

Public Document Pack



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

Julie Muscroft

Governance and Commissioning

PO Box 1720

Huddersfield

HD1 9EL

Tel: 01484 221000

Please ask for: Andrea Woodside

Email: andrea.woodside@kirklees.gov.uk

Wednesday 27 July 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 4 August 2022**.

(A coach will depart the Town Hall, at 10.30am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Dewsbury Town Hall)

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

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

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

Councillor Gwen Lowe (Chair)
Councillor Ammar Anwar
Councillor Nosheen Dad
Councillor Adam Gregg
Councillor Steve Hall
Councillor John Lawson
Councillor Fazila Loonat
Councillor Aleks Lukic
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Jackie Ramsay
Councillor Joshua Sheard
Councillor Melanie Stephen

When a Member of the Planning Sub-Committee (Heavy Woollen Area) cannot attend the meeting, a member of the Substitutes Panel (below) may attend in their place in accordance with the provision of Council Procedure Rule 35(7).

Substitutes Panel

Conservative

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

Green

K Allison
S Lee-Richards

Independent

C Greaves

Labour

M Kaushik
F Perry
M Sokhal E Firth
T Hawkins

Liberal Democrat

A Munro
PA Davies
A Marchington

Agenda

Reports or Explanatory Notes Attached

Pages

1: Appointment of Chair

To appoint a Chair for this meeting of the Sub-Committee.

(Apologies for absence are submitted by Councillor Lowe – Chair).

2: Membership of the Sub-Committee

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

3: Minutes of Previous Meeting

1 - 10

To approve the Minutes of the meeting of the Sub-Committee held on 23 June 2022.

4: Declaration of Interests and Lobbying

11 - 12

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

5: Admission of the Public

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

6: Deputations/Petitions

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

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

7: Public Question Time

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.
-

8: Site Visit - Application No: 2021/92216

Erection of detached dwelling at land adjacent to 125 High Street, Thornhill Edge, Dewsbury.

Estimated time of arrival at site: 10.45am

Contact: Olivia Roberts, Planning Services

9: Site Visit - Application No: 2022/90793

Erection of single storey detached garden room to create dwelling forming annex accommodation associated with 24 Wilson Avenue, Mirfield at 24 Wilson Avenue, Mirfield.

Estimated time of arrival at site: 11.10am

Contact: Elenya Jackson, Planning Services

10: Site Visit - Application No: 2022/90257

Erection of single storey front and two storey side and rear extensions at 48 Northstead, Ravensthorpe, Dewsbury.

Estimated time of arrival at site: 11.20am

Contact: Jennie Booth, Planning Services

Planning Applications

13 - 14

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 1 August 2022.

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

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

11: Planning Application - Application No: 2021/92216

15 - 32

Erection of detached dwelling at land adjacent to 125 High Street, Thornhill Edge, Dewsbury.

Contact: Olivia Roberts, Planning Services

Ward affected: Dewsbury South

12: Planning Application - Application No: 2022/90793

33 - 40

Erection of single storey detached garden room to create dwelling forming annex accommodation associated with 24 Wilson Avenue, Mirfield at 24 Wilson Avenue, Mirfield.

Contact: Elenya Jackson, Planning Services

Ward affected: Mirfield

13: Planning Application - Application No: 2022/90257 41 - 50

Erection of single storey front and two storey side and rear extensions at 48 Northstead, Ravensthorpe, Dewsbury.

Ward affected: Dewsbury West

Contact: Jennie Booth, Planning Services

14: Planning Application - Application No: 2022/91228 51 - 60

Erection of first floor extensions and alterations to form first floor at 1, Penn Drive, Hightown, Liversedge.

Ward affected: Cleckheaton

Contact: Jennie Booth, Planning Services

15: Application for order to extinguish part of public footpath Denby Dale 82 at Top O' Th' Close, Longroyd Lane, Upper Cumberworth 61 - 86

To consider an application for an order to extinguish part of public footpath Denby Dale 82 on the grounds that it is not needed for public use. The Sub Committee are asked to make a decision on making the order and seeking its confirmation.

Contact: Phil Champion, Definitive Map Officer, Public Rights of Way

Ward affected: Denby Dale

Planning Update

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

Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 23rd June 2022

Present: Councillor Gwen Lowe (Chair)
Councillor Ammar Anwar
Councillor Adam Gregg
Councillor Steve Hall
Councillor John Lawson
Councillor Fazila Loonat
Councillor Aleks Lukic
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Jackie Ramsay
Councillor Joshua Sheard
Councillor Melanie Stephen

Apologies: Councillor Nosheen Dad

1 Membership of the Sub-Committee

Apologies for absence were received from Councillor Nosheen Dad.

2 Minutes of Previous Meeting

RESOLVED – That the minutes of the meeting held on the 28 April 2022 be approved as a correct record.

3 Declaration of Interests and Lobbying

Councillors S Hall, Loonat, Pervaiz, Anwar, Ramsay, Gregg, Sheard, Stephen, Lukic, A Pinnock, J Lawson and Lowe declared that they had been lobbied on application 2021/93286.

Councillor Pervaiz declared that she had been lobbied on application 2021/93109.

Councillor Lukic declared an 'other interest' in application 2021/90731 on the grounds that a family member lived near to the development site.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

Planning Sub-Committee (Heavy Woollen Area) - 23 June 2022

7 Site Visit - Application No: 2021/93286

Site visit undertaken.

8 Site Visit - Application No: 2021/93109

Site visit undertaken.

9 Site Visit - Application No: 2022/90501

Site visit undertaken.

10 Review of Planning Appeal Decisions

The report was noted.

11 Planning Application - Application No: 2021/93286

The Sub Committee gave consideration to Planning Application 2021/93286 Reserved matters application pursuant to outline permission 2020/91215 for erection of 41 dwellings Land at, Green Acres Close, Emley, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received representations from Mike Wood, Edward Snell, Janet Hodgson, Frank Spivey and James Martin (objectors) and Paul Butler (agent).

RESOLVED –

Delegate approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to:

1. Complete the list of conditions including those contained within the considered report and the planning update including:
 1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion and in the interests of highway safety in accordance with Policies LP1, LP2, LP3, LP4, LP5, LP7, LP9, LP11, LP20 LP21, LP22, LP23, LP24, LP26, LP27, LP28, LP30, LP32, LP33, LP34, LP35, LP38, LP47, LP48, LP49, LP50, LP51, LP52, LP53, LP63, LP65 of the Kirklees Local Plan and the aims of the Housebuilders Design Guide SPD and National Planning Policy Framework.

2. The crime prevention measures hereby approved, shall be carried out in complete accordance with dwg no. P21:5463:21 Rev A. The measures shall thereafter be retained.

Reason: In the interests of preventing crime and anti-social behaviour and to accord with policy LP24 of the Kirklees Local Plan.

Planning Sub-Committee (Heavy Woollen Area) - 23 June 2022

3. Before the occupation of any of the dwellings hereby approved, details of external lighting shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved works.

Reason: In the interests of amenity and to prevent crime and anti-social behaviour and to accord with policy LP24 of the Kirklees Local Plan.

4. Prior to works commencing on the superstructure, the detailed design of the ball-stop netting and associated support columns shall be submitted to and approved by the Local Planning Authority following consultation with Sport England. The agreed ball-stop netting design shall be installed prior to the occupation of any dwelling within the site that the Labosport report deemed at risk of ball strike, to the satisfaction of the Local Planning Authority.

Reason: In the interests of minimising the risk of injury and damage to property arising from adjacent uses and to accord with policy LP50 of the Kirklees Local Plan.

5. Prior to works commencing on the superstructure, a management and maintenance plan in respect of the approved ball stop netting, will shall include provision for routine inspection and maintenance, and long-term repair and replacement of columns, netting and such other associated apparatus, shall be submitted to and approved by the local planning authority following consultation with Sport England. The approved plan shall come into force upon the satisfactory installation of the approved ball-stop netting.

Reason: In the interests of minimising the risk of injury and damage to property arising from adjacent uses and to accord with policy LP50 of the Kirklees Local Plan.

6. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, masterplan design, an assessment of Sustainable drainage including attenuation, water quality and amenity potential, outfalls, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and retained thereafter.

Reason: To ensure the effective disposal of surface water from the development (including its internal roads) so as to avoid an increase in flood risk and so as to accord with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure details of drainage are agreed at an appropriate stage of the development process.

7. Development shall not commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation/site strip) has

Planning Sub-Committee (Heavy Woollen Area) - 23 June 2022

been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:- phasing of the development and phasing of temporary drainage provision.

- include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.
- the strategy shall include a plan showing the location of the attenuation storage and supporting calculations, which shall be based on the critical 1 in 2-year storm. It should be assumed that once the site has been stripped that the percentage run-off will be 100 %. The maximum allowable off-site discharge rate shall not exceed 2.5 litres per second per ha for temporary drainage, unless otherwise agreed with the LLFA. The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

Reason: To ensure the effective disposal of surface water from the development (including its internal roads) so as to avoid an increase in flood risk and so as to accord with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure details of drainage are agreed at an appropriate stage of the development process.

8. The development shall be completed in accordance with the advice and directions (recommendations) contained in the Arboricultural Method Statement, reference, Wharnccliffe Trees and Woodland Consultancy. These shall be implemented and maintained throughout the construction phase and retained thereafter.

Reason: To protect trees in the interests of visual amenity and to accord with the requirements of Policies LP 24 and LP 33 of the Local Plan.9.

9. Prior to works commencing on the superstructure, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These works shall include:

- (a) Means of enclosure around the site, including ball stop fencing, proposed hedgerows;
- (b) Landscape works at the access point with the Millennium Green;
- (c) Materials to be used for all hard surfaced areas including vehicle and other circulation areas;
- (d) Soft landscape works to include planting plans; plant schedules noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation, management and maintenance programme.

The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation. All hard and soft landscape works shall be carried out in accordance with the approved

Planning Sub-Committee (Heavy Woollen Area) - 23 June 2022

details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the implementation programme agreed with the local planning authority

Reason: To enhance and conserve the visual amenity of the historic built environment as well as the natural environment in accordance with Policies LP24, LP30, LP32 and LP33 of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.

10. Prior to works commencing on the superstructure, a scheme detailing the location and cross sectional information together with the proposed design and construction details for all new retaining walls/ building retaining walls adjacent to the existing/ proposed adoptable highways shall be submitted to and approved by the Highway Authority in writing. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: In the interest of the protection of the structural stability of the adjacent public highway in the interests of highway safety and to accord with LP21 of the Kirklees Local Plan.

11. Prior to works commencing on the superstructure, a scheme detailing the location and cross sectional information together with the proposed design and construction details for all new surface water attenuation pipes/manhole located within the proposed highway footprint shall be submitted to and approved by the Highway Authority in writing. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development

Reason: In the interest of the protection of the structural stability of the adjacent public highway in the interests of highway safety and to accord with LP21 of the Kirklees Local Plan.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no doors, windows or any other openings (apart from any expressly allowed by this permission) shall be created in the northern facing side elevation of the plot 8 hereby approved.

Reason: So as not to detract from the amenity of the neighbouring properties by reason of loss of privacy and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

13. Notwithstanding the information submitted within the Ecological Design Strategic, works for the superstructure shall not commence, until a plan detailing the position and location of the three bat boxes, 48 swift bricks and hedgehog friendly fence panels has been submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Planning Sub-Committee (Heavy Woollen Area) - 23 June 2022

Reason: To secure mitigation and compensation for the ecological effects resulting from loss of habitat and to secure a net biodiversity gain in line with Policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that measures to ensure adequate enhancement and a biodiversity net gain (based on biodiversity metric calculations which require data relating to the site's pre-development condition) are agreed at an appropriate stage of the development process.

2. The following additional conditions:

1. An additional condition to cover the removal of Permitted Development Rights on plots 41/34/33 and plots 14-20;
2. An additional condition to include a requirement to consult with local residents on the development of the Construction Environmental Management Plan.

3. Secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – eight affordable housing units (either 6 social/affordable rent, two intermediate/discount market sale or four social/affordable rent, and four intermediate/discount market sale) to be provided in perpetuity.
- 2) Open space – A reduced sum of £44,006 towards off site provision.
- 3) Education – £78,891 contribution to be spent on priority admission area schools within the geographical vicinity of this site. Payments would be made in instalments and on a pre-occupation basis, per phase. Instalment schedule to be agreed.
- 4) Highways and transport - £20,520.50 towards a Sustainable Travel Plan Fund (£500.50 per dwelling)
- 5) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
- 6) Biodiversity - £77,970 contribution towards off-site provision to achieve biodiversity net gain.
- 7) Traffic Regulation Order – £7,000 contribution.

4. Pursuant to (3) above, in the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

5. A request that should officers find any of the proposals pursuant to the discharge of the conditions relating to the ball stop netting unacceptable, the discharge of condition(s) application(s) be referred to the Sub Committee for decision.

Planning Sub-Committee (Heavy Woollen Area) - 23 June 2022

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

For: Councillors: S Hall, J Lawson, Lowe, Lukic, Pervaiz, A Pinnock, and Ramsay (7 votes)

Against: Councillor: Anwar, Gregg, Loonat, Sheard and Stephen (5 votes)

12 Planning Application - Application No: 2022/91339

The Sub Committee gave consideration to Planning Application 2022/91339 Alterations from rendered finish to wood cladding finish on 2 walls Chellow House Cottage, Chellow Terrace, Birkenshaw.

RESOLVED –

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 the considered report including:

1. Standard time scales for the development.
2. development to be in accordance with the approved plan.

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

For: Councillors: Anwar, Gregg, S Hall, J Lawson, Loonat, Lowe, Lukic, Pervaiz, A Pinnock, Ramsay, Sheard and Stephen (12 votes)

Against: (0 votes)

13 Planning Application - Application No: 2022/90501

The Sub Committee gave consideration to Planning Application 2022/90501 Erection extensions and alterations to two dwellings 74-76, Pilgrim Crescent, Dewsbury Moor, Dewsbury.

RESOLVED –

That the application be refused in line with the following reasons outlined in the considered report:

1. The proposed first floor side extension, by reason of the design and scale, would result in the formation of an incongruous feature within the street scene which would not be subservient to the main house. To permit the proposed first floor side extension would be contrary to policy LP24 of the Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.
2. The proposed first floor side extension, by reason of its size and proximity to the adjacent 20 Pilgrim Avenue, would have an unacceptable overbearing and oppressive impact on the amenities of the occupiers of the neighbouring property. To permit the first floor side extension would be contrary to policy LP24 of the

Planning Sub-Committee (Heavy Woollen Area) - 23 June 2022

Kirklees Local Plan and advice within chapter 12 of the National Planning Policy Framework.

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

For: Councillors: Gregg, S Hall, J Lawson, Loonat, Lowe, Lukic, A Pinnock, Ramsay, Sheard and Stephen (10 votes).

Against: Councillor Anwar (1 vote).

Abstained: Councillor Pervaiz

14 Planning Application - Application No: 2021/93109

The Sub Committee gave consideration to Planning Application 2021/93109
Erection of single storey extension 9, Sackville Street, Ravensthorpe, Dewsbury.

Under the provisions of Council Procedure Rule 37 the Sub Committee received a representation from Mohammad Latif (applicant).

RESOLVED –

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 the considered report including:

1. Time scale for implementing permission.
2. Development to be carried out in accordance with the approved details.
3. Matching materials for the extension.
4. Submission of a noise report.
5. Hours of opening between 07.30 and 18:00 Monday to Saturday with no opening on Sundays.

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

For: Councillors: Anwar, Gregg, S Hall, J Lawson, Loonat, Lowe, Lukic, Pervaiz, A Pinnock, Ramsay, Sheard and Stephen (12 votes).

Against: (0 votes).

15 Planning Application - Application No: 2021/90731

The Sub Committee gave consideration to Planning Application 2021/90731
Erection of detached dwelling with parking and associated works adj, 7, Valley Road, Millbridge, Liversedge.

RESOLVED –

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

Planning Sub-Committee (Heavy Woollen Area) - 23 June 2022

including those contained within the considered report and the planning update including:

1. Time scale for implementing permission
2. Development to be carried out in accordance with approved details
3. Samples of external walling and roofing materials to be submitted (natural stone, artificial slate and stone coloured render)
4. No outbuilding or extensions to be erected within the redline boundary
5. Details of boundary treatment to be submitted
6. No additional openings at ground floor in the northern side elevation
7. Area indicated for parking to be surfaced and drained
8. Reporting of unexpected land contamination
9. Details of provision for electric vehicle charging points
10. Installation of a bird nesting feature
11. Installation of a bat roosting feature
12. Restriction of removal of vegetation
13. Provision of footway along Thomas Street

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

For: Councillors: Anwar, Gregg, S Hall, J Lawson, Loonat, Lowe, Lukic, Pervaiz, A Pinnock, Ramsay, Sheard and Stephen (12 votes).

Against: (0 votes)

This page is intentionally left blank

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

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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

PLANNING POLICY

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

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

National Policy/ Guidelines

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

Paragraph 55 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

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

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

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

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

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

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Aug-2022

Subject: Planning Application 2021/92216 Erection of detached dwelling Land Adj, 125, High Street, Thornhill Edge, Dewsbury, WF12 0PR

APPLICANT

R A Russell

DATE VALID

04-Jun-2021

TARGET DATE

30-Jul-2021

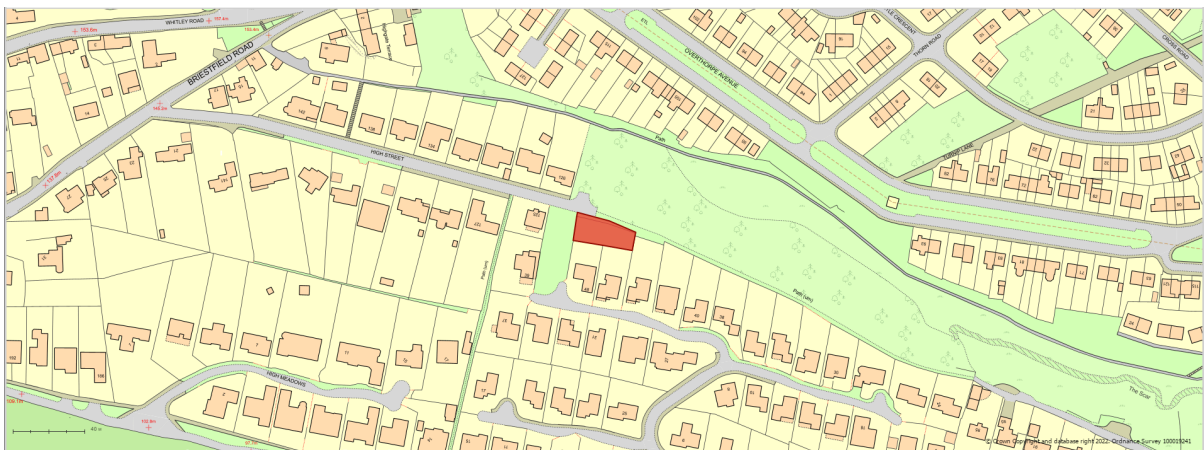
EXTENSION EXPIRY DATE

14-Jan-2022

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Dewsbury South

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed plot is small and constrained in size when compared to other plots within the vicinity. The erection of a detached dwelling would introduce development that would appear cramped within the plot, out of keeping with the layout and character of the area, which is predominantly made up of detached dwellings sited within a large curtilage. As such, to permit the development would be harmful to the visual amenity of the street scene as well as the character of the surrounding area, contrary to Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide SPD and guidance contained within the National Planning Policy Framework.

2. The proposed dwelling, due to its elevated position in relation to the neighbouring properties and subsequent need for retaining structures and screening, would result in a detrimental overbearing impact to the amenity space of the neighbouring properties, 46 and 48 Daleside, whose amenity space is located within close proximity of the shared boundary with the application site. As such, to permit the development would be harmful to the residential amenity of the neighbouring properties, contrary to Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide SPD and guidance contained within the National Planning Policy Framework.

3. The elevated position of the proposed study window, and its habitable nature, would result in harmful overlooking of the amenity space to the rear of 46 and 48 Daleside, which is located close to the shared boundary at a lower level. As such, to permit the development would be harmful to the residential amenity of the neighbouring properties, contrary to Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide SPD and guidance contained within the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 The application is brought to Heavy Woollen Planning Sub-Committee at the request of Ward Councillor Masood Ahmed for the following reasons:

1.2 *Whilst the planning history of the site indicates two previous refusals for dwellings that were dismissed on appeal, they were both poor schemes in terms of scale and impact on neighbouring living conditions that were rightly rejected.*

The applicant has reviewed these decisions and submitted an application that overcomes the previous planning concerns.

Whilst every planning application should be considered on its own planning merits, and the planning history is a material consideration, Officers seem to be giving undue weight to this and ignoring the merits of the application. Having viewed the site, the plot is capable of accommodating as bungalow and is a larger plot size than a number of other nearby new developments given permission by the Council. The scale and design of the bungalow would not result in unacceptable overlooking of neighbouring properties.

This is effectively the last plot on the road where an appropriately designed development would be a productive use of the site rather than leaving it as an area that could invite anti-social behaviour.

I believe Officers have not taken the positive planning matters into account and believe it fairer for Committee to review it and judge it on its planning merits.

- 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.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to a piece of undeveloped land which is located adjacent to 125 High Street at the head of the cul-de-sac. The land is roughly rectangular in size and predominantly level in nature. The land is currently overgrown comprising shrubbery and planting. The site is located to the top of a steep embankment. The properties on High Street are detached in nature and of a substantial scale. The properties benefit from large garden areas to the rear which is considered to contribute to the character of the area. The dwellings to the rear of the site on Daleside are also of a substantial scale and are detached in nature. The dwellings within the vicinity vary in terms of their style and design and are positioned on a north-south axis.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the erection of a detached dwelling.
- 3.2 The dwelling would be of a rectangular footprint, measuring 15m in width by 8.5m in depth. An attached garage would project an additional 6.1m beyond the western side elevation of the dwelling, set back from the principal elevation by 3.15m and projecting beyond the rear. The dwelling would be 1.5 stories in height with accommodation provided in the roof space that would be served by two small dormers to the front elevation and a dormer and roof lights to the rear.
- 3.3 The dwelling would be constructed from coursed stone for the external walls and blue slate for the roof.

- 3.4 A driveway would be provided to the front of the garage that would lead off the existing cul-de-sac. Garden areas would be provided to the front and side of the dwelling whilst a raised terrace would be located to the rear.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2015/91256 – Erection of detached dwelling. Refused. Appeal dismissed.
- 4.2 2010/92779 – Erection of detached dormer bungalow with detached double garage. Appeal dismissed against the Council's non-determination of the application.
- 4.3 2004/92510 – Erection of detached dwelling with integral garage. Refused.

At 125 High Street

- 4.4 2014/93082 – Erection of detached bungalow with parking. Granted.
- 4.5 2014/90036 – Erection of detached bungalow with park spaces. Granted.
- 4.6 2009/91964 – Outline application for erection of one detached dwelling. Refused.
- 4.7 2008/91583 – Outline application for erection of one detached dwelling. Refused.
- 4.8 2007/93019 – Outline application for erection of detached dwelling. Refused.
- 4.9 2006/92127 – Outline application for erection of one detached dwelling. Refused.
- 4.10 2005/93954 – Outline application for erection of one detached dwelling. Refused.
- 4.11 2004/95513 – Outline application for erection of one detached dwelling. Refused.
- 4.12 Pre-application advice has been given for the proposed development. Whilst the design of the dwelling under the current application varies from that submitted at the enquiry stage, the nature of the development remains the same. As part of the pre-application enquiry, concern was raised to the principle of development, and it was considered that a planning application for the development could not be supported given the constrained nature of the site.

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

- 5.1 During the course of the application, officers' raised concern to the principle of development and the impact of the proposed dwelling on the amenity of the neighbouring properties to the rear. Due to the size and nature of the site, it was considered that the proposed dwelling would be out of keeping with the character of the surrounding area.
- 5.2 These concerns were relayed to the applicant's agent who requested a meeting to discuss the proposal. A meeting was held on 16th November 2021 in which the concerns to the principle of development were noted. Given the nature of these concerns, it was considered that they could not be overcome by amendments to the scheme. Despite this, the applicant's agent advised that amended plans would be submitted, however none have been forthcoming. As such, the application is being considered in its originally submitted form.
- 5.3 Within neighbour representations, concern has been raised to the submitted site sections which omit the raised rear gardens to the properties on Daleside and as such do not show the true relationship between the proposed and existing dwellings. Additionally, it is noted that patio doors and a balcony are shown on the submitted floor plans to serve one of the bedrooms. These are however not shown on the submitted elevations. An amended site section and elevation drawings have been requested to accurately show the proposed development and existing relationship on site. The amendments to the site section would however not alleviate officers' concerns regarding the potential for overbearing and overlooking towards the neighbouring properties.

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.

Kirklees Local Plan (2019):

- 6.3 **LP 1** – Achieving sustainable development
LP 2 – Place shaping
LP 3 – Location of new development
LP 20 – Sustainable travel
LP 21 – Highway safety and access
LP 22 – Parking
LP 24 – Design
LP 30 – Biodiversity and geodiversity

- LP 31 – Strategic Green Infrastructure Network
- LP 33 - Trees
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality
- LP 53 – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

- 6.4 On the 29th of June 2021, Kirklees Council adopted its supplementary planning document for guidance on house building and open space, to be used against existing supplementary planning documents (SPDs) which have previously been adopted. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the street scene and wider area. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development.
- 6.5 In this case the following SPDs are applicable:
- Biodiversity Net Gain Technical Guidance Note
 - Highways Design Guide
 - Housebuilders Design Guide

National Planning Guidance:

- 6.6 **Chapter 2** – Achieving sustainable development
Chapter 5 – Delivering a sufficient supply of homes
Chapter 9 – Promoting sustainable travel
Chapter 11 – Making effective use of land
Chapter 12 – Achieving well-designed places
Chapter 14 – Meeting the challenge of climate, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by neighbour letters which expired on 2nd August 2021. As a result of the publicity period, 5 representations have been received. The representations have been summarised as follows:

7.2 Visual Amenity

- The dwelling would be in keeping with the design on High Street
- The development of the land would be an improvement
- Last plot on the end of an adopted cul-de-sac
- Dwelling would occupy a much smaller plot than the existing development on High Street
- Rear gardens are an established characteristic of the area

7.3 Residential Amenity

- The site section drawing fails to demonstrate the true impact on the properties of Daleside. Existing garden levels and retaining walls/features are not shown. Section shown through garage rather than the dwelling
- Insufficient privacy and physical separation from neighbouring properties
- Previous application addressed overlooking by reducing land level

7.4 Other Matters

- Concern regarding loss of mature hedge due to engineering works

7.5 Non-Material Matters

- Concern regarding subsidence

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

8.0 CONSULTATION RESPONSES:

Statutory

8.1 KC Highways Development Management – No objections. Have recommended a condition relating to the surfacing and drainage of the driveway.

8.2 The Coal Authority – Do not object to the proposal subject to the inclusion of conditions regarding the carrying out of intrusive site investigations.

Non-statutory

8.3 KC Environmental Health – No objections. Have recommended conditions relating to the contaminated land and the provision of an electric vehicle charging point.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 Planning permission is sought for the erection of a detached dwelling.
- 10.2 When considering development proposals, there is a presumption in favour of sustainable development contained in the NPPF. Policy LP1 of the Kirklees Local Plan (KLP) is applicable and suggests that proposals that accord with the policies in the KLP (and where relevant, with policies in neighbourhood plans) will be supported subject to other material considerations.
- 10.3 Policy LP24 of the KLP suggests that proposal should promote good design by ensuring (amongst other considerations) the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Chapter 12 of the NPPF reiterates that local planning authorities should ensure the issue of 'design' and the way a development will function are fully considered during the assessment of the application.
- 10.4 Policy LP3 of the KLP requires that new development be situated in a sustainable location that provides access to a range of transport choices and access to local services.
- 10.5 As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.17 years supply.
- 10.6 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.

- 10.7 The site is unallocated on the KLP and is located within an existing residential area, within a reasonable distance from Edge Top Road Local Centre, where there are local shops and services. Taking this into account, the location of the site is considered a sustainable location which is suitable for new housing.
- 10.8 The application site is roughly rectangular in nature and its size is significantly smaller than the plots of the surrounding residential properties on High Street. The proposed dwelling would benefit from a garden area to the side rather than to the rear which would be out of keeping with the layout of the existing properties. Referring to the planning history at the site, it is noted that two applications for the erection of one detached dwelling have been refused previously and the subsequent appeals dismissed in 2010 and 2015 respectively. The 2015 application was refused on visual and residential amenity grounds. The appeal decision concluded that the concerns regarding residential amenity could be acceptable, but not the impact on the appearance and character of the local area.
- 10.9 It is acknowledged that since the previous applications, there have been changes to both local and national policy, including the adoption of the Kirklees Local Plan and Housebuilders Design Guide SPD as well as revisions to the NPPF. Notwithstanding this, the changes in local and national policy do not alter the concerns regarding the constrained nature of the site.
- 10.10 Further to this, it is appreciated that since the 2015 appeal decision there has been a change in the local character of the area as a detached chalet bungalow (approved in 2014) has been constructed and occupied on High Street on land which previously formed part of the curtilage for 39 Daleside. The Inspector was however aware of the approval at the time of their site visit for the previous appeal on the application site and this was addressed within their response, and had no impact on the outcome of the appeal.
- 10.11 Whilst the size of the adjacent site (125 High Street), is similar to that of the application site, the depth of the site under the current application would result in a close relationship being established between the new dwelling and neighbouring properties. This relationship would be uncharacteristic of the immediate surroundings where the properties are predominately sited in large plots with long gardens separating them from the closest properties to their rear elevation. As such, the principle of developing the site for a detached dwelling cannot be supported.
- 10.12 In summary, for the reasons set out above, the principle of development cannot be supported and is contrary to the Kirklees Local Plan and relevant Chapters of the NPPF.

Visual Amenity

- 10.13 The proposal is for the erection of a detached dwelling.
- 10.14 Principle 5 of the Housebuilders Design Guide SPD states that buildings should be aligned to form a coherent building line. Whilst there is not a coherent building line to the south of High Street, each of the dwellings are orientated to the north and are set back from the highway, with space to the front of the dwelling. Whilst the dwelling would be positioned so that its front elevation would roughly align with that of the adjacent property, 125 High Street, the location of the plot slightly further to the south would result in the dwelling having a closer relationship with High Street than has been established within the street scene. The location of the dwelling is therefore considered to be at odds with the established character of the area.
- 10.15 Furthermore, it is noted that the site is significantly smaller than the neighbouring plots, with each of the dwellings being of a substantial scale with a large area of amenity space to the rear that separates the dwelling from the property behind. Whilst 125 High Street occupies a smaller plot, the size and shape of the plot is considered sufficient to prevent harm to the established character. In the case of the application site, the dwelling would occupy the majority of the depth of the plot, with a small, decked area to the rear and garden to the front. The proposed amenity space to serve the property would be located to the side elevation. The proposed dwelling, by virtue of the layout of the development and constrained nature of the site, would introduce a development that would appear cramped within the plot. This would be in contrast to the spacious nature of the surrounding development and is considered to be harmful to the visual amenity of the street scene and wider area.
- 10.16 In terms of design, the dwelling would be 1.5 stories in height. It is noted that the design of the properties along High Street varies and the adjacent property, 125 High Street, is of a similar style to the proposed dwelling. As such, the design of the dwelling is considered to have an acceptable impact on visual amenity and would not be out of keeping with the character of the area in this particular case.
- 10.17 In summary, when considered in isolation, the scale of the dwelling is considered satisfactory for one detached dwelling with the provision of off-street parking and a modest area of amenity space.

10.18 However, whilst the design of the dwelling itself is considered to be acceptable, the layout of the site and its appearance in relation to the neighbouring properties, would be detrimental to the character of the street scene and wider area because of the cramped form of development that would result, contrary to Policy LP24 of the KLP, Principles of the Housebuilders Design Guide as well as the aims of the NPPF.

Residential Amenity

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

Impact on 46 & 48 Daleside

10.20 The proposed dwelling would be located to the rear of the properties on Daleside. Whilst the dwelling would be set in slightly from the shared boundary, it would be located at a significantly higher level. The location of the dwelling itself and the relationship with the neighbouring properties is considered, on balance, to prevent overbearing to a level that would be detrimental to the amenity of the occupiers of the property, including the private amenity space which is located at a higher land level. Notwithstanding this, due to the falling land levels to the rear of the site, a retaining structure and 2m high fence is proposed. Given the close proximity of this structure to the amenity space of the properties, it is considered that there would be a harmful overbearing impact. The dwelling would be located due north and as such the impact in terms of loss of light is considered acceptable.

10.21 Whilst openings to the rear of the dwelling at ground floor level are proposed, it is considered that these would be sufficiently screened by the proposed boundary treatment. The openings within the roof space, which would serve bedrooms, would be served by roof lights which would alleviate the potential for overlooking. A study would however be served by a dormer. Given the habitable nature of the room, and its elevated position, despite the higher level of the dwelling in relation to the neighbouring properties, it is considered that the opening would allow for overlooking at close proximity towards the private rear amenity space of the neighbouring properties.

10.22 A balcony is shown on the submitted floor plans to serve the master bedroom. The balcony would be served by patio doors and direct views would be towards the east. Whilst there would be some view from the balcony to the south towards the two properties, given that it would be set back from the boundary, it is considered, on balance, that the impact on the amenity of the occupiers of the properties would be acceptable.

44 Daleside and High Street Properties

- 10.23 A balcony is proposed at first floor level to serve the master bedroom. The balcony and opening would face towards the rear most element of the amenity space at 44 Daleside. It is noted that the amenity space to the rear of the property is layered, with useable amenity space at its highest point. The balcony would be set in from the boundary by 11.5m which is considered sufficient to prevent overlooking to a level that would be harmful to the amenity of the occupiers. The proposed ground floor level openings would be screened by the proposed boundary treatment.
- 10.24 The dwelling would be located approximately 20m to the east of 125 High Street. Given the single storey nature of the proposal, along with the distance retained and the placement of openings, the impact on the amenity of the neighbouring property is considered acceptable.
- 10.25 It is considered that sufficient distance would be retained to prevent the proposal from having a harmful impact on the other properties on High Street.

Impact on Future Occupiers

- 10.26 The application has been considered against the Government's Technical Guidance for space standards for a dwelling and it is considered that the dwelling would benefit from a sufficient level of indoor amenity space. The amount of natural light that would be received by each of the habitable openings have been considered and is deemed to be acceptable.
- 10.27 Principle 17 of the Housebuilders Design Guide SPD sets out how all new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The dwelling would benefit from areas of amenity space to the side and rear. Whilst the size of the plot and level of amenity space would not be comparable to the majority of the properties on High Street, it is considered that the level of amenity space would be proportionate to the scale of the dwelling. As such, the level of amenity space, in terms of the impact on residential amenity, would not be sufficient to warrant refusal of the application in this particular case.
- 10.28 Having considered the above factors, the proposal would have an adverse impact on the amenity of the occupiers of the properties to the rear of the site, contrary to Policy LP24 of the KLP (b), Design Principles of the Housebuilders Design Guide SPD as well as Paragraph 130 (f) of the NPPF.

Highway issues

- 10.29 The proposal is for the erection of a detached dwelling on land adjacent to 125 High Street. The application site is located to the end of High Street which is a steep residential cul-de-sac located off Bristfield Road. Two off-street parking spaces would be provided on a driveway with two additional space accommodated by a detached garage. The parking and access arrangements to the site have been reviewed by the Council's Highways Development Management officer and are considered to be acceptable. Should the application be recommended for approval, conditions would be imposed regarding the surfacing of the parking areas and the submission of details regarding the storage and collection of waste.
- 10.30 In summary, the proposed development is considered acceptable from a highway safety perspective, complying with Policies LP21 and LP22 of the KLP as well as Principles 12 and 19 of the Housebuilders Design Guide.

Other Matters

Ecology

- 10.31 The proposal is for the erection of a detached dwelling with parking and associated works. The application site is located within the Bat Alert Layer and as such, consideration has to be given to the impact on bats and bat roosts. The proposal does not involve any demolition and as such the impact on bats and bat roosts is considered to be acceptable. As a precautionary measure, should the application be approved, a footnote is recommended providing advice to the applicant in the event that bats are discovered.
- 10.32 Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and the Biodiversity Guidance note states that biodiversity net gain is required for all development. To create this net gain, conditions to secure a bird box and bat roosting feature into the external walls of the new dwelling are recommended should the application be approved. This mitigation would ensure that the proposal minimises the impact on biodiversity and provides a net biodiversity gain through good design by incorporating biodiversity enhancements. A condition would also be recommended, should the application be approved, regarding clearance of the site in order to prevent harm or disturbance to nesting birds.

Trees

- 10.33 An area of protected trees is located between the proposed dwelling and the adjacent property at 125 High Street. It is considered that sufficient distance would be retained between the trees and the proposed dwelling to prevent there from being a harmful impact to their amenity. This is in accordance with Policy LP33 of the Kirklees Local Plan.

Coal Mining Legacy

- 10.34 The Coal Authority has reviewed the proposal and have confirmed that the application site falls within the defined Development High Risk Area. Therefore, within the application site and surrounding area, there are coal mining features and hazards which need to be considered in relation to determination of this planning application.
- 10.35 The application is supported by a Coal Mining Risk Assessment prepared by JNP Ground Consulting Engineers, dated 8th July 2015. The report has been informed by an appropriate range of sources and information. Having reviewed the available coal mining and geological information, the Coal Mining Risk Assessment Report concludes that there is a potential risk to the development from past coal mining activity, specifically probable shallow coal mine workings. The report therefore recommends that intrusive site investigations be carried out in order to establish the exact situation in respect of coal mining legacy issues on the site.
- 10.36 The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development. Two conditions have, therefore, been recommended which would be attached to the decision notice if the application was approved, to accord with Policy LP53 of the KLP and Chapter 15 of the NPPF.

Carbon Budget

- 10.37 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.

10.38 The proposal comprises minor development which involves the erection of a single dwelling. In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of an electric car charging point is recommended and would be imposed should the application be recommended for approval. This is in accordance with Policies LP24 and LP51 of the KLP and Chapter 9 of the NPPF.

Drainage

10.39 Policy LP28 of the KLP establishes a hierarchy of drainage solutions with Sustainable Urban Drainage Systems being the most preferable solution and Main Sewer the least preferable option. The applicant states in the application form that the surface water is to be discharged to main sewer however no supporting justification has been provided. In any case, the applicant would require the consent of Yorkshire Water to undertake this and as such this would be addressed under a separate remit.

Representations

10.40 The representations have been summarised as follows:

10.41 Visual Amenity

- The dwelling would be in keeping with the design on High Street
- The development of the land would be an improvement
- Last plot on the end of an adopted cul-de-sac
- Dwelling would occupy a much smaller plot than the existing development on High Street
- Rear gardens are an established characteristic of the area

Officer response – The comments regarding visual amenity have been addressed within the visual amenity section of this report.

10.42 Residential Amenity

- The site section drawing fails to demonstrate the true impact on the properties of Daleside. Existing garden levels and retaining walls/features are not shown. Section shown through garage rather than the dwelling
- Insufficient privacy and physical separation from neighbouring properties
- Previous application addressed overlooking by reducing land level

Officer response – The comments regarding the impact of the development on residential amenity have been addressed within the residential amenity section of this report. Revised section drawings to include the existing garden levels and retaining wall/features have been requested from the applicant’s agent. The site plan illustrates the fall in the existing land levels towards the rear elevation of the properties on Daleside. It is noted that engineering operations have been carried out within the rear gardens to elevate the land level changes and create usable amenity space which is not outlined on the submitted plans. Notwithstanding this, any changes to the section drawing would not alleviate officers’ concerns regarding overlooking and overbearing to the amenity space of the properties to the rear of the application site on Daleside.

10.43 The comments received from Ward Councillor Ahmed have been carefully considered. Matters relating to the principle of development as well as the impact on visual and residential amenity are set out in detail within the relevant sections of this report. The Council’s Designing Out Crime Architectural Liaison Officer has been consulted informally during the course of the application and has noted that there are no reported issues of anti-social behaviour in this location.

10.44 Other Matters

- Concern regarding loss of mature hedge due to engineering works

Officer response – This is not a material consideration that can be taken into account as part of this planning application.

10.45 Non-Material Matters

- Concern regarding subsidence

Officer response – This is not a material consideration that can be taken into account as part of this planning application. Notwithstanding this, Paragraph 184 of the NPPF places the onus on the developer/land owner to ensure the land is safe and stable to accommodate the proposed development.

11.0 CONCLUSION

11.1 The application for the erection of a detached dwelling on land adjacent to 125 High Street, has been assessed against relevant policies in the development plan, as listed in the policy section of this report. It is considered that the development proposals do not accord with the development plan and the adverse impact of granting planning permission on the character of the surrounding area and residential amenity of the neighbouring properties would significantly and demonstrably outweigh any benefits of the development, when assessed against policies in the NPPF taken as a whole.

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

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

Background Papers:

Application weblink:

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f92216>

Certificate of Ownership – Certificate A signed.

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

2015/91256 – Erection of detached dwelling. Refused. Appeal dismissed

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f91256+>

2010/92779 – Erection of detached dormer bungalow with detached double garage.

Appeal dismissed against the Council's non-determination of the application

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2010%2f92779+>

2004/92510 – Erection of detached dwelling with integral garage. Refused –

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2004%2f92510+>

[Link to application details](#)

Approval at 125 High Street –

[Link to application details](#)

2014/93082 – Erection of detached bungalow with parking spaces. Conditional Full Permission - <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f93082+>

This page is intentionally left blank

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Aug-2022

Subject: Planning Application 2022/90793 Erection of single storey detached garden room to create dwelling forming annex accommodation associated with 24 Wilson Avenue, Mirfield, WF14 9AU 24, Wilson Avenue, Mirfield, WF14 9AU

APPLICANT

K Wynne-Hague

DATE VALID

06-Apr-2022

TARGET DATE

01-Jun-2022

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

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 has been brought to Heavy Woollen Sub-Committee due to the applicant being employed by Kirklees Council as the Head of Culture and Tourism. This is in accordance with the Scheme of Delegation within the Constitution.

2.0 SITE AND SURROUNDINGS:

2.1 24 Wilson Avenue is a south facing, two storey mid terrace dwelling which currently benefits from a private rear garden and a driveway in Mirfield. The terrace features a peddle dash frontage which is in keeping with other dwellings in the terrace row.

2.2 The site is located between Nettleton Road and Wilson Avenue (this extends north beyond the rear of the site) and is situated approximately 20m from the junction with Wilson Road.

2.3 There is no boundary treatment between the pavement and the area of hard surfacing to the principal elevation of the dwelling.

2.4 The rear private amenity space of no.24 resides to the north of the application site and due to change in ground levels between Wilson Avenue and Wilson Road, is marginally visible from Wilson Road. The outdoor amenity space has a sloping gradient descending towards no.24 (facing south) The rear private amenity space of no.24 is enclosed by a 1.8m fence.

2.5 Wilson Avenue is characterised by a mixture of terraced and semi-detached properties which follow a reasonably clear and well preserved building line along Wilson Avenue.

3.0 PROPOSAL:

3.1 Planning permission is sought for the erection of a single storey garden room to be used as an annexe in the rear amenity space of no.24.

- 3.2 The proposal would have a width 7m along the northern elevation of the site (this would form the rear elevation of the annexe), 3.4m along the eastern elevation of the site, 5.3m along the western elevation of the site and 7m along its southern elevation. The proposal would have an irregular shape due to it following the boundaries at the rear of the site. The proposal would feature a flat roof with a maximum height of 3m.
- 3.3 The proposed construction materials are horizontal cedar cladding with grey UPVC windows.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 No previous planning decisions

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

- 5.1 Kirklees Development Management Chartered, together with the National Planning Policy Framework and the DMPO 2015, encourages negotiation/engagement between Local Planning Authorities and agents/applicants. In this instance, no negotiations were deemed necessary

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 in the Kirklees Local Plan.

Kirklees Local Plan (2019):

LP1- Achieving sustainable development

LP2- Place Shaping

LP21- Highway Safety and access

LP24- Design

LP53- Contaminated and unstable land

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees House and Alterations Guide

National Planning Guidance:

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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised by neighbour notification letters. The period of publicity expired on 13th May 2022. One representation was received. The following is a summary of concerns raised:

- Impact to outlook of a bedroom window
- The height of the proposal in relation to neighbouring properties
- Lack of retaining wall as part of the application
- Subsidence issues
- Damage to property

8.0 CONSULTATION RESPONSES:

8.1 Statutory Consultees:

KC Highways Development Management: No objections however suggested an ancillary use condition.

8.2 Non-Statutory Consultees:

KC Environmental Health: A reporting of unexpected contamination condition required.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 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. 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."

10.2 In this case, it can be stated the principle of development for an outbuilding may be acceptable. The impact of the proposed development on visual amenity, residential amenity, highway safety, other all material planning considerations and taking into account representations received is considered below.

Visual Amenity issues

- 10.3 In terms of visual amenity, general design considerations are set out in Policy LP24 of the Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity.
- 10.4 The proposed siting of the outbuilding would be located at the rear of the application property and would therefore not be visible along Wilson Avenue. However, due to the shape of Wilson Road and the topography of the land the properties along Wilson Road being set back from their street scene, the proposal would be visible when travelling south along Wilson Road.
- 10.5 Section 5.6 of the Kirklees Home Extensions and Alterations Guide refers to outbuildings and states that: 'outbuildings should be subservient to the original building and its garden, set behind the build line so they do not impact the street scene and preserve a reasonable amount of amenity space.
- 10.6 No.24 currently benefits from 170sqm of private amenity space to the rear and the proposed annexe would occupy approximately 30sqm. Therefore, 82.4% of private amenity space belonging to no.24 would be retained. This is considered sufficient for the annexe to be read as subservient to the host dwelling, its garden and limit an overdevelopment of the site.
- 10.7 The final point to address for the annexe would be the location of the proposal in the street scene with regard to the surrounding building line. The proposal would be situated in the rear of the garden for no.24 Wilson Avenue and therefore would not impact that street scene. However, the garden of no.24 Wilson Avenue and those of the properties to the west, follow the bend of Wilson Road. The result of this is that the properties along Wilson Avenue cross cut the street scene along Wilson Road when travelling in a southern direction. The proposal would be visible adjacent to the front garden of no.5 Wilson Road.
- 10.8 However, it is considered that due to no.5 Wilson Road being the first property to the north of the application site, this site represents the start of the build line for Wilson Road. This build line is interrupted by the properties along Wilson Avenue and due to the annexe being situated within the private amenity space of the application property, being single storey and the south leaning topography of the site, the proposal would not interrupt the build line along Wilson Road to a detrimental degree.
- 10.9 The proposal would be constructed with horizontal cedar cladding which is considered to be similar to those used in a domestic shed and would not be out of keeping in a residential area. This can be secured through recommended condition.
- 10.10 Due to the location, relationship within the street scene, subservience to the host property and sympathetic materials, the proposal would accord with policy LP24(a) of the Kirklees Local Plan or Chapter 12 of the NPPF

Residential Amenity

10.11 In relation to the neighbouring properties, the following are relevant:

22 Wilson Avenue: adjoins the application site to the east as part of a terrace row. The proposal would be situated approximately 20m away from the rear of no.22 and feature windows which face the rear elevation of no.22 Wilson Avenue. Due to the offset angle between the annexe and no.22, it is considered that no significant issues would arise regarding overlooking. Due to the scale of the proposal and the separation distance from the rear elevation of no.22, no significant issues would arise regarding overshadowing/loss of light or overbearing.

10.12 26 Wilson Avenue: adjoins the application site to the west. The proposal would be situated approximately 20m away from the rear of no.26 and feature windows which face the rear elevation of no.26 Wilson Avenue. Due to the offset angle between the annexe and no.26, it is considered that no significant issues would arise regarding overlooking. Due to the scale of the proposal and the separation distance from the rear elevation of no.26, no significant issues would arise regarding overshadowing/loss of light or overbearing.

10.13 5 Wilson Road: adjoins the application site to the north. At its closest point, the corner of the application site is approximately 7.6m away from the dwelling at no.5. The proposal would not have any rear or side facing windows and therefore no issues regarding overlooking would arise. The proposal would have a maximum height of 3m, be situated to the south-east of no.5, not reside within the vertical 45 degree visibility splay of any habitable rooms at no.5 and be set lower due to the topography of the site. Therefore, no significant issues would arise regarding overshadowing/loss of light or overbearing, in the opinion of officers.

10.14 Due to the scale and location of the proposal, there would be no other impacts to the residential amenity of neighbouring residents. The proposal would accord with policy LP24 (b)(c) of the Kirklees Local Plan.

Highway issues

10.15 The proposal would result in some intensification of the domestic use of the property. Highways Development Management have been consulted on the application and have raised no concerns to the annexe as it would be ancillary to the host dwelling. However, an ancillary use condition has been deemed necessary if the proposal received permission to prevent significant intensification at the site in relation to additional vehicular movements.

10.16 Subject to the inclusion of the suggested condition, the proposal would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extension SPD.

Drainage

10.17 Policy LP28 of the Kirklees Local Plan establishes a hierarchy of drainage solutions with Sustainable Urban Drainage Systems being the most preferable solution and Main Sewer the least preferable option. The agent has indicated, on the submitted application form, that both foul and surface water from the

development are to be discharged into the mains sewer; however, no supporting justification has been provided for this. Due to the scale and nature of the development, the Lead Local Flood Authority and Yorkshire Water have not been consulted on this application. The applicant would require the consent of Yorkshire Water to undertake the development, and this would be addressed under a separate remit. Therefore, It is considered that there are no reasonable drainage grounds for opposing this development and is considered that the proposal will be acceptable in drainage terms reasonably satisfying the requirements of Policy LP28 of the Local Plan.

Representations

10.18 One letter of representation was received objecting to the proposal. Officer comments are provided below:

The proposals Impact to outlook of a bedroom window.

Officer Response: The proposals potential impact to residential amenity is assessed in section 10:11-10:14 of the report. The protection of 'view' is not a material planning consideration.

The height of the proposal in relation to neighbouring properties.

Officer Response: The proposals impact to the visual amenity of the host dwelling and street scene has been assessed in section 10.3-10.10 of the above report.

Lack of retaining wall as part of the application.

Officer Response: it is currently unknown whether a retaining wall would be required on site. However, due to the marginal change in site levels between 5 Wilson Road and 24 Wilson Avenue, it is considered that the introduction of a condition would fail to meet the 6 tests for a planning condition in the fact that there are no retaining walls proposed on the plans. As such, it would not meet the test of reasonable or necessary. Notwithstanding this, it is considered appropriate to add a footnote should the application be approved to advise that should retaining walls be required, they may require planning permission and further consent from the Council. Paragraph 184 of the NPPF places the onus on the developer/land owner to ensure the land is safe and stable to accommodate the proposed development.

Subsidence issues.

Officer Response: This is not a material consideration that can be taken into account as part of this planning application. Notwithstanding this, Paragraph 184 of the NPPF places the onus on the developer/land owner to ensure the land is safe and stable to accommodate the proposed development.

Damage to property as a result of works

Officer Response: This is not a material planning consideration that can be taken into account as part of this planning application. The requirements of the Party Wall Act lies with the building/ site owner, they must find out whether the works subject of this planning permission falls within the terms of the Party Wall Act 1996. There are no requirements or duty on the part of the local authority in such matters. Further information can be obtained from the DCLG publication Preventing and resolving disputes in relation to party walls – explanatory booklet.

Mirfield Town Council were also consulted on the application and did not raise any objections.

Other Matters

10.18 Contaminated Land

The site has been identified as being located in close proximity to a former quarry (Site 172/4). As such, Environmental Health have deemed the reporting of unexpected contamination to be required as a condition to the application. This is in accordance with policy LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF.

10.19 Climate Change

On the 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. 10.18 Due to the size, scale and limited nature of development, it was not considered necessary to request specific measures to address the developments' resilience to climate change.

11.0 CONCLUSION

11.1 In conclusion the proposed annexe, would respect the character and appearance of the host dwelling and the local area.

The application has been assessed against relevant policies in the development plan and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed annex is considered to be acceptable.

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 timeframe for commencement of development
2. Accordance with approved plans
3. Ancillary use
4. Reporting unexpected land contamination

Background Papers

Application files

Current Application

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f90793+>

Certificate of Ownership –Certificate A signed and dated.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Aug-2022

Subject: Planning Application 2022/90257 Erection of single storey front and two storey side and rear extensions 48, Northstead, Ravensthorpe, Dewsbury, WF13 3DX

APPLICANT

M Khan

DATE VALID

28-Feb-2022

TARGET DATE

25-Apr-2022

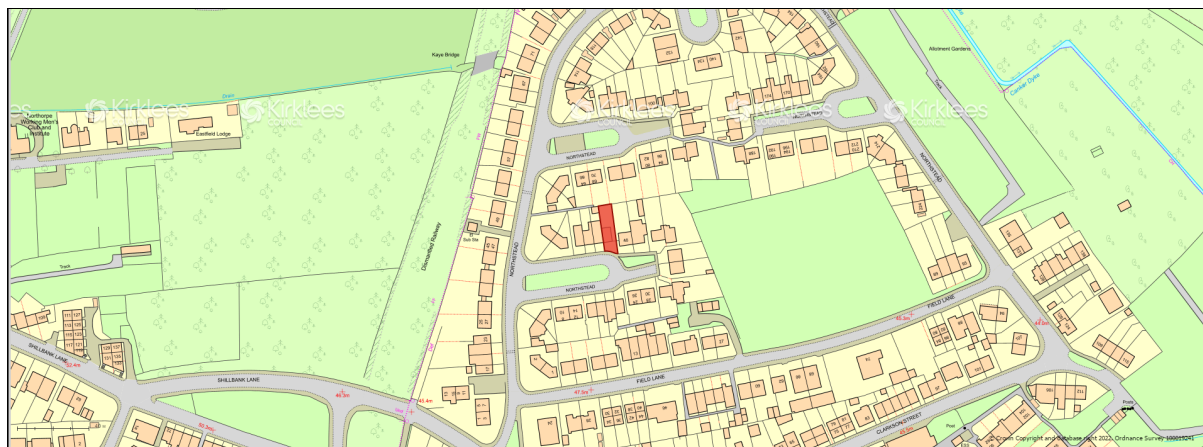
EXTENSION EXPIRY DATE

09-Aug-2022

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

[Public speaking at committee link](#)

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 side and rear extension, by reason of the mass and bulk along the shared boundary with the adjacent dwelling together with the spatial relationship between the properties would result in an overbearing impact and overshadowing in the later afternoon and evening on the amenity space and windows of the adjacent 46 Northstead. To permit the extension would be contrary to Policy LP24 of the Kirklees Local Plan, KDP5 and KDP6 of the House Extensions & Alterations Supplementary Planning Document and advice within Chapter 12 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to committee at the request of Ward Councillor, Darren O'Donovan for the reasons outlined below.

“I'd like to call this application to the committee please as I do not feel this will have an overbearing impact on the visual amenity.”

1.2 The Chair of the Sub-Committee has confirmed that Councillor O'Donovan's reason 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 48 Northstead is a brick built, end terraced property. The dwelling has a garden to the front, a path along the side and a larger enclosed garden to the rear.

2.2 The host property is located on a residential street with properties of a similar age, many of which have been extended and altered.

3.0 PROPOSAL:

3.1 The application seeks planning permission for a single storey front extension, two storey side extension and two storey rear extension.

3.2 The front extension would have a projection of 1.5m extending across the front elevation and the front of the proposed side extension. The roof form proposed would be lean to.

- 3.3 The side extension would be set back 0.4m at first floor with a projection of 1.65m from the original side wall of the dwelling, extending the remaining depth of the property. The roof form of the side extension would be a set down pitch.
- 3.4 The rear extension is proposed to project 3m from the original rear wall of the dwelling and would extend across the width of the dwelling including to the rear of the proposed side extension. The roof form would be a perpendicular pitch.
- 3.5 The walls of the front, side and rear extensions would be constructed using brick with tiles for the roof over the side extension.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2021/93004 - erection of front dormer, two storey side, two storey rear and rear dormer – refused
 - 1. The proposed side extension, by reason of its scale, infilling the space to the side of the property would erode the sense of space within the wider area. To permit the side extension would be contrary to Policy LP24 of the Kirklees Local Plan in terms of its scale, form and layout, KDP1 & KDP 2 of the House Extension SPD and advice within chapter 12 of the National Planning Policy Framework.
 - 2. The proposed rear extension, by reason of its projection and poor quality flat roof design, would have a harmful effect on the character of the host property. To permit the rear extension would be contrary to Policy LP24 of the Kirklees Local Plan in terms of its scale, form and layout, KDP1 & KDP2 of the House Extension SPD and advice within chapter 12 of the National Planning Policy Framework.
 - 3. The proposed side and rear extension, by reason of the mass and bulk along the shared boundary with the adjacent property together with the spatial relationship between the properties would result in an overbearing impact and overshadowing in the later afternoon and evening on the amenity space and windows of the adjacent 46 Northstead. To permit the side and rear extension would be contrary to Policy LP24 of the Kirklees Local Plan in terms of the amenities of the neighbouring property, Key Design Principles 5 & 6 of the House Extension SPD and paragraph 130 (f) of the National Planning Policy Framework.
 - 4. The proposed rear extension, by reason of its projection along the shared boundary with the adjoining dwelling would result in an overbearing impact and overshadowing in the morning of the first floor windows. To permit the side and rear extension would be contrary to Policy LP24 of the Kirklees Local Plan in terms of the amenities of the neighbouring property, Key Design Principles 5 & 6 of the House Extension SPD and paragraph 130 (f) of the National Planning Policy Framework.
 - 5. The proposed extensions would generate a requirement for off road parking for which provision has not been demonstrated. To permit the extensions would be contrary to Policy LP22 of the Kirklees Local Plan, Key Design Principle 15 of the House Extension SPD and advice within the National Planning Policy Framework.

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

- 5.1 The submitted plans raised significant concerns in terms of the initially proposed flat roof form and the scheme not overcoming reason 3 from the previous refusal. Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants. The agent did amend the roof form to the rear which overcame the concerns in terms of the design. No amended plans were received however to address reason 3 of the previous refused scheme.

6.0 PLANNING POLICY:

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

The site is unallocated in the Kirklees Local Plan

Kirklees Local Plan (2019):

- 6.2 **LP 1** – Achieving sustainable development
LP 2 – Place shaping
LP 22 – Parking
LP 24 - Design
LP 53 – Contaminated land

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Council adopted supplementary planning guidance on house extensions on 29th June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

National Planning Guidance:

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

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised by neighbour letter giving until 07/04/2022 for interested parties to comment. No response has been received.

8.0 CONSULTATION RESPONSES:

8.1 Statutory: None

8.2 Non-statutory: None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with 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.
- 10.2 Planning permission was refused last year for a similar application under application 2021/93004. Given there have been alterations to what was previously refused, with the reduction and redesign of the rear extension, the removal of the dormers and the introduction of a single storey front extension, the scheme shall be assessed in full.

Impact on Visual Amenity

- 10.3 The host property is located on Northstead which has residential properties of a similar age although there have been a variety of extensions and alterations erected. Dependent upon design, scale and detailing, it may be acceptable to extend the host property.
- 10.4 Key Design Principle 1 of the House Extension & Alteration supplementary planning document (SPD) does state 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.
- 10.5 The proposal under consideration consists of three distinct elements which shall be addressed below.

- 10.6 *Single storey front extension:* Paragraph 5.13 of the House Extension SPD states that front extensions are highly prominent in the street scene. As per paragraph 5.14 of the SPD, careful consideration needs to be given to ensure that they are: designed to limit the potential for them to erode the character; be small and subservient to the main house; and constructed using appropriate materials. The scale of the front extension is considered to be modest and subservient to the main house. The materials proposed include the use of brick for the walling and tiles for the roof covering which would match the main house. Furthermore, there are other front extensions in the vicinity and as such, the front extension would not be out of character with the wider area. The front extension is therefore considered to be acceptable in terms of visual amenity.
- 10.7 *Two storey side extension:* Paragraphs 5.15, 5.19 & 5.21 are of relevance with regards to the side extension. They require that the development proposed be located and designed to minimise the impact on the character of the area; reflect the original building in terms of materials and detailing; and ensure adequate space is retained to provide a sense of space. The two-storey side extension would be set back from the front of the dwelling and the roof would correspondingly be set down from the level of the main roof. However, this would fill the land to the side of the dwelling with no separation to the boundary. The space between buildings is an important part of the character of an area and allowing extensions which fill this area would erode the character. As per the previous refusal, the side extension would fail to meet the criteria of the House Extension SPD, KDP1 and point 5.22 which states that side extensions should retain a gap of at least 1m to the boundary to avoid a terracing effect and retain access to gardens. However, since the previous refusal, Kirklees have had appeal decisions where the Inspectors have cited the planning history for the immediate building group can form mitigation. As the adjacent 46 Northstead have a live permission granted under 2020/93784 for a similar side extension, it is considered to be unreasonable to refuse the side element on this ground as the neighbours approval does provide sufficient mitigation.
- 10.8 *Two storey rear extension:* Paragraphs 5.1 and 5.2 go into further specific detail regarding rear extensions requiring development to: maintain the quality of the residential environment; respect the original house; and use appropriate materials. The extension is proposed to have a projection of 3m from the original rear wall and would be constructed using matching materials. There are other such extensions within Northstead and as such this would not be out of character with the wider area. The rear extension is therefore considered to be acceptable in terms of visual amenity.
- 10.9 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.

Impact on Residential Amenity

- 10.10 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light and Key Design Principle 6 on preventing overbearing impact.
- 10.11 *Impact on 46 Northstead:* The front extension would be limited in terms of its projection and as such would have no significant impact on the amenities of the occupiers of the adjacent property. The side extension would reduce the space between the host property and the adjacent property. As the side and rear extension would result in substantial massing along the shared boundary and the neighbouring property does occupy a position closer to the road, the side and rear extension would align with the neighbour's rear amenity space. Due to these factors, the extension would result in an overbearing and oppressive impact on the adjacent neighbour. Furthermore, given the position of the extension to the west of the neighbour, there would be overshadowing in the later afternoon and evening. With regards to the impact on the adjacent 46 Northstead, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are unacceptable.
- 10.12 *Impact on 50 Northstead:* The proposed front extension would have a very limited projection and as such would have no significant impact on the amenities of the occupiers of the adjoining property. The side extension would be located on the opposite side of the host property to the adjoining dwelling and as such would have no impact on the amenities of the occupiers of the adjoining dwelling. The rear extension would be constructed along the common boundary with the adjoining property and would have the potential to result in an overbearing and oppressive impact as well as overshadowing in the morning given the position of the extension to the east of the neighbour. However, the adjoining neighbour does have their own single storey extension to the rear which would mitigate much of the impact. Furthermore, the projection of the first floor is limited to 3m which would have a limited effect on the windows of the adjoining property. With regards to the impact on the adjoining 50 Northstead, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be justifiable.
- 10.13 *Impact on 24 & 26 Northstead:* Given the substantial separation between the host property and the neighbours on the opposite side of the road of approx. 32m, the proposed front extension and side extension would have no impact on the amenities of the occupiers of the neighbouring properties on the opposite side of the road. With regards to the impact on the neighbouring 24 & 26 Northstead, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.

- 10.14 *Impact on 72 & 74 Northstead:* There is approx. 24m between the host property and the neighbouring properties to the rear. Given the substantial separation, the proposed rear extension would have no significant effect upon the amenities of the occupiers of the neighbouring properties to the rear. With regards to the impact on the neighbouring 72 & 74 Northstead, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.
- 10.15 *Conclusion:* Having considered the above factors, the proposals would result in a significant adverse impact upon the residential amenity of the adjacent 46 Northstead thereby failing to comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 5 & 6 of the House Extension SPD and Paragraph 130 (f) of the National Planning Policy Framework.

Impact on Highway Safety

- 10.16 The proposals will result in some intensification of the domestic use, and it is noted that there is no off-street parking. However, the increase in accommodation over and above the existing would equate to a single additional bedroom. As such, whilst not ideal, the scheme is not considered to be significantly harmful in terms of highway safety. The proposals broadly comply with Policy LP22 of the Kirklees Local Plan along with Key Design Principle 15 of the House Extension SPD.

Other Matters

- 10.17 *Contaminated Land:* The property is close to a potential source of contaminated land. However, given the limited scale of the domestic development, it is considered to be sufficient to include a condition regarding the reporting of unexpected contamination to comply with LP53 of the KLP.
- 10.18 *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.

- 10.19 There are no other matters for consideration.

Representations

- 10.20 None received

11.0 CONCLUSION

- 11.1 This application to erect a single storey extension to the front, two storey side extension and two storey rear extension for 48 Northstead has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Extension SPD, the National Planning Policy Framework and other material considerations.
- 11.2 The proposed side and rear extension, by reason of the mass and bulk along the shared boundary with the adjacent dwelling together with the spatial relationship between the properties would result in an overbearing impact and overshadowing in the later afternoon and evening on the amenity space and windows of the adjacent 46 Northstead. To permit the extension would be contrary to Policy LP24 of the Kirklees Local Plan, KDP5 and KDP6 of the House Extension SPD and advice within Chapter 12 of the National Planning Policy Framework.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.
- 11.4 The application is recommended to be refused for the reasons set out at the beginning of this report.

Background Papers:

Current application

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f90257>

Previous refusal

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/93004>

Certificate of Ownership –Certificate A signed and dated.

This page is intentionally left blank

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Aug-2022

Subject: Planning Application 2022/91228 Erection of first floor extensions and alterations to form first floor accommodation 1, Penn Drive, Hightown, Liversedge, WF15 8DB

APPLICANT

Mr R Jagger

DATE VALID

07-Apr-2022

TARGET DATE

02-Jun-2022

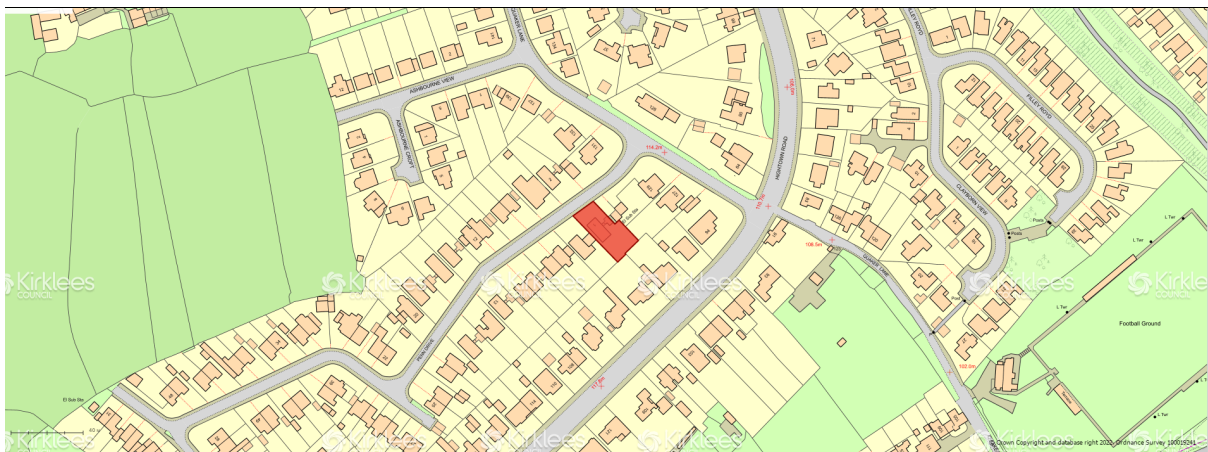
EXTENSION EXPIRY DATE

09-Aug-2022

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Cleckheaton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application is brought to committee at the request of Ward Councillor Kath Pinnock for the reasons outlined below.

"I would like the decision on this new planning application for extensions to 1 Penn Drive to be determined by planning committee as the original application for a very similar plan was refused by committee and that decision was upheld on appeal. The main issue set out by the Planning Inspector was "the effect of the development on the character and appearance of the existing building and its locality." The issue has not been properly addressed by the latest application as the only change has been to address the eaves level. The remaining issues of ridge height and a considerable massing effect have not been addressed."

1.2 The Chair of the Sub-Committee has confirmed that Councillor Kath Pinnock's reason 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 1 Penn Drive is a brick built detached bungalow with a lawned garden to the front and a driveway and an attached garage to the side. To the rear of the bungalow is a spacious garden enclosed by mature vegetation.

2.2 Penn Drive is residential in nature, characterised by detached and semi-detached bungalows of various designs and materials. A few of the properties appear to have been extended. All bungalows on Penn Drive have a relatively large lawned garden to the front, which is an important element to the prevailing character, as well as the local street-scene.

3.0 PROPOSAL:

3.1 The application seeks planning permission for the erection of extensions and alterations to from first-floor accommodation.

- 3.2 The ridge of the existing house would be elevated from 4.8m to 6.0m, whilst the width would be increased from 6.8m to 7.8m with the eaves being retained at the existing level. In addition, the existing flat roof garage would be demolished and replaced by a dual pitched roof side extension.
- 3.3 The facing and roofing materials would be the same as existing. The first floor of the enlarged house would comprise two bedrooms, a home office, and a gaming room. There would be two extra windows in the front and rear elevations and one in the side elevation. Part of the front garden would be surfaced to provide additional car parking spaces.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2021/90302 - Erection of first floor extensions and alterations to form first floor accommodation - Refused at 14th April 2021 Heavy Woollen Sub-Committee and dismissed at appeal. The reason is as follows:

The development by reason of its scale and siting would fail to establish a subservient relationship with the host building and would, as a result, have significant adverse impacts on the overall appearance of the main house and those surrounding it, as well as the street-scene of Penn Drive. To permit the development in its current form would be contrary to Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

- 4.2 2020/20461 – Pre-application for first floor extensions and other alterations to an existing bungalow (1, Penn Drive) - the response indicated that proposals 1 and 2 could be supported as they would achieve a satisfactory spatial relationship with the surrounding buildings which would preserve the prevailing character of the area and street scene, minimise the potential impact on the living conditions of neighbour occupants and raised no concerns in terms of highway safety.
- 4.3 2006/95135 – Erection of extensions (4, Penn Drive) – Approved

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

- 5.1 Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants. In this instance, no negotiations were considered necessary.
- 5.2 The agent has however supplied a street scene plan showing the existing and proposed relative to the neighbouring properties 3 & 5 Penn Drive.

6.0 PLANNING POLICY:

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

The site is unallocated in the Kirklees Local Plan.

Kirklees Local Plan (2019):

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

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Council adopted supplementary planning guidance on house extensions on 29th June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

National Planning Guidance:

- 6.4 Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised by neighbour letter giving until 18th May 2022 for interested parties to comment. Seven representations have been received. The issues raised are summarised below:

- There would be extensive noise and disruption from construction works.
- The extensions would be massive and out of proportion to the street scene.
- The proposal would not comply with the House Extensions and Alterations Supplementary Planning Document (SPD).
- This development, if permitted, would result in the loss of a bungalow, and would therefore affect the housing mix of this neighbourhood.
- The privacy of the neighbouring occupiers would be prejudiced by the extensions.
- This development would make it more difficult for elderly people and disabled people to find appropriate accessible homes.

8.0 CONSULTATION RESPONSES:

- 8.1 Statutory:

None

- 8.2 Non-statutory:

None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with 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.
- 10.2 Planning permission was refused and dismissed at appeal under 2021/90302 for first floor extensions and alterations to form first floor accommodation. The current application seeks consent for a modified proposal which shall be fully assessed below.

Visual amenity

- 10.3 The property is located within a residential area with similar properties in terms of age although there are some variances in terms of style. Dependent upon design, scale and detailing, it may be acceptable to extend the host property.
- 10.4 Key Design Principle 1 of the House Extension & Alteration supplementary planning document (SPD) does state 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.
- 10.5 The increase in the overall height of the building would be comparable with the range of building heights along Penn Drive and the nearby neighbouring development at the junction with Quaker Lane. These building types vary between grouped house types of true detached bungalows, chalet houses and semidetached dormer houses.

- 10.6 In the context of varying house types, ridge heights and the rising local topography, the additional height would not appear out of character. The ridge height, with the proposed increase, is considered to result in an acceptable form of development. This point was also noted by the Inspector with respect to the previous application.
- 10.7 The Inspector, in assessing the previous application, considered that the increase in the eaves height previously proposed would cause the elevations of the main body to appear disproportionately deep and unbalanced against the depth and scale of the roof space. Furthermore, their alignment close to the first-floor sills than the ground floor headers would depart from the characteristic low eaves heights consistently featuring in all the house types in the locality. He concluded that the introduction of contrasting proportioning and raised “shoulders” of the frontage gable would notably jar with a consistent design feature of the local buildings.
- 10.8 The eaves height with the current application would be retained at the existing level which would allow the extensions proposed to form a similar relationship to the wider area as the neighbouring dwellings on Quaker Lane and further up Penn Drive.
- 10.9 On this occasion, the height and roof pitch of the houses on Penn Drive vary considerably and, therefore, to permit this proposal does not conflict with paragraph 118(e) of the NPPF and paragraph 5.22 of the House Extension SPD. Consequently, the proposal is, on balance, acceptable in size.
- 10.10 The facing and roofing materials are to match those used in the construction of the existing bungalow. As such, no issues would arise from the selected materials of construction. The enlarged bungalow would have a dual pitched roof as existing. The proposed side extension would enhance the overall appearance of the main house through adopting a more sympathetic design.
- 10.11 As well as the above, given the existing houses in this locality are all slightly different in form and design, the proposed extensions and alterations would not detract from the character their surroundings, nor would they prejudice the street-scene of Penn Drive. The proposed design would be satisfactory in this regard.
- 10.12 Having taken the above into account, the proposal 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

- 10.13 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 and Key Design Principle 6 on preventing overbearing impact.

- 10.14 *Impact on 3 Penn Drive:* The development in question would increase the bulk of the existing house. Due to its proximity of the neighbouring house at 3 Penn Drive, it would have the potential of affecting the living conditions of these neighbours by way of overshadowing and overbearing impacts. The impact on residential amenity is addressed as follows.
- 10.15 3 Penn Drive is a similarly designed detached bungalow to the south-western aspect of the application site, with its gable wall fronting the road. The first-floor extensions would be directly adjacent to the site boundary but would not give rise to significant overshadowing and overbearing impacts upon these neighbours. This is because the roof would only be raised from its current level by 1.2m. On the opposite side of the site boundary is the flat roof garage of 3 Penn Drive, which means that the potential of overshadowing and overbearing impacts on its residents would be minimal. There would be no additional windows in the side elevation facing this adjoining site. As such, the privacy of the neighbours concerned would continue to be preserved as existing²
- 10.16 With regards to the impact on the adjacent 3 Penn Drive, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.
- 10.17 *Impact on 129 Quaker Lane:* The occupants of 129 Quaker Lane could be affected by the first-floor extensions and alterations as well, despite to a lesser extent than no.3. This house is a detached chalet bungalow to the north-eastern aspect of the application site. There is an electricity substation between these two houses. The first-floor extensions and other alterations would create a habitable room in the attic with a window in the gable wall facing towards the garden of this adjacent house. However, the likelihood of overlooking impact would be minimised by the separation distance between the proposed development and the house at this neighbouring site. The separation distance would also satisfactorily mitigate the overshadowing and overbearing impacts potentially arising from this development. On this basis, it is considered that the living conditions of these neighbours would be protected.
- 10.18 With regards to the impact on the adjacent 129 Quaker Lane, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.
- 10.19 *Impact on 98 Hightown Road:* To the rear of the application site is a two-storey detached dwelling known as 98 Hightown Road. Its rear garden might be visible from the bedroom window on the first floor of the enlarged house. However, it is acknowledged that the host building already has several habitable room windows in this elevation and, hence, the proposed development is unlikely to cause a greater impact on the privacy of these neighbours than the current situation. The ridge of the existing house would only be elevated by approximately a metre from the existing level. There would be no changes to the separation distance between the two buildings in question. As such, there would be no additional overshadowing and overbearing impacts on the occupants of this adjoining house.

- 10.20 With regards to the impact on the neighbouring 98 Hightown Road, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.
- 10.21 *Impact on 2 Penn Drive:* For the same reasons given in relation to 98 Hightown Road, the bungalow on the other side of the road at 2 Penn Drive would not be adversely affected by the development under consideration. No other houses in the vicinity of the site would be unduly prejudiced in terms of residential amenity.
- 10.22 With regards to the impact on the neighbouring 2 Penn Drive, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.
- 10.23 Having considered the above factors, the proposals are not considered to result in any significant adverse impact upon the residential amenity of any of the surrounding neighbouring occupants. The proposals therefore comply with policy LP24 of the KLP, KDP3, KDP5 & KDP6 of the House Extension SPD and paragraph 120 (f) of the NPPF.

Highway issues

- 10.24 The proposals will result in some intensification of the domestic use. However, the existing parking arrangement would remain at an appropriate level. Bin storage would not be moved as part of the proposal. The proposals therefore comply with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extension SPD.

Representations:

- 10.25 The material considerations raised in the objections received are summarised as follows: -
- There would be extensive noise and disruption from construction works – *Officer Comment - although this is a material consideration relating to residential amenity, there is an expectation that there will be such effects as part of the activities associated with construction and such effects would be transient. This would not therefore form a reason for refusal. In the event that planning permission be approved, it is recommended that a note be added to any subsequent approval reminding the applicant of the appropriate hours of work in line with Environmental Legislation.*
 - The extensions would be massive and out of proportion to the street scene – *Officer Comment - the impact in terms of the street scene has been addressed within paragraphs 10.5 to 10.9 of the above report.*

- The proposal would not comply with the House Extensions and Alterations Supplementary Planning Document (SPD) - *Officer Comment - the schemes impact in terms of the SPD has been addressed within paragraphs 10.12 and 10.23 of the above report.*
- This development, if permitted, would result in the loss of a bungalow, and would therefore affect the housing mix of this neighbourhood – *Officer Comment - given the application is for extensions to a dwelling on a street with a mix of true and dormer bungalows, and as such would not have a significant impact on housing mix within the surrounding area.*
- The privacy of the neighbouring occupiers would be prejudiced by the extensions – *Officer Comment - the impacts of the proposal have been considered with regards to privacy in paragraph 10.13 to 10.23 of the above report.*
- This development would make it more difficult for elderly people and disabled people to find appropriate accessible homes – *Officer Comment - although the proposals would allow accommodation to be created in the roof space, there would be two bedrooms on the ground floor which would accommodate, if required, an older or disabled resident.*

10.26 The matters raised in the objections have been fully considered under the relevant sections of this report.

Other Matters

10.27 *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.

10.28 There are no other matters for consideration.

11.0 CONCLUSION

11.1 This application for the erection of first floor extensions and alterations to form first floor accommodation for 1 Penn Drive has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. It is considered that the development proposals accord with the development plan when assessed against policies in the NPPF and other material consideration.

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 timeframe for commencement of development
2. Accordance with the approved plans
3. Matching materials

Background Papers:

Application and history files.

Current application

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f91228>

Previous approval

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/90302>

Certificate of Ownership –Certificate A signed and dated.



Name of meeting: Planning Sub-Committee (Heavy Woollen)

Date: 4 August 2022

Title of report: Application for order to extinguish part of public footpath Denby Dale 82 at Top o th Close, Longroyd Lane, Upper Cumberworth. Highways Act 1980, section 118.

Purpose of report: Members are asked to consider an application for an order to extinguish part of public footpath Denby Dale 82 on the grounds that it is not needed for public use. Members are asked to make a decision on making the order and seeking its confirmation.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by <u>Director</u> & name	Colin Parr – 26/7/22
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	James Anderson on behalf of Eamonn Croston 22/7/22
Is it also signed off by the Service Director (Legal Governance and Commissioning)?	Julie Muscroft – 22/7/22t
Cabinet member portfolio	N/A

Electoral wards affected: Denby Dale

Ward councillors consulted: Cllr Bamford, Cllr Simpson and Cllr Watson consulted

Public or private: Public

Has GDPR been considered? Not applicable

1. Summary

- 1.1 The council received an application from Mr & Mrs Johnson of Top o' th' Close to extinguish part of public footpath Denby Dale 82, under section 118 Highways Act 1980, on the grounds that it is not needed for public use.
- 1.2 The section of footpath to be proposed to be extinguished is shown by the bold solid line on plan 1. The location of the footpath is shown at appendix A. The footpath is currently open and available for use by the public.
- 1.3 The footpath is a cul-de-sac path that terminates at the property at Top o' th' Close This section of footpath was recorded on the original 1952 West Riding Definitive Map and on the current (1985) Definitive Map as only going to that property. (These are shown at appendix B)
- 1.4 Various historic Ordnance Survey Maps show a field edge path leading to an isolated property. Maps do not indicate a path continuing beyond the property.
- 1.5 Appendix C includes an aerial photo from 2000 before the current owners bought the property, the property was in ruins and the photograph gives no indication that the footpath was regularly used. A subsequent aerial photo from 2002 shows the property when work was in progress, a vehicular access had been opened along the line of the footpath to allow the building work. An aerial photo from 2006 show a new vehicular access has been constructed on a different alignment.
- 1.6 The land crossed by the whole length of the cul-de-sac footpath is within the same registered title as the dwelling at Top o' th' Close. Access to the property is not dependant on exercise of the public right of way.
- 1.7 The property was sold at auction and as far as the applicants are aware, the auction booklet had a note that a footpath existed along the field edge. The applicants cannot remember the footpath being mentioned on the property search, however property searches prior to 2016 did not include the footpath as a mandatory question. Two planning applications were made and although officers cannot obtain full details due to the time lapsed, we can see the decisions. Application 2001/90325 does not mention any footpaths but on application 2001/93724 a standard footpath note is listed, however this could relate to the access on Longroyd lane which is also a footpath
- 1.8 PROW has also received a letter from the neighbours of the applicant who has lived in their property since 1972. They were aware of the original owners of Top o' th' Close and believe that the land in front of the property was grassland which was cut for silage. The access was then via a wooden gate. Before the applicant purchased the property, the neighbours walked a lot having a dog. To the best of their knowledge, they have not seen members of the public use the route to Top O Th Close, despite seeing many people use the other paths especially Longroyd Lane which is part of the Kirklees Way.
- 1.9 The applicants have supplied various photographs some of these are shown at App D

1.10 PROW received one request regarding an obstruction in April 2018. One of the definitive map officers met the landowners on site to discuss reopening. The applicants removed the obstructions, opened the path and this was completed in May 2018. As far as we can tell no other requests regarding this link of footpath Denby Dale 82 have been received

2. Information required to take a decision

- 2.1. The Council may make and confirm an extinguishment order under Section 118 of the 1980 Act if it considers that it is expedient to do so when the following criteria are met:-
- a) it is expedient to stop up the path on the grounds that it is not needed for public use.
 - b) it is expedient to confirm the order having regard to the extent that the path would be likely to be used by the public. Also having regard to the effect that the closure would have on land served by the way, account being taken of the provisions for compensation.
 - c) Any temporary circumstances preventing or diminishing the use of the path shall be disregarded.
 - d) When seeking confirmation, the Council must have regard for any material provision of any Rights of Way Improvement plan (ROWIP) for the area
- 2.1. Section 118 of the Highways Act 1980 gives an authority the power to extinguish footpaths, bridleways or restricted byways if it is satisfied that the relevant criteria are satisfied.
- 2.2. Account must be taken of the effect of the order on the rights of the public as described above at 2.1.
- 2.3. Circular 1/09 is guidance published by DEFRA for local authorities regarding PROW matters. Section 7 deals with changes to the public rights of way network.
- 2.4. An extract of the executive summary of the ROWIP is appended at App D.
- 2.5. Option 1 is to decide to refuse the application to make the order.
- 2.6. Option 2 is to authorise the Service Director, Legal, Governance & Commissioning to make an order under section 118 of the Highways Act 1980 **and only to confirm it if unopposed**, but to defer its decision on sending any opposed order to the Secretary of State at DEFRA.
- 2.7. Option 3 is to authorise the Service Director of Legal, Governance & Commissioning **to make and seek confirmation** an order under section 118 of the Highways Act 1980. This would authorise confirmation of the order by the council if unopposed or seeking confirmation of an opposed order by forwarding it to the Secretary of State to confirm.

- 2.8. Option 4 is to authorise the Service Director of Legal, Governance & Commissioning **to make** an Order under section 118 of the Highways Act and to confirm it if unopposed, but if opposed, to submit the Order to the Secretary of State requesting confirmation, without actively supporting the confirmation of the opposed Order. This would authorise confirmation of the Order by the Council if unopposed or forwarding an opposed Order to the Secretary of State to determine, where promotion of confirmation of the Order at inquiry or hearing (or via written representations) may be undertaken by another party and where the Council would look to fulfil its administrative role in proceedings. It would passively support its Order; however, the Council would look to the applicant to pursue confirmation

3. Implications for the Council

3.1. Working with people

There has been public consultation regarding this application.

3.2. Working with partners

not applicable

3.3. Place based working

Not applicable

3.4. Climate change and air quality

Promoting walking and other green transport and providing better facilities for physical activity works towards local and national aims on healthy living, climate change and air quality .

3.5. Improving Outcomes for Children

See 3.4

3.6. Financial Implications for the people living or working in Kirklees

3.6.1. The Council receives applications to change public rights of way

3.6.2. The Council may make orders which propose to change public rights of way and may recharge its costs of dealing with applications and making orders, as appropriate.

3.6.3. Any person may make an objection or representation to the order.

3.6.4. The council may choose to forward an opposed order to the Secretary of State at DEFRA ("SoS") to determine or may abandon it. If an order is forwarded, any such objection would be considered by an inspector appointed by the Secretary of State, who may or may not confirm the order. The council recharges the costs of applications to the applicant as appropriate, but the council may not recharge the costs incurred by it in the process of determination of an opposed order by DEFRA.

3.6.5. Costs would be reduced if the Council only passively supports confirmation of an opposed order or takes a neutral position (as described at paragraphs 2.8 above). For example, due to a reduced need for legal representation and less expenditure of officer time if preparing for a public inquiry

3.6.6. If the council confirms its own orders, or after an order has been confirmed by the SoS, the council may recharge its costs of concluding the order process, including bringing an order into force.

3.7. **Other (eg Legal/Financial or Human Resources) Consultees and their opinions**
Not applicable

4. **Consultees and their opinions**

4.1. The applicants contacted local user groups prior to submitting this application and these responses were submitted with the application and these were as follows:-

- Huddersfield Rucksack Club replied considering the facts that the path is not a thoroughfare and does not lead to a view point we see no reason why in our opinion it should remain open. Whilst we would normally oppose the proposed closure of any longstanding footpath in use, we do not see the merit in this case
- Huddersfield Ramblers replied that the path is a cul-de-sac and therefore of limited use in the wider network and the path does not lead to any landmark or feature of historical, archaeological or cultural interest. For these reasons Huddersfield Ramblers would be unlikely to object.
- Denby Dale Walkers are Welcome feel the request is very reasonable and have no objections to your application for a footpath extinguishment order

These groups were also consulted by the Council during the preliminary consultation.

4.2. The public rights of way unit undertook an informal preliminary consultation which included notices posted on site and maintained for 4 weeks, and correspondence with statutory consultees, interested parties including utility companies and user groups, as well as ward councillors.

4.3. Cllr Watson stated that he can see no difficulty with this given it is effectively a dead-end path.

4.4. Huddersfield Rucksack club replied to the consultation and after consulting members stated that no one knows of this path and we do not object to its extinguishment.

4.5. Peak and Northern footpath society (PNFS) responded that they would likely object to any order to extinguish Denby Dale footpath 82. In our preliminary consultation Prow stated that the section of footpath had not been used for many years. PNFS stated that no evidence has been supplied to substantiate this claim and they are not convinced that it meets the criteria for Highway Act section 118.

4.6. Prow subsequently checked records of requests and complaints received for both the general correspondence on the footpath and in the Highways ROSS call system. No further requests were found. Highways ROSS is the call logging system that has been in use since 2007 and in which Prow and other Highways issues are logged.

- 4.7. Prow responded to PNFS with details of the aerial photos. Prow also contacted the landowners to check if they had seen people use or trying to use the path from when they purchased it. They cannot recall seeing anyone.
- 4.8. The Police Designing Out Crime Liaison Officer has no concerns about this proposal.
- 4.9. KCOM has no apparatus at this location.
- 4.10. Yorkshire Water confirmed that the water mains network is not affected by the proposed footpath extinguishment
- 4.11. No response or no objection was received from Kirkburton Parish Council, Open Spaces Society, Auto Cycle Union, CTC, Byways & Bridleways Trust, Kirklees Bridleways Group, WY Police, WY Fire, WYAS, WYPTE, Atkins, MYCCI, Road Haulage Association, National Grid, BT, NTL, & YEDL.

5. Next steps and timelines

- 5.1. If an order is made, it would be advertised and notice served.
- 5.2. If the order is unopposed the council may confirm it.
- 5.3. If any objections are duly made and not withdrawn, the council may forward the order to the Secretary of State at DEFRA seeking its confirmation. Alternatively, the council may decide to abandon the order.
- 5.4. If members decide to authorise the making of an order, but do not authorise officers to seek confirmation by the Secretary of State of an opposed order, a further decision would then be required on:
 - 5.4.1. any objections that are received, and
 - 5.4.2. potential referral of the order (if opposed) back to the Secretary of State, or
 - 5.4.3. abandonment of an opposed order.
- 5.5. If sub-committee refuses the application, the order is not made. There is no appeal right for the applicant against a refusal.

6. Officer recommendations and reasons

- 6.1. Officers recommend that members choose option 4 at 2.7 above and give authority to the Service Director, Legal, Governance and Commissioning to make and seek confirmation of an order under section 118 of the Highways Act 1980 but without actively supporting the confirmation of the opposed Order
- 6.2. Officers consider that the relevant criteria above are satisfied, that the footpath is not needed for public use and it is not likely that the footpath will be used. The footpath is not required for access to the property. It does not lead to a place of popular resort such as a viewpoint or beauty spot, or other feature of historic or cultural importance. There is no indication that the house at Top o' th' Close is of any notable historic or architectural interest in itself.

7. **Cabinet portfolio holder's recommendations**

7.1 Not applicable

8. **Contact officer**

Phil Champion, Definitive Map Officer, Public Rights of Way

9. **Background Papers**

9.1 Appendices

9.1.1 Plan 1 proposed extinguishment plan

9.1.2 App A Location plan

9.1.3 App B Extract of the 1952 and 1985 definitive maps

9.1.4 App C Aerial photos

9.1.5 App D Photos provided by the applicant

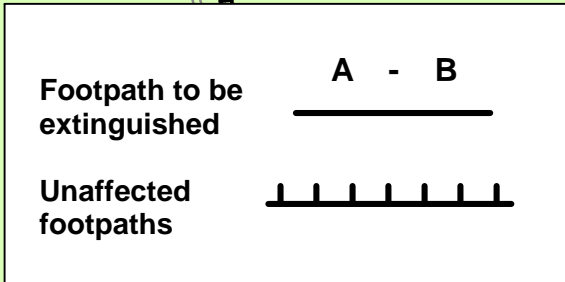
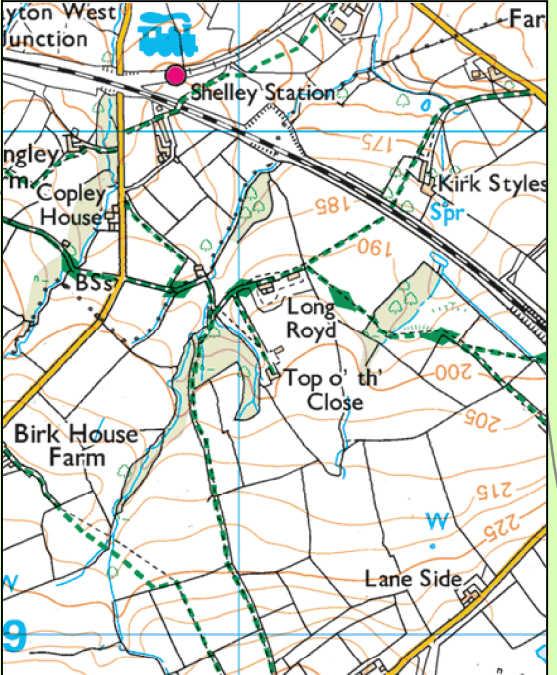
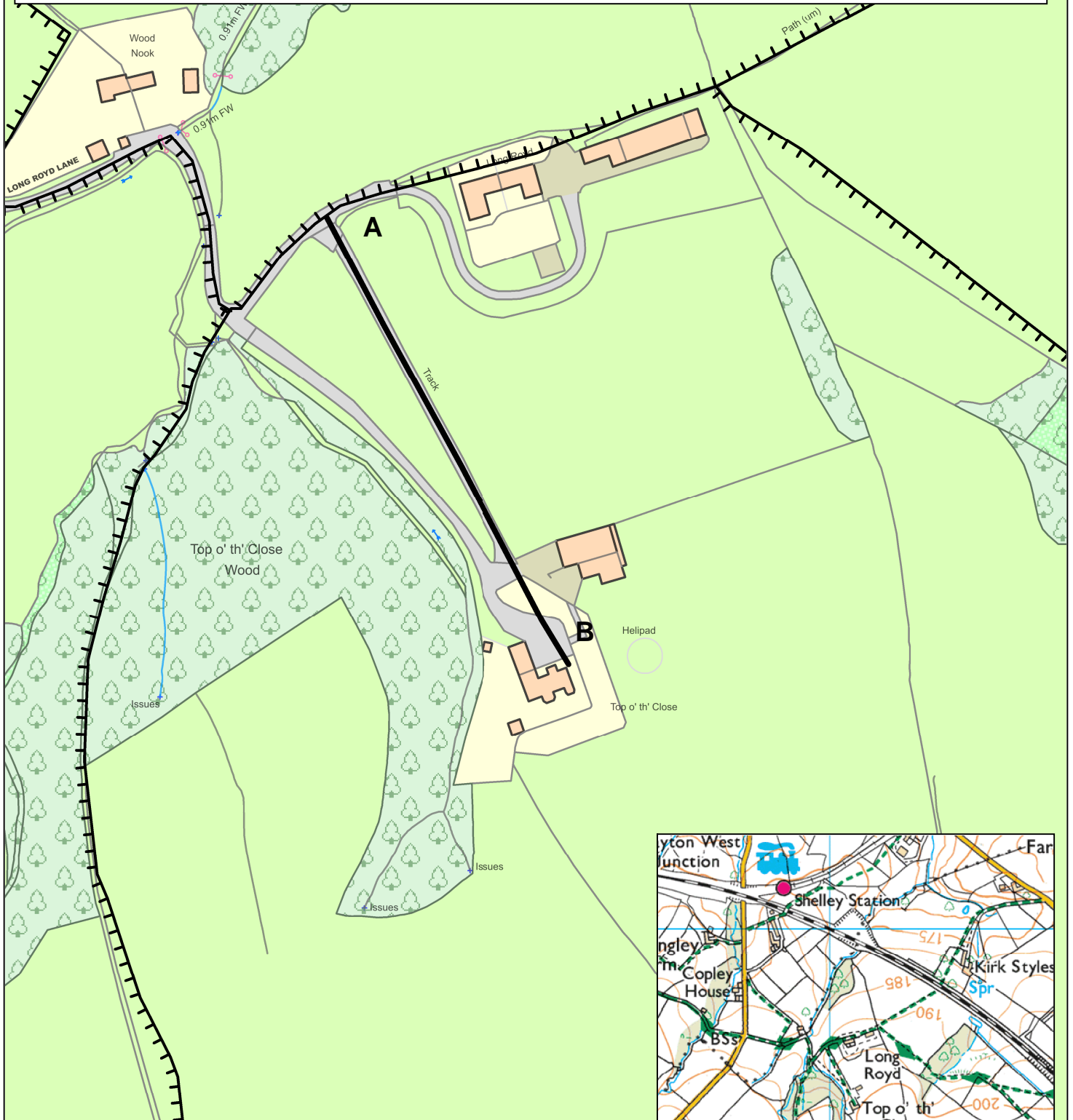
9.1.5 App E ROWIP extract

10. **Service Director responsible**

Service Director: Commercial, Regulatory & Operational Services; Economy & Infrastructure Directorate

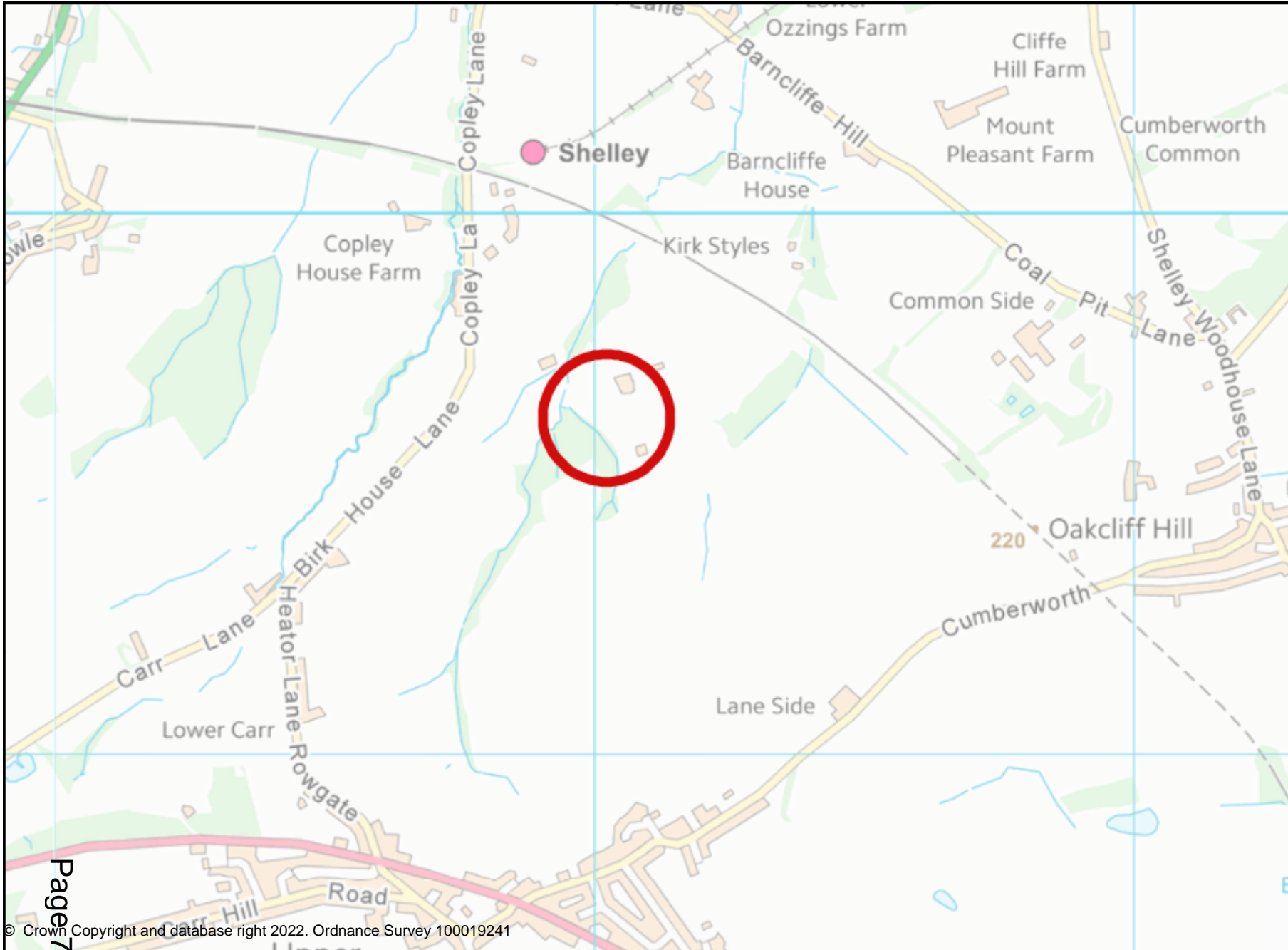
This page is intentionally left blank

**Highways Act 1980, section 118. Proposed extinguishment of public footpath
Denby Dale 82 (part) at Top O th Close Farm, Long Royd Lane, Upper Cumberworth.**



This page is intentionally left blank

Location plan - Top O Th Close

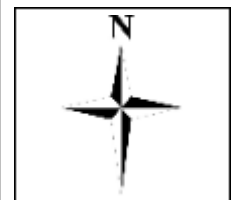


Kompass
Kirklees Mapping Service

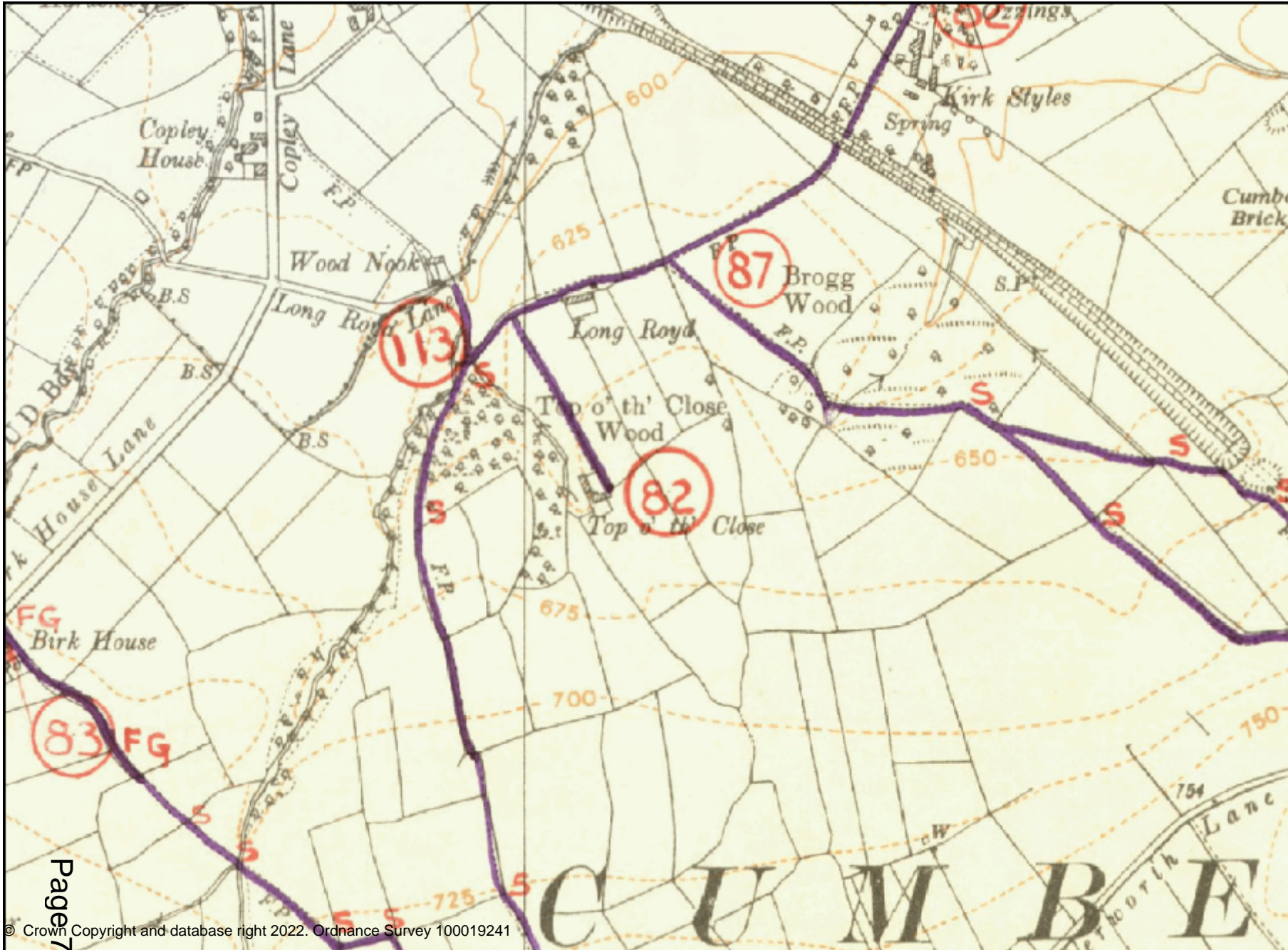
Scale = 1:10000

© Crown Copyright and
database right 2020.
Ordnance Survey
100019241

maps@kirklees.gov.uk



This page is intentionally left blank



Kompass
Kirklees Mapping Service

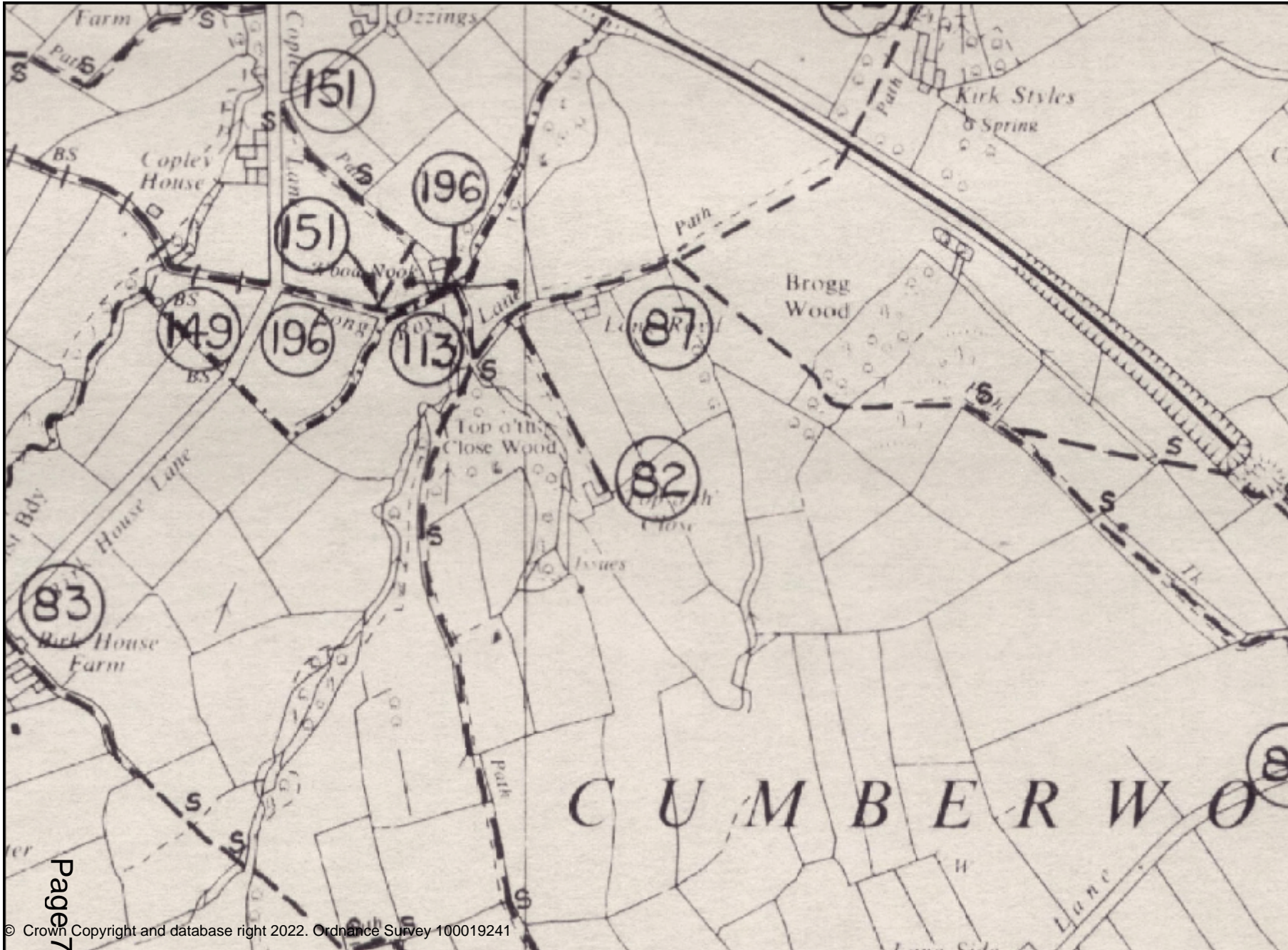
Scale = 1:5000

© Crown Copyright and
database right 2020.
Ordnance Survey
100019241

maps@kirklees.gov.uk



This page is intentionally left blank

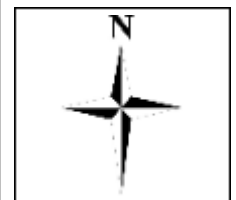


Kompass
Kirklees Mapping Service

Scale = 1:5000

© Crown Copyright and
database right 2020.
Ordnance Survey
100019241

maps@kirklees.gov.uk



This page is intentionally left blank



© Crown Copyright and database right 2022. Ordnance Survey 100019241



Kompass
Kirklees Mapping Service

App C - Aerial photo 2000

Scale = 1:1250

maps@kirklees.gov.uk



© Crown Copyright and database right 2020. Ordnance Survey 100019241

This page is intentionally left blank



© Crown Copyright and database right 2022. Ordnance Survey 100019241



Kompass
Kirklees Mapping Service

App C - Aerial photo 2021

Scale = 1:1250

maps@kirklees.gov.uk



© Crown Copyright and database right 2020. Ordnance Survey 100019241

This page is intentionally left blank



© Crown Copyright and database right 2022. Ordnance Survey 100019241



Kompass
Kirklees Mapping Service

App C - Aerial photo showing footpath line

Scale = 1:1250

maps@kirklees.gov.uk



© Crown Copyright and database right 2020. Ordnance Survey 100019241

Claimed Paths (1)

RouteCode: DEN/div82/10

Status: fp

LegalType: div

AdminArea: DEN

Name: Extinguishment application received - Top O th Close

Length: 183.087

XGCreated: 2019-09-26

XGEdited: 2019-09-26

PROW (1)

RouteCode: DEN/82/80

Status: FOOTPATH

Disclaimer: The Public Rights of Way data, whilst based upon the Definitive Map, is not the legal document and is for information only. The council will not accept liability for any loss, damage or injury (financial, contractual or otherwise) sustained as a result

AdminArea: DEN

Length: 184.481

LegalType: ROW

XGCreated: null

XGEdited: 2018-05-08

App D – Photos provided by the applicant





Executive Summary

The public rights of way network is a significant part of Kirklees' heritage and a major recreational resource. It enables people to get outdoors and away from increasing motor traffic and to enjoy the countryside which they would not otherwise have access - or simply to use it for fresh air and exercise. These rights of way are also important in the daily lives of many people who use them for travelling, particularly on short journeys, to shops, schools and other facilities as well as being an important link between neighbourhoods and settlements.

As part of Kirklees Vision, the Rights of Way Improvement Plan is to have a rights of way network; that is accessible for all, helps towards improving the health and well being of our residents, supports the economy through tourism and helps to reduce Kirklees' "carbon footprint". It aims towards improving sustainable transport with member authorities within West Yorkshire as well as working with other neighbouring authorities whose aims and objectives are the same or similar. The aims of the plan are to:

1. Protect, improve and develop the rights of way network as an important means of access both within urban areas and the wider countryside to meet with the present and future needs of the public.
2. Ensure the condition of the rights of way network is maintained and enhanced in keeping with the needs of local communities.
3. Afford opportunities for safe and sustainable travel and for access to work, schools, shops and other facilities and amenities as well as providing further opportunities for outdoor recreation and enjoyment of the area.
4. Improve the accessibility of rights of way for all members of the community in particular those from ethnic and deprived areas and especially for those with mobility problems or other impairments.
5. Identify opportunities to further improve public access in Kirklees by working with partners and volunteer groups in providing well-connected, well maintained, traffic free routes that are safe, attractive and well used by residents and visitors.
6. Enable and encourage people to enjoy the benefits of regular exercise whilst going about their daily business and to take advantage of the wide variety of countryside that exists within Kirklees.
7. Ensure the rights of way network contributes to the development of economic opportunities in Kirklees through tourism.

Each highway authority is required to prepare "A Statement of Action" for the management of its Rights of Way Network and for securing improvements to local rights of way, with particular regards to the matters dealt with in the criteria contained in the Countryside and Rights of way Act 2000.

This page is intentionally left blank