions shall ensure that the proposal complies with the aims of policy LP53 of the KLP and chapter 15 of the NPPF.

11.0 CONCLUSION

- 11.1 The proposed petrol filling station would represent an appropriate use of this brownfield site within a settlement boundary, providing an economically sustainable source of employment and provision of linked trips through use of the on site sales kiosk. It would not unduly harm visual or residential amenity, subject to appropriate conditions, and would be acceptable in terms of its impact on the highway network.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would constitute sustainable development and is, therefore, recommended for approval.

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

- 1. Standard 3 year time frame for the commencement of development.
- 2. Development to be completed in accordance with the submitted plans.
- 3. Provision of Electric Vehicle Charging Points
- 4. Submission of a Phase 2 Intrusive Site Investigation Report
- 5. Submission of Remediation Strategy
- 6. Implementation of the Remediation Strategy
- 7. Submission of Validation Report
- 8. Scheme of intrusive investigations
- 9. Signed statement of declaration relating to coal mining legacy
- 10. No jet wash element
- 11. Hours of use

Background Papers:

Web link to planning application details:

Link to application details

Certificate of Ownership - Certificate A has been signed

Previous extant planning approval:

2020/92309 - Erection of 6 dwellings with associated parking Link to application details



Agenda Item 10



Originator: Jennifer Booth

Tel: 01484 221000

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 03-Feb-2022

Subject: Planning Application 2021/92601 Erection of single storey extension

22, Northorpe Lane, Mirfield, WF14 0QJ

APPLICANT

E Clark

DATE VALID TARGET DATE EXTENSION EXPIRY DATE

25-Jun-2021 20-Aug-2021 27-Aug-2021

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

Link to Public speaking at committee

LOCATION PLAN



Map not to scale - for identification purposes only

Electoral wards affected: Mirfield

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 This application is brought to Heavy Woollen Planning Sub-Committee at the request of Cllr Lees-Hamilton for the reasons outlined below.
- 1.2 "I would still like this application to go to committee. The side extension is still overbearing on the neighbouring property, and I have doubts about the weight bearing capacity of the boundary wall."
- 1.3 The Chair of the Sub-Committee has confirmed that Cllr Lees-Hamilton reasons for the referral to the committee are valid having regard to the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 22 Northorpe Lane, Mirfield is a brick built, semi-detached property with a garden and drive to the front, garage attached to the side and a larger enclosed garden to the rear.
- 2.2 Northorpe Lane is a residential street with properties of varying ages, styles and palettes of material.

3.0 PROPOSAL:

- 3.1 The applicant is seeking planning permission for a single storey side and rear extension.
- 3.2 The side extension would project 2.85m from the original side wall of the property and would extend the depth of the dwelling with a hipped roof form. The rear extension would project 2m from the original rear wall of the dwelling and would extend across the width of the property including to the rear of the proposed side extension with a lean to roof form.
- 3.3 The walls would be constructed using brick with tiles for the roof covering.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 None

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

The size of the side extension has been reduced twice during the course of the application. Initially setting the two storey side extension back from the front with a corresponding set down. However, this first amendment was not considered to be sufficient to overcome officers' concerns. Further reductions from a two storey structure to a single storey side extension were subsequently submitted and are considered to address officers' 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 01 – Achieving sustainable development

LP 02 – Place shaping

LP 22 - Parking

LP 24 – Design

<u>Supplementary Planning Guidance / Documents:</u>

- 6.3 House Extension Supplementary Planning Document
- 6.4 Mirfield Design Guide 2002

The site is within Mirfield Neighbourhood Area. There is no made Neighbourhood Development Plan (NDP) within the Mirfield Neighbourhood Area at present. Furthermore, there is no emerging NDP to be considered as a material consideration in assessment of this application at this time. Further details on the progress of neighbourhood development plans in the district can be found at:

Link to Neighbourhood Development Plan

National Planning Guidance:

6.5 Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by neighbour notification letter which expired on 19/08/2021.
- 7.2 As a result of the above publicity, one representation was received.

- 7.3 The material considerations raised are summarised as follows:-
 - Overshadowing the adjacent property.
 - Overbearing impact on the adjacent property.
- 7.4 Further publicity was undertaken following receipt of amendments and expired on 26/11/2021.
- 7.5 As a result of the second publicity period one representation was received.
- 7.6 The issues raised relate solely to the rear corner of the extension with concerns raised that this would cause overshadowing and an overbearing impact on the neighbour's kitchen window.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

None

8.2 **Non-statutory:**

None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with the House Extension SPD and Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

Visual Amenity

- 10.2 The host property is located on a residential street with properties of varying ages, styles and palette of materials. Dependent upon design, scale and detailing, it may be acceptable to extend the host property. The proposal under consideration consists of two distinct elements which shall be addressed below.
- 10.3 Key Design Principle 1 of the House Extension & Alteration supplementary planning document (SPD) states that extensions and alterations to residential properties should be in keeping with the appearance, scale, design and local character of the area and the street scene. Furthermore, Key Design Principle 2 of the HESPD goes onto state that extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and details.
- 10.4 Single storey side extension: The side extension would fill the area to the side of the dwelling, replacing the existing garage. The extension would, by reason of its scale, form a subservient relationship with the host property. Given the mix of styles on the street, the extension would not appear out of character with the area. Furthermore, the use of brick for the walling with tiles for the roof covering would match the materials used in the construction of the host property. The side extension is therefore considered to be acceptable in terms of visual amenity.
- 10.5 Single storey rear extension: The host property is set within grounds which are sufficient in size to support the proposed extensions, whilst retaining a reasonable amenity space. The projection of the extension is limited and single storey in nature.
- 10.6 Having taken the above into account, the proposed extensions would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would form a subservient addition to the property in keeping with the existing building, KDP 1 & 2 of the House Extension and Alterations Supplementary Design Guide and the aims of chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 10.7 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light & Key Design Principle 6 on preventing an overbearing impact.
- 10.8 There are no properties to the rear which could be affected by the works proposed.

- 10.9 Impact on 20 Northorpe Lane: The host property is a two storey dwelling which occupies a position closer to the road than the adjacent bungalow. The single storey side extension would align with the drive area, car port and flat roofed element of the neighbouring property. There is a window in the side elevation which the neighbour has identified as a kitchen. As a kitchen, this is not considered to constitute a habitable room. Furthermore, the proposed extension would only extend beyond the rear of the property by 2 metres, which would not, in the opinion of officers, result in any significant overbearing or overshadowing impact upon the amenity of the occupiers of no.20 Northorpe Lane. There are currently no windows proposed in the side elevation. If windows were to be included a later date, given the relationship with the adjacent neighbour, there would be no loss of privacy as this would look towards the drive of the neighbouring property. There are no concerns in terms of overlooking.
- 10.10 *Impact on 24 Northorpe Lane:* The rear extension would be built along the shared boundary with the adjoining dwelling. However, the projection is limited to 2 metres and would be single storey in height. Furthermore, the adjoining property has a single storey rear extension which projects approx. 3.3m. As such, the rear extension proposed would have no significant impact on the amenity of the occupiers of the adjoining 24 Northorpe Lane.
- 10.11 *Impact on 19 Northorpe Lane:* The road itself separates the host property from the neighbouring dwelling opposite. Furthermore, the side extension would not reduce the space between the properties. Given this, the proposed side extension would have no significant effect upon the amenity of the occupiers of the neighbouring 19 Northorpe Lane.
- 10.12 Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5 & 6 of the House Extension SPD and Paragraph 130 (f) of the National Planning Policy Framework.

Highway issues

10.13 The proposals would result in some intensification of the domestic use. However, the parking area to the front of the property which together with the garage proposed would be considered to represent a sufficient provision for two off street parking spaces. There is also space within the curtilage for bin storage. As such, the scheme would not represent any additional harm in terms of highway safety and complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extension SPD.

Representations

- 10.14 The material considerations raised in the one objection received are summarised as: -
 - Overbearing impact on the adjacent dwelling.
 - · Oppressive impact on the adjacent dwelling.

- 10.15 These issues are material considerations and have been addressed in the residential amenity section and the highways section of this report.
- 10.16 Although other matters have been raised by the Ward councillor, such as the boundary and the impact on the walling, these are not material planning considerations which can be taking into account as part of the planning application process.

Other Matters

- 10.17 Carbon Budget: The proposal is a small scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.
- 10.18 Fall-back position: The extension directly to the side of the original house and the rear extension directly to the rear of the original house could both be constructed under permitted development as they fall within the relevant criteria and the property has permitted development rights. The rear corner of the extension which would link the side and the rear extensions does however require planning permission. The corner would have a width of 2.4m and a projection beyond the level of the rear elevation of the original house would be 2m.
- 10.19 There are no other matters with respect to this application.

11.0 CONCLUSION

- 11.1 The side and rear extension have been considered with regards to the relevant policies relating to visual and residential amenity and are considered to be acceptable.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

- 12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)
- 1. Time scale for implementing permission
- 2. Development to be carried out in accordance with the approved details
- 3. Matching materials

Background Papers:

Application and history files:

Current application web link -

Link to application details

Certificate of Ownership - Certificate A signed.

Agenda Item 11



Originator: Callum Harrison

Tel: 01484 221000

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 03-Feb-2022

Subject: Planning Application 2021/93329 Partial change of use of building from Sui Generis (drinking establishment) to B8 (storage and distribution), partial demolition of existing building and erection of two storey extension to comprise ground floor B8 Use (storage and distribution) and first floor C2 Use (residential dwelling) and other associated works The Six Lanes Ends Public House, Leeds Road, Heckmondwike, WF16 9DQ

APPLICANT

Six Lane Ends Motor Company

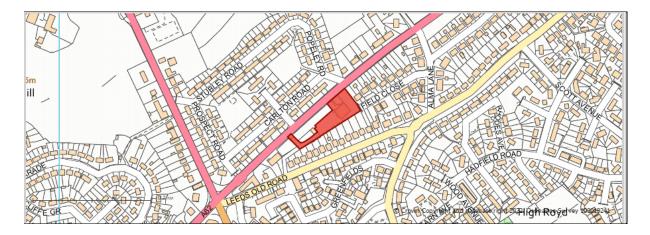
DATE VALID TARGET DATE EXTENSION EXPIRY DATE

26-Aug-2021 21-Oct-2021

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

Link to Public speaking at committee

LOCATION PLAN



Map not to scale - for identification purposes only

Electoral wards affected: Heckmondwike

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION

1.1 The application has been bought before the Heavy Woollen Planning Sub-Committee due to the number of representations received (16). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDING

- 2.1 Six Lane Ends Public House is a large, single storey, flat roofed, modern structure, set between a large car park to the west and a sizeable grassed open space to the east. Approximately a third of the building, to the south-west side of the building is utilised as a storage and distribution use, with access from the car park. The site is accessed from Leeds Road.
- 2.2 The building is faced in painted brick with some cladding. There are residential properties to the front, north-east side and to the rear, with a van sales site and car park to the south-west.

3.0 PROPOSAL

- 3.1 The application is seeking planning permission for the partial change of use of building from Sui Generis (drinking establishment) to B8 (storage and distribution), partial demolition of existing building and erection of two storey extension to comprise ground floor B8 Use (storage and distribution) and first floor C2 Use (residential dwelling) and other associated works.
- 3.2 The proposed development would see the storage and distribution use occupy the entire ground floor as opposed to the minority part of the building the existing storage and distribution use occupies.
- 3.3 The north-eastern elevation of the building would be demolished with a two storey structure erected in its place. The first floor would host two, two-bedroom flats which would have a similar configuration. The ground floor would be used for storage with two roller shutter doors erected for access in the building from this elevation.

- 3.4 The site would utilise the existing access from Leeds Road, with the vehicular access continue around the south-east side of the building. Six parking spaces would be formed alongside a hardstanding area where the existing overgrown beer garden is currently located.
- 3.5 The proposed materials are to match existing as per the application form.

4.0 RELEVANT PLANNING HISTORY

4.1 2013/91110 - Alterations including new pedestrian access, extension to car park and beer garden - approved.

2015/90901 - Illuminated signage - refused

2015/90802 - Change of use of car park to form car sales, formation of new access and associated works - approved with a s.106

2016/90523 - Discharge of conditions relating to 2015/90802 - approved

2020/92292 - Partial change of use from A4 (drinking establishment) to B8 (storage and distribution) and alterations – approved.

5.0 HISTORY OF NEGOTIATIONS

5.1 The scheme has comprised of various revisions. The original scheme proposed an access from Field Close. Officers sought the removal of access on highway safety grounds given Field Close is a narrow residential cul-de-sac which is not considered suitable as an access to a B8 storage and distribution unit. Officers also entered into discussion with the agent regarding controlling by condition who can reside in the proposed residential accommodation. The agent also made a revision to the height of the proposed roller shutter doors for functional reasons

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 20th July 2021).

Kirklees Local Plan (2019):

6.2 LP1 - Presumption in favour of sustainable development

LP7 – Efficient and effective use of land and buildings

LP21 - Highway safety and access

LP22 - Parking

LP24 - Design

LP28 - Drainage

LP30 - Biodiversity and Geodiversity

LP48 – Community facilities and services

LP51 - Protection and improvement of local air quality

LP52 - Protection and improvement of environmental quality

LP53 - Contaminated and unstable land

National Planning Policy Framework (2021):

- 6.3 Chapter 6 Building a strong, competitive economy.
 - Chapter 8 Promoting healthy and safe communities
 - 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.

Supplementary Planning Guidance / Documents:

- 6.4 Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
 - Housebuilders Design Guide SPD (2021)
 - Highways Design Guide SPD (2019)
 - Planning Applications Climate Change Guidance (2021)

7.0 PUBLIC / LOCAL RESPONSE

- 7.1 The application was advertised in accordance with the Kirklees Development Management Charter. Final publicity expired on 08th October 2021. 16 representations have been received, all in objection to the proposal. It should be noted that these comments were made on the original scheme, prior to the access from Field Lane being removed. The representations have been summarised as follows:
 - All 16 representations object to the proposed access from Field Close on highway safety ground. This included matters such as vehicle movements, pedestrian safety and parking issues amongst others.
 - One representation objected to the proposed two storey element as they state it would block sunlight to neighbouring properties.

8.0 CONSULTATION RESPONSES

8.1 Below is a brief summary of the consultation responses received. These comments will be discussed in further detail where relevant later on in the assessment.

8.2 <u>Statutory Consultees:</u>

KC Highways DM – No objection subject to: no access provided from Field Close, and with a condition that no large or medium goods vehicles are allowed to access the site for the proposed use.

KC Environmental Health – No objection subject to conditions relating to: a noise report; the occupant of the flats to be owner, employee or dependant thereof the business below; hours of use for the business; unexpected contaminated land; and, the provision of electric vehicle charging points.

8.3 <u>Non-Statutory Consultees:</u>

None

9.0 MAIN ISSUES

- Principle of Development
- Visual Amenity
- Residential Amenity
- Highway Safety
- Other Matters
- Representations

10.0 APPRAISAL

Principle of Development

Proposed Storage and Distribution Use

- 10.1 The proposal would provide an expansion of an existing storage and distribution business which benefits from permission granted under planning application 2020/92292. The applicant has not stated that the use would increase the number of employees; however an increase in size of storage and distribution facility would likely support economic growth in the future. Paragraph 81 of the NPPF states that 'Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.' The principle of development for this proposal, which seeks to expand an existing business on an unallocated site, can therefore be supported given the proposal directly accords with Paragraph 81 of the NPPF.
- 10.2 Local Plan policy LP7 states that 'To ensure the best use of land and buildings, proposals:
 - a. should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value;
 - b. should encourage the reuse or adaptation of vacant or underused properties:
 - c. should give priority to despoiled, degraded, derelict and contaminated land provided that it is not of high environmental value;
 - d. will allow for access to adjoining undeveloped land so it may subsequently be developed.'
- 10.3 The proposed scheme would see the entire building be bought back in to use, in comparison to where only approximately one third is utilised. The development would therefore see the re-use of an underused property which is directly supported by policy LP7. The site is not of high environmental value either, thus, its re-use should be supported give the scheme accords with Local Plan policy LP7.

Proposed Residential Use

10.4 With regard to the proposed residential use, the site is without notation on the Kirklees Local Plan. Policy LP1 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 National Planning Policy Framework. Policy LP1 goes on further to stating that: 'The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area'.

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- 10.5 The development would provide two dwellings on the site where there is no current residential use. As such, it is appropriate to consider the Local Planning Authority's overall housing position. The housing land supply position has recently been updated to provide evidence for a forthcoming planning appeal against the refusal of planning permission. The Council can currently demonstrate 5.17 years of deliverable housing land supply and therefore continues to operate under a plan-led system. As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.6 As the proposal seeks to add two dwellings on an unallocated site, the principle of residential development is considered acceptable given the above.
 - Loss of Community Facility
- 10.7 Whilst some of the site has already been granted permission for a storage use, this proposal would see the full extent of the former drinking establishment use, which is considered to constitute a community facility, lost. Local Plan policy LP48 is therefore of relevance and states:
 - 'Proposals which involve the loss of valued community facilities such as shops, public houses and other facilities of value to the local community will only be permitted where it can be demonstrate that:
 - a. there is no longer a need for the facility and all options including the scope for alternative community uses have been considered; or
 - b. its current use is no longer viable; or
 - c. there is adequate alternative provision in the locality to serve the local community which is in an equally accessible location; or
 - d. an alternative facility of equivalent or better standard will be provided, either on-site or equally accessible; and
 - e. any assets listed on a Community Asset Register have satisfied the requirements under the relevant legislation.'
- 10.8 By the use of the word 'or' in policy LP48, the proposal only needs to meet one of the criteria labelled (a) through to (e). In this instance, there are two drinking establishments within 1km of the site, thus meeting the requirements of point (c). Furthermore, a case could be made that the current use is not viable (point b) in this location given the length of time that the drinking establishment has been closed, and previous need for economic diversification on the site. Given the location of other drinking establishments close by and the unviable nature of this use on the site, the loss of the facility to enable the proposed development to take place is considered to accord with Local Plan policy LP48.

10.9 With regard to national policy, paragraph 93 within Chapter 8 of the NPPF states planning decision should '(c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.' However, given the points raised in paragraph 10.8 above, the loss of this facility would neither hamper the community's ability to meet their needs, nor would the existing use be considered 'valued' given that the use has ceased. For this reason, the proposal accords with the aims of Chapter 8 of the NPPF.

Principle of Development Conclusion

10.10 The proposed scheme would see the efficient re-use and adaptation of a currently underused property. The principle of development for both the storage and distribution use and residential use is considered acceptable for the reasons mentioned above. Furthermore, the loss of the community facility is justifiable as per Local Plan policy LP48. The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues, along with other policy considerations, will be addressed below.

Impact on Visual Amenity

- 10.11 Policy LP24 of the Kirklees Local Plan states '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.
 - extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.'

Chapter 12 of the NPPF echoes this on a broader level.

- 10.12 The proposed development would involve the demolition of the north-eastern elevation. This elevation offers no real value in terms of design; thus, its demolition is considered acceptable. The existing building is flat roofed, and single storey which appears of various different sizes given the varying land levels around the building. The building whilst being relatively modern, is of its time and offers no real quality or value in terms of design and appearance. Furthermore, the parts of the building not in use and rear of the site have become somewhat run-down. The form, land topography and design of the host building not only sets a relatively low bar in terms of design, but also limits the form future development can take to functionally and visually correlate to the existing building.
- 10.13 Typically, a flat roofed, two storey extension as proposed would not be considered acceptable on design grounds, however, as the design of the host building limits the scope of what would accord with the existing development any other roof form would appear out of context and not respect the form of the host property. Whilst the proposal would introduce a second storey, it would only exceed the existing highest point of the building by 15cm and would not appear too tall in the street scene given two storey dwellings surround the site. In addition, the use of matching materials would be in keeping with the appearance of the host building. In terms of subservience, the original building would still appear dominant given works are to one side only. The windows and openings would be positioned in a balanced manner.

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10.14 For these reasons, whilst officers accept the design is not of the highest quality, the extension would be subservient to the original building and would be in keeping with the existing buildings in terms of scale, materials and details as required by Local Plan policy LP24 and Chapter 12 of the NPPF. For this reason, the scheme is considered acceptable with regard to Visual Amenity.

Impact on Residential Amenity

10.15 Local Plan Policy LP24 states that proposals must ensure they do not harm the residential amenity of neighbouring occupiers and future occupiers of the proposed development. Although the scheme is not to build houses per se, as it does include the formation of flats, the Housebuilders Design Guide SPD is relevant. Principle 6 advises that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking. Paragraph 7.19 of the Housebuilder's Design Guide sets out that a 12 metre separation distance is required between windows of habitable rooms that face onto windows of a non-habitable room.

Residential amenity impact of the proposed flats on neighbouring dwellings

10.16 With regard to neighbouring occupiers, the habitable room windows of the proposed flats would be set 14m away from the side elevation of the closest dwelling on Field Close. This separation accords with the layout guidance provided in the Housebuilders Design Guide SPD. This separation distance is considered sufficient enough to ensure no.28 Field Close is not detrimentally harmed with regard to privacy. The development would only see the building increase in height by 1.5m, thus, the provision of the second storey to provide the flats would not overshadow any dwellings given the aforementioned separation distance.

Residential amenity impacts of the proposed storage and distribution use

- 10.17 The ground floor extension would be set 12m away from the dwelling, with a parking and forecourt area set between the building and no.28 Field Close. The north-eastern elevation would also contain roller shutter doors which suggests the forecourt could become a hive for activity associated with the proposed use. The design and modest separation distance mean that it is a reasonable concern that a proposed commercial use at the site could harm the residential amenity of no.28 without any controls.
- 10.18 Officers note that generally a B8 storage and distribution use is associated with less harm than other industrial/commercial uses as insinuated by the permitted development rights surrounding a B8 use. It is worth noting that the case officer is not aware of any complaints regarding disturbance from the existing storage and distortion use on site, nevertheless, officers still deem conditions to be necessary to ensure the larger storage and distribution use proposed does not cause detrimental harm to neighbours. For this reason, officers will impose the following conditions:

- The use hereby permitted shall not be open to customers outside the hours of 08:00 to 18:00 Monday to Fridays only. No business-related activities on Saturdays, Sundays or Bank Holidays. This includes no deliveries to, or dispatches from the premises outside these hours. This condition aligns with the previous permission granted under 2020/92292.
- No large or medium goods vehicle (as defined within the Road Traffic Act 1988) shall access the site to utilise the storage unit at any time.
- 10.19 The two conditions above will limit the noise and general disturbance that can be caused by the proposed use. Subject to these conditions the proposed storage and distribution use would not be considered to materially harm the amenity of neighbouring dwellings, thus according with Local Plan Policy and Chapter 12 of the NPPF. Officers do however consider further conditions being required to protect the amenity of future occupiers of the proposed flats.

Residential amenity impact of the proposed storage and distribution use on the proposed flats

- 10.20 There is a clear conflict between having a storage and distribution use and residential use on the same site, with one set directly above the other. This is further exacerbated by: the access to the flats being the same vehicular access that serves the business; the vehicular parking being set on the new forecourt by the roller shutter does that serve the business; and, the door to the flats opening on the said forecourt. Furthermore, no outdoor amenity space is provided for the flats. The general close proximity and intertwined nature of the two uses on the site means a suitable standard cannot be provided for the flats if they were to be sold/let on the open market. However if the flats were to be occupied by the owner, a member of staff or dependents thereof of the storage and distribution/commercial premises, the standard of amenity would, on balance be acceptable given the connection between those persons and the business. For reference, the flats provide a suitable interior floor space for a 2 bed, 3 person flat as per the Technical housing standard national described space standard (2015).
- 10.21 Subject to a condition for the flats to be occupied by the owner, a member of staff or dependents thereof of the storage and distribution/commercial premises, the proposed flats are considered satisfactory with regard to residential amenity.

Residential Amenity Conclusion

10.22 Overall, subject to conditions as set out above, the proposed development is considered, on balance, to accord with Local Plan Policy LP24, Chapter 12 of the NPPF and the Housebuilders Design SPD.

Impact on Highway Safety

10.23 Planning permission was granted in February 2021 for the partial change of use from A4 (drinking establishment) to B8 (storage and distribution) and alterations

 application number 2020-92292. Access to this site was from Leeds Road only. Condition 4 of this permission was worded as follows:

- 4. No large or medium goods vehicle (as defined within the Road Traffic Act 1988) shall access the site to utilise the storage unit at any time. **Reason:** In the interest of highway safety and to accord with policies LP21 & LP22 of the Kirklees Local Plan and National Planning Policy Framework.
- 10.24 The current application includes the erection of a two-storey extension to comprise ground floor B8 Use (storage and distribution) and first floor residential use (2x two bedroomed apartments). Whilst KC Highways Development Management have no objection to the revised scheme given it no longer includes an access from Field Close, KC Highways Development Management comments are based upon the condition referenced above (10.17) being retained. Furthermore, a condition for appropriate surface water drainage is required on highway safety grounds. Subject to a condition for no large or medium goods vehicle (as defined within the Road Traffic Act 1988) accessing the site to utilise the storage unit at any time, which is also sought for residential amenity purposes, and the aforementioned drainage condition, the scheme is considered to accord with Local Plan policies LP21 and LP22 and relevant national policy.

Other Matters

Noise

- 10.25 Local Plan policies LP24 and LP52 seek to ensure that proposed uses do not cause noise pollution, but are also not detrimental affected by noise pollution from existing noise generators close by. The proposed development is immediately adjacent to the A62 Leeds Road. The operations associated with the storage and distribution use are also likely to create noise. However, the proposals plan to introduce noise sensitive receptors at the site. As the plans show no noise mitigation measures at the proposed development, KC Environmental Health have concerns that the future occupiers of the development may be negatively impacted by noise whilst inside the property from road traffic and the activities in part of property which is proposed as storage and distribution use.
- 10.26 Whilst KC Environmental Health requested the submission of a noise report prior to determination, officers do not consider this to be necessary as it is highly unlikely the noise matters cannot be suitably mitigated on the site. This is evident by the number of dwellings along Leeds Road which are not detriment by nearby noise generating uses. However, as the findings of a noise report would likely require noise mitigation measures to be installed in the property, the submission and approval of the noise report and strategy must be prior to building works commencing on the superstructure but can be post-demolition. Given this, a condition will be included for the submission for an assessment of all significant noise sources likely to affect the proposed development including road traffic and commercial premises by a suitably competent person (see note), to be approved by the Local Planning Authority. Subject to this condition, the proposed development can be considered to accord with Local Plan polices LP24 and LP52 with regard to Noise.

Climate Change

10.27 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. The proposal is for the erection of a detached dwelling. To ensure it contributes positively to mitigating the impact of climate change and air quality, a condition should be inserted to the decision notice requiring two electric vehicle recharging points, one for each dwelling, to be installed and operational on the site prior to occupation of the dwelling. This is to comply with the aims of policy LP24 of the KLP and chapters 9 and 14 of the NPPF, which seek to promote sustainable transport and to support low carbon future.

Contaminated Land

10.28 The Case Officer and KC Environmental Health have reviewed the application. The site is located within 25m of a historic coal pit thus coal may be encountered during construction works, then a combustion risk and/or a risk from mine gas may exist. Given the scale of the groundworks proposed, it would be unreasonable to request full contaminated land conditions. However, as some groundworks are proposed, it is appropriate to apply contaminated land conditions should unexpected contamination be encountered. Subject to said unexpected contaminated land condition, the scheme can be considered to accord with Local Plan policy LP53 and Chapter 15 of the NPPF with regard to contaminated land.

Representations

- 10.29 16 representations have been received, all in objection to the proposal. It must be noted that these comments were made on the original scheme, prior to the access from Field Lane being removed. The representations have been summarised as follows:
 - All 16 representations object to the proposed access from Field Close on highway safety ground. This included matters such as vehicles movement, pedestrian safety and parking issues amongst other.

Response: Noted and addressed throughout the application process. Subsequently the proposed access from Field Close was removed from the revised scheme and is no longer a part of the application.

- One representation objected to the proposed two storey element as they state it would block sunlight to neighbouring properties.

Response: Noted and addressed in paragraph 10.11 of this report.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that proposed scheme has allow and existing business to expand, whilst also representing a more efficient use of an underused building. It is considered that the development would constitute sustainable development subject to the conditions outlined in the report above, and summarised below in section 12 of the report.

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

Below is a summary of the proposed conditions:

- 1. Development to begin within 3 years
- 2. In accordance with the approved plans
- 3. No business-related activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the hours of 0800 to 1800 Monday to Friday only. No business-related activities on Saturdays on Sundays.
- 4. No large or medium goods vehicle (as defined within the Road Traffic Act 1988) shall access the site to utilise the storage unit at any time.
- 5. Submission of noise report prior to works commencing on the extension/superstructure (post demolition).
- 6. Flats to be occupied by owner, employee or dependent thereof of the storage and distribution use.
- 7. Provision of electric vehicle charging points.
- 8. Report of unexpected contaminated land.
- 9. Materials to match existing building.

Background Papers:

Link to application details

- Link to the current application.

Link to application details

- Link to 2020/92292

Certificate of Ownership – Certificate A signed: 11/08/2021