

# Public Document Pack



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

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Wednesday 7 December 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 15 December 2022**.

(A coach will depart the Town Hall, at 10.00am 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', on a light-colored background.

**Julie Muscroft**

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

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

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

### **Member**

Councillor 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

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Pages

**1: Membership of the Sub-Committee**

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

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**2: Minutes of Previous Meeting**

1 - 6

To approve the Minutes of the meeting of the Sub-Committee held on 27 October 2022.

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**3: Declaration of Interests and Lobbying**

7 - 8

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

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**4: Admission of the Public**

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

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**5: Deputations/Petitions**

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

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

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## **6: Public Question Time**

To receive any public questions.

In accordance with Council Procedure Rule 11 (5), the period for the asking and answering of public questions shall not exceed 15 minutes.

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## **7: Site Visit - Application No: 2022/91817**

Erection of four storey mixed use building incorporating church, community facilities and 22 one-bedroom, affordable, older persons apartments, roof garden and associated car parking at St Andrews Methodist Church Hall, Bradford Road, Littletown, Liversedge.

Ward affected: Liversedge and Gomersal

Contact: Richard Riggs, Planning Services

(Estimated time of arrival at site – 10.15am)

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## **8: Site Visit - Application No: 2022/90804**

Erection of dwelling, formation of access and other associated operations at Bell Cabin, Long Lane, Earlsheaton, Dewsbury.

Ward affected: Dewsbury East

Contact: Callum Harrison

(Estimated time of arrival at site – 10.50am)

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## **9: Site Visit - Application No: 2022/92094**

Demolition of public house and erection of education centre and prayer room at the Nelson Inn, 145 Slaithwaite Road, Thornhill Lees, Dewsbury.

Ward affected: Dewsbury South

Contact: Jennifer Booth, Planning Services

(Estimated time of arrival at site – 11.10am)

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## Planning Applications

9 - 10

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

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 12 December 2022.

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

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

### **10: Planning Application - Application No: 2022/92094** 11 - 20

Demolition of public house and erection of education centre and prayer room at the Nelson Inn, 145 Slaithwaite Road, Thornhill Lees, Dewsbury.

Ward affected: Dewsbury South

Contact: Jennifer Booth, Planning Services

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### **11: Planning Application - Application No: 2022/90804** 21 - 34

Erection of dwelling, formation of access and other associated operations at Bell Cabin, Long Lane, Earlsheaton, Dewsbury.

Ward affected: Dewsbury East

Contact: Callum Harrison

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### **12: Planning Application - Application No: 2022/91817** 35 - 60

Erection of four storey mixed use building incorporating church, community facilities and 22 one-bedroom, affordable, older persons apartments, roof garden and associated car parking at St Andrews Methodist Church Hall, Bradford Road, Littletown, Liversedge.

Ward affected: Liversedge and Gomersal

Contact: Richard Riggs, Planning Services

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## Planning Update

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



Contact Officer: Sheila Dykes

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 27th October 2022

Present: Councillor Gwen Lowe (Chair)  
Councillor Nosheen Dad  
Councillor Adam Gregg  
Councillor Steve Hall  
Councillor John Lawson  
Councillor Aleks Lukic  
Councillor Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Joshua Sheard  
Councillor Melanie Stephen

Apologies: Councillor Fazila Loonat  
Councillor Jackie Ramsay

**1 Membership of the Sub-Committee**

Apologies for absence were received from Councillors Loonat and Ramsey.

**2 Minutes of Previous Meeting**

**RESOLVED** – That the minutes of the meeting held on 4<sup>th</sup> August 2022 be agreed as a correct record.

**3 Declaration of Interests and Lobbying**

Councillors Dad, Gregg, Hall, Lawson, Lowe, Lukic, Pervais, Pinnock, Sheard and Stephen advised that they had been lobbied on Application No. 2022/90175.

Councillors Dad, Lawson, Pervais and Pinnock advised that they had been lobbied on Application No.2022/91176.

Councillors Dad, Lowe and Pervais advised that they had been lobbied on Application No.2022/90825.

**4 Admission of the Public**

It was noted that all items would be considered 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) - 27 October 2022

**7 Site Visit - Application No: 2022/90175**  
Site visit undertaken.

**8 Site Visit - Application No: 2022/91176**  
Site visit undertaken.

**9 Site Visit - Application No: 2022/90825**  
Site visit undertaken.

**10 Planning Application - Application No: 2022/90175**

The Sub-Committee gave consideration to Application 2022/90175 - Erection of 4 stables/tackroom and equestrian use on land to the north of Stocks Moor Road, Stocksmoor, Huddersfield.

Under the provisions of Council Procedure Rule 36(3) the Sub-Committee received representations from Councillors Armer and John Taylor.

Under the provisions of Council Procedure Rule 37 the Sub-Committee received representations from Liz Turner and Andrew Hutchison (in objection).

### **RESOLVED –**

That consideration of the application be deferred to allow officers to:

- (i) carry out further investigation of the highway safety aspects of the application; in particular the access arrangements for vehicles, including those using trailers or similar, and the issues associated with the parking of vehicles on the adopted highway,
- (ii) provide clarity on suggested conditions in relation to the use of materials, the process for when the site becomes redundant, the use of the area in blue on the location plan for the use of grazing of horses and personal use of the permission,
- (iii) Outline the risks of any suggested conditions.

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

For: Councillors Dad, Gregg, Hall, Lawson, Lowe, Lukic, Pervaiz, Pinnock, Sheard and Stephen (10 votes)

Against: no votes



**11 Planning Application - Application No: 2022/91176**

The Sub-Committee gave consideration to Application 2022/91176 - Erection of workshop/storage building at The Old Stone Yard, Near Bank, Shelley, Huddersfield.

Under the provisions of Council Procedure Rule 36(3) the Sub-Committee received a representation from Councillor John Taylor.

Under the provisions of Council Procedure Rule 37 the Sub-Committee received a representation from Mike Powell (the agent).

**RESOLVED –**

That the application be refused for the following reasons:

1. The previous and existing use as an external stone yard (now a tree / log storage yard) had/has an open-air character and the proposed workshop / storage building already in situ with associated parking and turning would have a significantly greater impact on the character and openness of the Green Belt. As such the proposed development would be inappropriate development in the Green Belt. The very special circumstances put forward do not out-weigh the harm to the Green Belt. This is contrary to Chapter 13 of the National Planning Policy Framework and policy LP59 of the Kirklees Local Plan.
2. The proposed workshop / storage building already in situ, by virtue of its scale and massing would fail to respect or enhance the predominantly open character of the landscape. This would not promote good design and is contrary to policy LP24 of the Kirklees Local Plan and the aims of chapter 12 of the National Planning Policy Framework.
3. The constructed purpose built industrial/business unit, together with associated parking, turning area and close boarded fencing, separating it from the remainder of the site, results in a spatial enclosure and fragmentation of the approved log storage yard into separate business units. It changes the permitted use of the land and significantly impacts upon openness of the Green Belt. This would be inappropriate development in the Green Belt. The very special circumstances put forward would not out-weigh the harm of the proposed building, (which is also part of an unauthorised business park emerging more widely), on the Green Belt and visual amenity of the area. This is contrary to Chapter 13 of the National Planning Policy Framework and policy LP59 of the Kirklees Local Plan.

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

For: Councillors Hall, Lawson, Lowe, Lukic, Pervaiz and Pinnock (6 votes)

Against: Councillors Gregg and Sheard

Abstain: Councillors Dad and Stephen

**12 Planning Application - Application No: 2022/90825**

The Sub-Committee gave consideration to Application 2022/90825 - Erection of single storey extension with integral garage and raise roof heights at 1 Brunswick Drive, Westborough, Dewsbury.

Under the provisions of Council Procedure Rule 37 the Sub-Committee received a representation from Abid Saleem (the applicant).

**RESOLVED –**

That the application be refused for the following reasons:

1. The proposed extension, by reason of its design and projection, would not form a subservient addition to the property and would result in the formation of an incongruous feature harmful to the character of the host property and the wider area. To permit the extension would be contrary to Policy LP24 of the Kirklees Local Plan, KDP1 and KDP2 of the House Extension Supplementary Planning Document and advice within Chapter 12 of the National Planning Policy Framework.
2. The proposed garage, by reason of its design, location and projection, would not form a subservient addition to the property and would result in the formation of an incongruous feature harmful to the character of the host property and the wider area. Furthermore, the use of a flat roof form is not considered to represent good design and further exacerbates the incongruous appearance. To permit the rear extension would be contrary to Policy LP24 of the Kirklees Local Plan, KDP1 and KDP2 of the House Extension Supplementary Planning Document and advice within Chapter 12 of the National Planning Policy Framework.
3. The cumulative impact of the proposed extensions together with the existing extensions to the dwelling would result in an incongruous appearance which would be harmful to the character of the host property and the wider street scene, contrary to Policy LP24 of the Kirklees Local Plan, KDP1 and KDP2 of the House Extension Supplementary Planning Document and advice within Chapter 12 of the National Planning Policy Framework.
4. The proposed extension, by reason of its projection along the shared boundary with the adjoining property, would result in an overbearing impact and overshadowing to the front bay window of the adjoining property, 3 Brunswick Drive. To permit the extension would be contrary to Policy LP24 of the Kirklees Local Plan, KDP5 and KDP6 of the House Extension Supplementary Planning Document and advice within Chapter 12 of the National Planning Policy Framework.
5. The proposed raised garage to the front, by reason of its projection and height together with the position relative to the adjoining dwelling, would result in an overbearing impact on the front bay window of the adjoining 3 Brunswick Drive. This would be contrary to Policy LP24 of the Kirklees Local Plan, KDP5 and KDP6 of the House Extension Supplementary Planning Document 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:

## Planning Sub-Committee (Heavy Woollen Area) - 27 October 2022

For: Councillors Lawson, Lowe, Lukic, Pinnock and Stephen (5 votes)

Against: Councillors Dad, Hall, Pervaiz and Sheard (4 votes)

Abstain: Councillor Gregg

### 13 Planning Application - Application No: 2020/93777

The Sub-Committee gave consideration to Application 2022/93777 - Outline application for erection of residential development east of Mill Lane, and Heaton Grange, Hanging Heaton, Batley.

Under the provisions of Council Procedure Rule 37 the Sub-Committee received a representation from Nick Willock (the agent).

#### **RESOLVED –**

(1) That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to;

(a) complete the list of conditions, including those contained within the report, as set out below:

1. Standard OL condition 1 (submission of reserved matters)
2. Standard OL condition 2 (implementation of reserved matters)
3. Standard OL condition 3 (reserved matters submission time limit)
4. Standard OL condition 4 (reserved matters commencement time limit)
5. Standard Outline Permission – Accordance with Plans
6. Submission of internal adoptable highway details (pre-commencement)
7. Submission of details relating to existing and proposed retaining walls (pre-commencement)
8. Submission of details relating to supporting structures within the highway (pre-commencement)
9. Submission of a Construction Environmental Management Plan (pre-commencement)
10. Submission of detailed Noise Impact Assessment (pre-commencement)
11. Submission of Phase II Contaminated Land Intrusive Site Investigation Report (pre-commencement)
12. Submission of a Remediation Strategy (pre-commencement and subject to condition 11)
13. Site remediation in compliance with condition 12
14. Submission of validation report
15. Submission of Electric Vehicle Charging Point details
16. Submission of hard and soft landscaping scheme in accordance with reserved matters (pre-commencement)
17. Submission of foul, surface water and land drainage details (pre-commencement)
18. Submission of surface water drainage design within set parameters (pre-commencement)
19. Submission of storm event exceedance and flood routing scenarios (pre-commencement)
20. Submission of temporary drainage details during the construction period (pre-commencement)

## Planning Sub-Committee (Heavy Woollen Area) - 27 October 2022

21. Submission of an Ecological Impact Assessment with supporting species surveys (submission at any reserved matters stage)
22. Submission of a Biodiversity Enhancement Management Plan (submission at any reserved matters stage)

(b) secure a Section 106 agreement to cover the following matters:

1. A Deed of Variation to the Section 106 Agreement made under planning application 97/61/90214/E1, to allow for removal of a bond for a landscape buffer and a reduction in the extent of the landscape buffer to reflect the provisional layout of the scheme and including:
  2. Financial contribution towards off-site open space in the local area of £16,647 (subject to Reserved Matters) inclusive of administration and inspection fees in accordance with the Open Space Supplementary Planning Document. The figure is intended to be spent on play area upgrades in the immediate vicinity of the development site;
  3. Sustainable Transport Contributions including a Bus Stop Improvement Contribution of £10,000.00 and an MCard Contribution of £9,207.00
  4. 20% on-site affordable housing units delivered in line with the Interim Affordable Housing Policy;
  5. Biodiversity Contribution of £4,380 delivered in line with the requirements of the adopted Biodiversity Technical Advice Note;
  6. On-site Open Space, Surface Water Drainage & Highways Management & Maintenance Companies, prior to adoption.
- (2) In the circumstances where the Section 106 agreement has not been completed within 3 months of the date of the Sub-Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development be authorised to determine the application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Dad, Gregg, Hall, Lawson, Lowe, Lukic, Pervaiz, Pinnock, Sheard and Stephen (10 votes)

Against: No votes

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

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

**LOBBYING**

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

Signed: ..... Dated: .....

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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

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

## **PLANNING POLICY**

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

The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> 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 20<sup>th</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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.**



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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 15-Dec-2022

**Subject: Planning Application 2022/92094 Demolition of public house and erection of education centre and prayer room Nelson Inn, 145, Slaithwaite Road, Thornhill Lees, Dewsbury, WF12 9DW**

#### APPLICANT

Acumen Designers and  
Architects

#### DATE VALID

21-Jun-2022

#### TARGET DATE

16-Aug-2022

#### EXTENSION EXPIRY DATE

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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**

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**Electoral wards affected: Dewsbury South**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 The application is brought to Heavy Woollen Planning Sub Committee given the previous history on the site and the level of representation received.
- 1.2 33 Representations have been received with 29 supporting the proposal and 4 objecting on the grounds of highway safety and a proliferation of similar facilities in the area.
- 1.3 The chair has reviewed the application and confirmed the application should be referred to planning committee for decision, in line with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site was last utilised as a public house which consisted of a single and two storey building with associated car park, with the front elevation facing into the car park and with a Calder & Hebble Navigation to the rear. Planning permission was granted by Heavy Woollen Planning Sub-Committee on 18<sup>th</sup> February 2021 to change the use of the building to an education centre and prayer room (2020/92661). At the time of the site visit, the original building had been substantially demolished.
- 2.2 There are new residential properties to the east and a pharmacy and medical centre on the opposite side of Slaithwaite Road.

**3.0 PROPOSAL:**

- 3.1 The application is retrospectively seeking planning permission to demolish the public house and for the erection of an education centre and prayer room. The new building would have the same footprint and design as the original building, but with an increase in height of 0.5m.

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

4.1 93/01549 - Erection of signage - Approved

97/93696 - Formation of beer garden with external alterations - Approved

2007/94142 - Erection of smoking shelter – Approved

2020/92661 – Change of use from public house to education centre and prayer room – Approved by Heavy Woollen Planning Sub-Committee (19/02/2021)

COMP/22/0178 – enforcement complaint for demolition of public house – investigation ongoing

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

5.1 None

#### **6.0 PLANNING POLICY:**

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

The site is UNALLOCATED within the Kirklees Local Plan.

Kirklees Local Plan (2019):

6.2 The following policies are relevant to this application.

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP13** – Town centre uses
- **LP21** – Highway safety
- **LP 22** – Parking
- **LP 24** - Design
- **LP 27** - Flood risk
- **LP48** – Community facilities and service

Supplementary Planning Guidance / Documents:

6.3 None

National Planning Guidance:

6.4 The following chapters of the National Planning Policy Framework are relevant to this application.

- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities

- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

## **7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The application was publicised by neighbour letter inviting comments until 01/08/2022 to submit comments.
- 7.2 33 representations were received – 29 supporting the proposal and 4 objecting.
- 7.3 The concerns raised in the letters of objection related to highway safety in terms of parking and safe access and a concern regarding the number of such facilities in the vicinity.

## **8.0 CONSULTATION RESPONSES:**

Below is a summary of the consultation responses received. Where relevant, further detail is provided in the main assessment below.

### **8.1 Statutory:**

K.C. Highways Development Management – Informal discussion, previous comments are still relevant. On balance, support the proposals subject to conditions.

The Coal Authority – Support subject to informative being added to any decision.

### **8.2 Non-Statutory:**

K.C. Environmental Health – Previous comments are still relevant. Support the proposals subject to conditions.

K.C. Designing Out Crime officer – Previous comments are still relevant. Support the proposal, various recommendations made in the interest of crime prevention, security and safety.

## **9.0 MAIN ISSUES**

- Principle of development
- Impact on the local centre
- Impact on amenity
- Suitability of a change of community use
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

- 10.2 The proposal is within a local centre and as such consideration will be required in terms of LP13 of the Kirklees Local Plan with regards to the impact of the proposals on the vitality and viability of the Local Centre.
- 10.3 Consideration will be required in terms of LP24 of the Kirklees Local Plan with respect to the impact on visual and residential amenity together with the character of the area.
- 10.4 The principle of the change of use relates to the loss of a public house, which is a community use considered worthy of additional protections to a prayer room and education centre which can also be considered to be a community facility. This conclusion was agreed as part of the planning approval under 2020/92661. As this is a new application with demolition of the original building and an increase in the overall height of the building now included, both uses are community facilities, consideration will be required with respect to LP48 of the Kirklees Local Plan.
- 10.5 Other considerations along with highway safety will also be considered.

#### Impact on the Local Centre

- 10.6 The site is within the Local Centre, Slaithwaite Road at Thornhill Lees which is currently made up of the following:
- A group of 6 retail units on the corner of Headfield Road, 5 of which appear to be occupied with two hairdressers, a takeaway, a sandwich shop and a mobile phone shop.
  - A doctor's surgery and pharmacy on the corner of Slaithwaite Road and Parker Road.
  - The public house which is the subject of this application opposite the doctor's surgery.
  - A fish & chip shop on the corner of Slaithwaite Road and Ingham Road.
  - Mullaco supermarket which is located to the rear of 153 to 191 Slaithwaite Road.
- 10.7 It is noted that there is further new build facility on the opposite side of the road accessed off Parker Road which provides similar facilities for up to 290 people and having a second facility relatively close would not result in a mix of uses to effectively serve the local community.
- 10.8 Furthermore, there are other such facilities within and close to Thornhill Lees including two on Lees Hall Road, one on Brewery Lane, one on the corner of The Common and Overthorpe Road, one on the corner of Thornhill Road and the River Calder and another on Caledonian Road.
- 10.9 However, the number of similar facilities in the vicinity is not a factor in considering a proposal with respect to LP13 of the Kirklees Local Plan.
- 10.10 The proposal would result in the loss of the existing public house. However, it would be replaced with a community use which is generally considered to be acceptable in a local centre and has previously been established as being acceptable following the granting of the previous planning approval. The proposal is considered to continue to comply with policy LP13 of the Kirklees Local Plan.

### Impact on amenity

- 10.11 The current proposal seeks to rebuild in a similar form to the original with the same footprint although there would be an increase in height of 0.5m. The increase in height is marginal and would not appear out of scale with the existing built environment. As such, the proposed change of use is considered to be acceptable in terms of visual amenity.
- 10.12 There are residential properties to the east of the site. However, the increase in height is marginal at 0.5m and there is a 10.5m separation between the building and the neighbouring house, 1 Hebble Court. Given this relationship, Officers consider that there would be no significant impact on the amenities of the occupiers of the neighbouring dwelling.
- 10.13 It is noted that K.C. Environmental Health has requested a condition regarding the provision of a noise assessment. However, given the nature of the proposed use, it is not likely to result in any further noise or disturbance than the current use as a public house. As such, it is not considered to be reasonable or necessary to include a condition for the submission of a noise report and there is considered to be no undue harm caused to the amenities of the occupants of the neighbouring properties as a result of the change of use. This is consistent with the approach considered acceptable during the course of the previously approved application. The proposal is therefore considered to be acceptable in terms of residential amenity, in accordance with the aims of policy LP24 of the KLP.

### Suitability of a change of community use

- 10.14 With regards to policy LP48 of the KLP, proposals which involve the loss of a valued community facility such as a public house are only considered to be acceptable where it can be demonstrated that there is no longer a need for that facility, it is no longer a viable use or there is an adequate alternate provision in the vicinity.
- 10.15 The Area Profiles for Dewsbury South and the key statistics (ONS Census 2011) indicates a change in the demographic of the residents of the area which have altered the character of Thornhill Lees and with these changes, the need for a public house has declined.
- 10.16 The agent has further confirmed that the property was on the market for three years prior to the submission of the previously approved application for a change of use with no interest. This is considered to indicate that the use is no longer economically viable.
- 10.17 Whilst there are no other public houses located in Thornhill Lees, there are public houses within 1km of the area. Taking this into account, along with the change in the character of the area, this is considered to balance the requirements of policy LP48 of the KLP.

### Highway issues

- 10.18 The application site is located on the heavily trafficked B6117 Slaithwaite Road opposite the junction with Parker Road. The site does have an existing car park for 7 to 8 cars to park off street and safely turn around within the site. It is noted that sight lines from the existing car park onto Slaithwaite Road are currently deficient.
- 10.19 The details submitted in support of the application indicate that the proposed use would serve a maximum of 15 students at any one time. The submitted plans show one relatively small classroom and one prayer room with ancillary offices, storage and a self-contained unit at first floor. Following consultation with K.C Highways Development Management (HDM), the proposals are considered acceptable from a highway safety perspective subject to the submission of a management plan before the use commences, to include the timings of classes and prayers and to include an attendance register and monitoring regime. In the event that planning permission is approved, a condition is recommended to that affect.
- 10.20 KC HDM also suggested a condition restricting the number of users to 15 students or 10 worshippers on the site at any one time. Given the limitations of the site including the limited car parking and the size of the building, this is considered to be a reasonable condition and necessary to ensure the safe operation of the use in terms of highway safety and to comply with policy LP21 of the KLP. Once again, this is consistent with the previously approved application.
- 10.21 On balance, given the limited capacity and subject to appropriate conditions, the proposal is considered to be acceptable with regards to highway safety and compliant with policies LP21 & LP22 of the KLP.

### Representations

- 10.22 The representations received included a number of objections (how many?). The issues raised relate to concerns regarding highway safety and the number of similar facilities in the area.
- 10.23 In terms of the highways concerns, the impact of the proposal has been fully considered in points 10.17 to 10.20 of this report.
- 10.24 It is appreciated that there are a number of similar provisions within the area. However, there is no scope within planning policy to restrict a specific type of use on the grounds of volume, saturation, or proliferation.
- 10.25 The representations in support of the scheme have also been noted.

### Other Matters

- 10.26 The application details have been reviewed by the Designing Out Crime officer. No objections have been raised to the change of use. However, a number of recommendations have been included for the benefit of the site users in terms of security and safety. These recommendations have been published on the website for the applicant to review.

- 10.27 The consultation response from KC Environmental Health requested a condition requiring the provision of electric vehicle charging points. Policy LP24 does require development, where practicable, to encourage the use of electric and low emission vehicles. This is considered to be a reasonable request and compliant with LP24 of the Kirklees Local Plan.
- 10.28 The site is close to the River Calder and within Flood Zone 2. However, the use proposed is no more vulnerable than the existing use. The proposal is therefore considered to be acceptable in terms of LP27 of the Kirklees Local Plan.
- 10.29 As the proposals include demolition and rebuilding, The Coal Authority have been consulted. Given the coal mining legacy, in the event that planning permission is approved, an informative is recommended to accord with Policy LP53 of the Kirklees Local Plan.
- 10.30 There are no other matters relevant to the consideration of this proposal.

## **11.0 CONCLUSION**

- 11.1 In conclusion the proposed use is, on balance, considered to accord with the relevant policies in terms of the Local Centre, Amenity, Highway Safety and Community facilities.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals accord with the development plan and it is recommended that planning permission be granted.

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

1. Development to be commence within 3 years.
2. Development to be undertaken in accordance with the submitted plans and specifications.
3. The use of the site shall be limited to 15 students **or** 10 worshippers on site at any time.
4. Submission and subsequent approval of a management plan, which shall include the timings of classes and prayers, an attendance register and monitoring regime, before the use is first implemented.
5. Surfacing and drainage of the car park before the use is first implemented.
6. Provision of an electric charging point before the use is first implemented.



**Background Papers:**

Application and history files.

Current application

[Planning application details | Kirklees Council](#)

Previous approval

[Planning application details | Kirklees Council](#)

Certificate of Ownership –Certificate A signed

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 15-Dec-2022

**Subject: Planning Application 2022/90804 Erection of dwelling, formation of access and other associated operations Bell Cabin, Long Lane, Earlsheaton, Dewsbury, WF12 8LG**

#### APPLICANT

P Audsley

#### DATE VALID

11-Mar-2022

#### TARGET DATE

06-May-2022

#### EXTENSION EXPIRY DATE

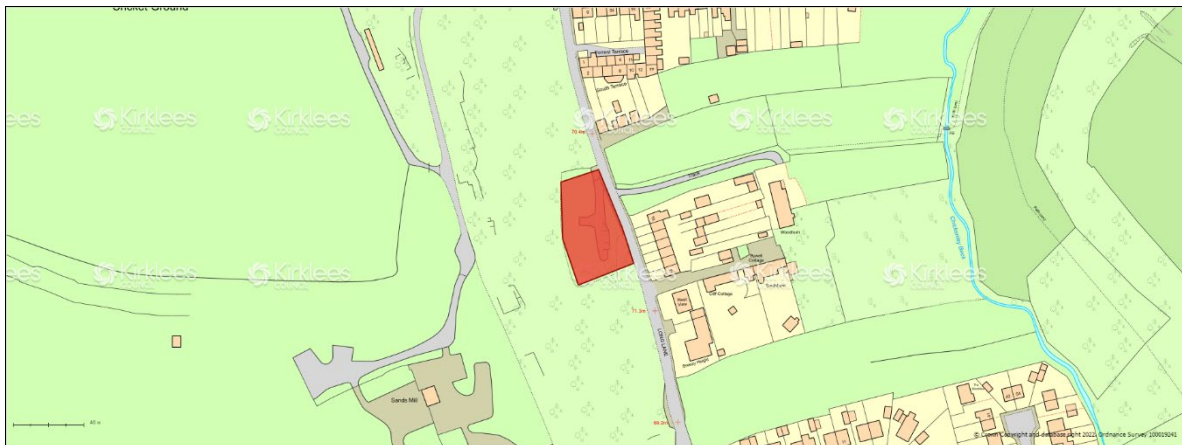
20-Dec-2022

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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

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**Electoral wards affected: Dewsbury East**

**Ward Councillors consulted: No.**

**Public or private: Public**

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**RECOMMENDATION: REFUSE**

1. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposed change of use of undeveloped land to residential and the erection of a dwelling is considered to constitute inappropriate development in the Green Belt, thus, detrimentally harming the openness and character of the Green Belt, whereby no very special circumstances have been demonstrated. To approve the application would impact adversely upon the openness of the Green Belt contrary to chapter 13 of the National Planning Policy Framework.
2. The proposed development to domesticate land within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network would change the character of the existing habitat corridor by introducing a human presence that is hitherto absent, thus contrary to the purpose of the allocation with the area of Kirklees Wildlife Habitat Network. By the virtue of the proposed change of use, the function and connectivity of green infrastructure networks and assets are not retained and there are no sufficient mitigating measures or scope to replace the loss of the network. Therefore, the principle of the development is considered inappropriate, given the detrimental ecological impact of the proposal and thus, it is deemed contrary to Policies LP30 and LP31 of the KLP and Chapter 15 of the National Planning Policy Framework.
3. The applicant has failed to demonstrate, through the submission of a suitable plan, supporting information or sight lines that the proposals would not have a harmful impact on the safe flow of highway. Officers consider it is unlikely that the access to the land provides safe exit from the site, given the gradient and angle of the access. The proposals, therefore, fail to accord with the aims of Policy LP21 of the Kirklees Local Plan, regarding highway safety.

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee for determination in accordance with the Council's scheme of delegation at the request of Councillor Eric Firth for the following reason:

*'I do believe this is brown field land and there is enough evidence in my mind to prove this. You can and it does happen that you can have a brownfield site in the middle of a green belt area. Not only was there historically a building there but also industry, 'a coal mine', so I'm satisfied.'*

- 1.2 The Chair of the Sub-Committee has confirmed that Councillor Eric Firth's reason for making this request are valid having regard to the Councillor's Protocol for Planning Committee.

## **2.0 SITE AND SURROUNDING**

- 2.1 The application site forms an area of land, which is set down significantly from Long Lane. The site has been significantly cleared from trees and shrubbery, with some excavation and removal of material to form an area of level hardstanding with a high stone wall and steep access up to the highway. The engineering works that have taken place on site do not have planning approval. The site is bounded by Long Lane to the east and dense areas of scrub/trees to the west and south. A large area of playing fields occupies the area to the north-west. The site is 7m below the adjacent land to the east.
- 2.2 It is understood historical that there has been a building on the site, with GIS Maps dating back to 1933 show this. However, aerial imagery dating back to 2000 do not show a building on the site. Upon visiting the site there is the base of one building only. There are no walls or roof to the building. Figures 1, 2 and 3 in the appendices show the site in 2012, 2018 and 2021 respectively. No planning permission has been granted for the works conducted in this time. It is likely the building to which the remaining base relates to has not stood for a number of decades.

## **3.0 PROPOSAL**

- 3.1 The application seeks planning permission for the erection of one dwelling, formation of access and other associated operations. The proposed dwelling would be single storey with accommodation in the roof space, comprising of two bedrooms. The dwelling would be 7.4m high, 11.6m wide and 9.7m deep. The dwelling would be faced in coursed natural stone to the lower part of walls, with render above. The roof would be finished with dark grey 'Marley Modern' tiles.
- 3.2 The proposal for the formation of the access is retrospective. The access is a steep, single lane track which is set at an acute angle from Long Lane. The access, set on a steep gradient leads to an open area of hard surfaced land which provides a vehicle turning area also.
- 3.3 Other associated operations proposed include mine shaft remediation and minor works to land levels to create a flat site.

## **4.0 RELEVANT PLANNING HISTORY**

### **4.1 Planning Applications:**

2020/90946 – Change of use of land for siting of caravan – refused.

2020/92828 – Erection of detached dwelling – invalid.

2016/93946 – Demolition of remaining structure, engineering operations to facilitate the formation of access and erection of detached dwelling – refused by Heavy Woollen Planning Sub-Committee (23 February 2017)

2016/91833 – Demolition of building and erection of dwelling – withdrawn

#### 4.2 Enforcement Cases:

COMP/18/0055 - Unauthorised engineering operation to alter land levels to form access and hard surfaces and the material change of use of the land from woodland to use for the siting of a residential caravan and associated container.  
– notice served, not complied with, case still ongoing.

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

5.1 This application follows a long series of planning applications and enforcement action. The applicant has been made aware of the Local Planning Authority's consistent stance that the development of this undeveloped, Green Belt land for residential purposes is not acceptable. Matters such as the unsuitability of the site in regard to highway safety and the historic coal mining legacy, have also been an issue for many years. As such, given the extensive history and issues with the principle of development, no amendments have been sought on this application.

### 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 application site is located within the Green Belt as allocated on the Kirklees Local Plan (2019).

#### Kirklees Local Plan (2019):

6.2 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development  
LP2 – Place shaping  
LP3 – Location of new development  
LP21 – Highways and access  
LP22 – Parking  
LP24 – Design  
LP26 – Renewable and low carbon energy  
LP28 – Drainage  
LP30 – Biodiversity and geodiversity  
LP31 – Strategic Green Infrastructure Network  
LP33 – Trees  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land

## Supplementary Planning Guidance / Documents:

6.3 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions
- Negotiating Financial Contributions for Transport Improvements (2007)
- Highway Design Guide SPD (2019)
- Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
- Green Street Principles (2017)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

### *Climate change*

6.4 In 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.

### National Planning Guidance:

6.5 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

6.6 Since March 2014 Planning Practice Guidance for England has been published online

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO), the application was advertised as neighbour notification letters.

7.2 As a result of the application's publicity, no comments have been received on the application to date.

## **8.0 CONSULTATION RESPONSES:**

8.1 Statutory:-

The Coal Authority – Object due to insufficient information being submitted

KC Highways Development Management – Object due to insufficient information being submitted.

KC Environmental Health – No objections.

## **9.0 MAIN ISSUES**

9.1 The appraisal of the application will review the following topics: -

- Principle of Development in the Green Belt and Design
- Impact on Residential Amenity
- Site Contamination and Stability
- Trees and Biodiversity Matters
- Carbon Budget
- Representations

## **10.0 APPRAISAL**

### Principle of Development

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

10.2 As per Chapter 13 of the NPPF, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.'

10.3 Paragraphs 149 and 150 of the NPPF sets out a list of development which is considered not inappropriate in the Green Belt. None of these exceptions include the erection of a dwelling. Whilst there is an exception for agricultural workers' dwellings, this is not proposed as an agricultural workers' dwelling. Local Plan policies also do not allow for the erection of dwellings in the Green



Belt. As such, the erection of a dwelling is, therefore, considered inappropriate development and is, by definition, harmful. Although the applicant alleges that there is a building on the site and this is a replacement, the building no longer exists, but its mere footings remain only, thus, no weight can be applied to this.

- 10.4 Officers note Councillor Eric Firth's comments that the site is brown field / previously developed land. Previously developed land is defined in the NPPF Glossary as:

*'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. **This excludes:** land that is or was last occupied by agricultural or forestry buildings; **land that has been developed for minerals extraction** or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and **land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'*** (Officer emphasis).

- 10.5 The site has undergone several unlawful works and therefore it is difficult to ascertain what the site was like previously, however, all evidence indicates that the site is not previously developed land. Firstly, aerial imagery dating between 2000 and 2012 does not evidence any signs of development at the site. Whilst historical maps show a building in place since the late 19<sup>th</sup> century the site visit undertaken by officers as part of the application clearly shows that this building no longer remains. Furthermore, there is no up to date evidence presented as part of this application to evidence the site as previously developed, nor during the course of previous applications since 2016, whereby the Heavy Woollen Planning Sub-Committee refused development on this site. It is clear from this time that the land has become further overgrown to the point it would be considered to have blended into the surrounding countryside, becoming greenfield in the Green Belt as defined in paragraph 10.4. It is therefore the view of officers that the proposal does not constitute a previously developed site. A consistent stance the local planning authority has maintained during all previous applications on this site.

- 10.6 Whilst engineering operations are not wholly inappropriate in the Green Belt, this is on the proviso that they preserve its openness and do not conflict with the purposes of including land within it. The vehicular access, which is in the form of a steep ramp at 7m in height and approximately 25m long, offers an incongruous and urban form of development in the Green Belt. The cumulative development, including the erection of a dwelling and vehicular access would see domesticated, urban development introduced to a previously undeveloped site in the Green Belt. As such, the development would have a significant impact on and cause substantial harm to the openness of the Green Belt. The applicant has not proposed any very special circumstances to justify approving the change of use of the land in the Green Belt which is inappropriate development and would cause significant harm to the openness and character of the Green Belt, contrary to chapter 13 of the NPPF. The principle of development is, therefore, considered unacceptable.

- 10.7 Officers accept the design of the dwelling is modest. However, as the development is not acceptable in principle and officers conclude that a dwelling is not acceptable in this Green Belt location, officers cannot state the dwelling is suitable or in the character of the area. Notwithstanding the principle of development issue, in pure isolation, the design is inoffensive and does not represent a standalone reason for refusal.

#### Impact on Residential Amenity

- 10.8 Local Plan Policy LP24, Chapter 12 of the NPPF and the Housebuilder Design Guide SPD seek to ensure a good standard of amenity for future and neighbouring occupiers.
- 10.9 The proposed dwelling is located more than 40m from any neighbouring dwelling and located on lower ground. As such it would not be visible from any surrounding dwellings. Furthermore, the dwelling is of a modest size as well as being set in a modestly sized plot with ample outdoor space. Given this, the proposal would not impact on the residential amenity of any neighbouring dwellings, whilst still ensuring a good standard of amenity for future occupiers. The proposal is, therefore, considered to accord with policy LP24 of the KLP, regarding residential amenity.

#### Impact on Highway Safety

- 10.10 The proposal would not intensify the site to such an extent that it would cause any significant material generation in traffic. The site also contains sufficient parking area. There are, however, concerns regarding the safety of the access that has already been formed. It likely does not provide sufficient sight lines to the south along Long Lane, given the angle and gradient of the access. Given the limited information submitted, a true assessment cannot be undertaken. For this reason, as officers are not confident the proposal provides a safe flow of the highway required by policy LP21 of the KLP regarding highway safety, the proposal is unacceptable based upon the submission of insufficient information regarding highway safety.
- 10.11 For reference, the same highways issues were raised on applications 2018/90170 and 2020/90946. On both of the previous applications, the applicant was provided with the information required to address the matter however failed to supply sight lines and demonstrate that a vehicle can safely manoeuvre in and out of the access.

#### Site Contamination and Stability

- 10.12 The site is located within the High Risk Area based upon the historic coal mining legacy. Records indicate that within 20m of the application site there are two mine entries. The Coal Authority, through formal consultation, state that they hold no treatment details for these mine entries and due to the historic source plans used to plots the mine entries current position, this could vary by several metres. This could significantly affect the safety and stability for the redevelopment at this site.

- 10.13 The submitted Coal Mining Risk Assessment concludes that the on-site mine shaft poses no danger to the proposed dwelling as this is located circa 30m to the south of it. However, the report author goes on to state that it poses a potential future ground instability risk to the adjacent section of steep slope and public highway. To demonstrate that the risk is not a danger to the development, the applicant would be required to submit additional information regarding the location of the mine entry together with the calculated zone of influence of both mine entries (no build exclusion zones) and how these relate to the layout (proposed site layout plan), in order that adequate separation between the mine entries and buildings are maintained. Officers took the decision not to request this information given the additional issues with the principle of development, however, if members were minded to support the application, this information could be secured via a pre-commencement condition. As such, as this could be addressed via conditions, to refuse on this matter would be unreasonable.
- 10.14 Furthermore, this site has been identified on the Council's mapping system as potentially contaminated land due to its previous use/s associated with colliery/coal pits and mills and is also within 250m of a historic landfill. A Mine Shaft Drilling Investigation Report has been submitted. The report identifies that there is an uncapped mine shaft on site. Therefore, Environmental Health and The Coal Authority consider there to be a potential risk to future receptors associated with the coal mining legacy at the site (e.g. from mine gases and combustible materials). Considering the report findings and records for the site, full contaminated land conditions are necessary also if the application were to be approved.
- 10.15 Subject to the above information being submitted and subsequent conditions, the scheme is considered to accord with Local Plan Policy LP53 and Chapter 15 of the NPPF with regard to stability and contaminated land.

#### Biodiversity and Trees

- 10.16 Policy LP30 of the KLP requires all developments safeguards and enhance the function and connectivity of the Kirklees Wildlife Habitat Network.
- 10.17 The proposals would result in the loss of an area of Kirklees Wildlife Habitat Network within the Strategic Green Infrastructure Network due to erection of a dwelling on the site. By virtue of siting a residential dwelling within the site, the application is introducing a human presence that is hitherto absent. As such there is biodiversity and ecological harm caused by this proposal. These concerns have not been addressed in any of the submitted information, despite being raised on the previous applications on the site.
- 10.18 By virtue of the proposal for development within this allocated land, the function and connectivity of green infrastructure networks and assets are not retained and there are no sufficient mitigating measures, or scope to replace the loss of the network, and, therefore, the principle of the development is wholly inappropriate and contrary to policy LP30. Given the reasons set out above, the development of land allocated entirely within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network is deemed unacceptable and contrary to policies LP30 and LP31 of the KLP and the purposes of Chapter 15 of the NPPF.

10.19 Officers note that a substantial number of trees have been removed from the site, however these trees were not subject to a tree preservation order. Furthermore, their removal has already been conducted and is not a part of this application. As such there is no scope for officers to seek replacement planting. However, their removal does factor into the biodiversity concerns set out in the above paragraphs. But in sole relation to trees, the scheme accords with Local Plan Policy LP33.

#### *Carbon Budget*

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

10.21 With regard to this application, if it were to be approved, a condition would be required for the provision of an electric vehicle charging point to be installed prior to occupation of the dwelling. Subject to said condition, the development accords with Local Plan Policy LP26 and LP51 of the Kirklees Local Plan and Chapter 15 of the NPPF.

#### *Representations*

10.22 No representations were received.

10.23 With lodging the call to committee request, Cllr Firth stated *‘I do believe this is brown field land and there is enough evidence in my mind to prove this.... Not only was there historically a building there but also industry, ‘a coal mine’.*

10.24 As stated in paragraphs 10.4 and 10.5 of the above report, Annex 2 (Glossary) to the NPPF is relevant in relation to these comments. Annex 2 states: ‘Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. **This excludes:** land that is or was last occupied by agricultural or forestry buildings; **land that has been developed for minerals extraction** or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds 71 and allotments; and **land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape**” (officers emphasis). As such, land that has previously been developed but becomes blended in to the landscape, and land that has been used for minerals extractions such as coal, is not classed as previously developed or brownfield land. This matter has been addressed in full in the earlier paragraphs of this assessment.

## 11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.
- 11/2 The proposed development is considered to be harmful regarding the openness and character of the Green Belt as it would represent inappropriate development. There are also detrimental impacts with regards to ecology highway safety. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development, when assessed against policies in the NPPF and other material considerations.

### Ownership Certificates:

Certificate A was signed on 08/02/2022

### Background Papers:

This application:

[Planning application details | Kirklees Council](#)

Previous applications which were determined (not withdrawn):

[Planning application details | Kirklees Council](#)

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## Appendices

*Figure 1 - aerial of the site in 2012*



Figure 2 - aerial of the site in 2018



Figure 3 - aerial of the site in 2021





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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 15-Dec-2022

**Subject: Planning Application 2022/91817 Erection of four storey mixed use building incorporating church, community facilities and 22 one-bedroom, affordable, older persons apartments, roof garden and associated car parking St Andrews Methodist Church Hall, Bradford Road, Littleton, Liversedge, WF15 6EF**

#### APPLICANT

The Haven, Haven  
Methodist Care Ltd

#### DATE VALID

25-May-2022

#### TARGET DATE

24-Aug-2022

#### EXTENSION EXPIRY DATE

23-Dec-2022

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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

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**Electoral wards affected: Liversedge and Gomersal**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

1. 22 affordable dwellings
2. Age-restricted (over 55s) and faith-based (Methodists) occupancy
3. Off-site Public Open Space contribution (£31,463.56)
4. Incorporation of a management company for the collection of residential and commercial waste

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

**1.0 INTRODUCTION**

- 1.1 The application has been brought before the Heavy Woollen District Area Sub-Committee due to a statutory consultee objection and in the public interest.
- 1.2 Local Members were initially content to delegate decision-making powers to Officers. However, given the statutory consultee objection it is considered that a committee decision is warranted due to potential impacts of the proposal and the balanced nature of the Officer recommendation.
- 1.3 The Chair has agreed that this application should be determined at Heavy Woollen District Area Sub-Committee and has included provision for a site visit for Committee Members.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is currently occupied by St Andrews Methodist Church. It is an area predominantly formed of hardstanding with incidental areas of lawn and shrub planting. The site is bounded by existing 2-storey residential dwellings to the west and east which overlook the site. The site is accessed via Carr St; a cul-de-sac which provides access to existing residential and industrial/commercial uses.
- 2.2 The application site red line boundary measures approximately 0.18 hectares.

### **3.0 THE PROPOSAL**

- 3.1 The application is seeking full planning permission for the *'erection of four storey mixed use building incorporating church, community facilities and 22 one-bedroom, affordable, older persons apartments, roof garden and associated car parking'*. The description was amended on 31/10/2022 from a 24 one-bedroom older persons apartment proposal following elevational amendments in the interest of preserving residential amenity. This amendment is considered to represent a material reduction to the quantum of residential development proposed.
- 3.2 The proposal would cater for parishioners of the existing Methodist Church who would live on-site and work/volunteer in the ground floor community facilities, which include a church, community hall, and café area.

### **4.0 RELEVANT PLANNING HISTORY**

- 4.1 There is no relevant planning history to consider in the determination of this application.

### **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 Officers negotiated with the applicant to:
- Consider neighbouring occupiers' residential amenity through elevational amendments;
  - Assess and justify the car parking requirements of future residents and community space users;
  - Provide off-site public open space financial contributions in lieu of on-site provision;
  - Provide further information relating to refuse and waste storage and collection;
  - Assess surface water drainage considerations and constraints; and
  - Draft bespoke affordable housing Section 106 (S106) Heads of Terms as the applicant is not a Registered Provider.

### **6.0 PLANNING LEGISLATION AND 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 Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.
- 6.2 The following legislation, policies, and guidance are considered relevant to the determination of this application:

#### Kirklees Local Plan (February 2019)

The site is unallocated in the Kirklees Local Plan.

- LP1 – Presumption in favour of sustainable development
- LP2 – Place Shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP7 – Efficient use of land and buildings
- LP11 – Housing mix and affordable housing
- LP13 – Town centre uses
- LP20 – Sustainable travel

- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP27 – Flood Risk
- LP28 – Drainage
- LP30 – Biodiversity & Geodiversity
- LP32 – Landscape
- LP48 – Community facilities and services
- LP52 – Protection and improvements to environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space

#### Supplementary Planning Documents

- Biodiversity Net Gain Technical Advice Note (June 2021)
- Planning Applications Climate Change Guidance (June 2021)
- Housebuilders Design Guide SPD (June 2021)
- Open Space SPD (June 2021)
- Interim Affordable Housing Policy (January 2020)
- Kirklees Highway Design Guide (November 2019)

#### National Policies and Guidance

- 6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in 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 planning applications.

#### National Planning Policy Framework (NPPF) (July 2019)

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making efficient use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 17 – Facilitating the sustainable use of minerals

#### Climate Change

- 6.4 The Council approved Climate Emergency measures at its meeting of full Council on the 16th of January 2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.5 On the 12th of November 2019 the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the

formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 REPRESENTATIONS (PUBLIC)**

- 7.1 This application has been advertised as a major development.
- 7.2 Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015) and in line with the Council's adopted Statement of Community Involvement (December 2019).
- 7.3 The statutory public consultation period took place between 07/07/2022 to 11/08/2022.
- 7.4 During the public consultation, a total of 15 representations were made. Of these, 13 were made in support, 1 was received in objection, and 1 as a general comment.
- 7.5 The key points raised in SUPPORT are as follows:
- Continuation and extension of public facilities and services provided on-site
  - Provision of retirement homes
  - Provision of affordable homes
  - Provide a multi-generational development
  - Beneficial for the wider community
  - Improve wellbeing and reduce social isolation
  - Development is a modern design
- 7.6 The key points raised in OBJECTION are as follows:
- Proposal would exacerbate existing highways safety issues on Carr St and the Knowler Hill/Bradford Rd junction
  - Not enough car parking has been provided on-site
- 7.7 The key points raised as COMMENT are as follows:
- Likely to be some disturbance during construction
  - Is proposed car parking adequate?
  - Has mobility scooter parking been considered?
  - How is building to be heated (renewable technologies)?
- 7.8 Local Members:
- Cllr David Hall (Liversedge and Gomersal) – Supports the application.
- Cllr Lisa Holmes (Liversedge and Gomersal) – Supports the application.
- Cllr Melanie Stephen (Liversedge and Gomersal) – No comments received.

## **8.0 CONSULTATION RESPONSES**

- 8.1 Invitations to comment on this application were sent to the following consultees:

### **Kirklees Council:**

KC Accessible Homes – No comments received.

KC Adult Services – No comments received.

KC Building Control – Advice received.

KC Business, Economy & Regeneration – No comments received.

KC Designing out Crime – No objections, advice received.

KC Ecology – No objections subject to conditions.

KC Emergency Planning – No objections and advice received.

KC Environmental Health – No objections subject to conditions.

KC Highways – Objects to the proposal on car parking grounds.

KC Landscape – No objection subject to financial contributions and conditions.

KC Lead Local Flood Authority – Supports the proposal subject to conditions.

KC Minerals (HSE) – No comments received.

KC Planning Enforcement – No comments received.

KC Policy – No comments received.

KC Public Health – Has no comments to make.

KC Strategic Housing – No objections.

KC Waste Strategy – No objections subject to conditions.

### **External Consultees:**

Environment Agency – No objections subject to conditions.

West Yorkshire Fire Authority – No comments received.

Yorkshire Water – Advice received and conditions proposed.

## **9.0 MAIN ISSUES**

9.1 Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

- Principle of Development
- Design
- Landscape Character
- Amenity
- Highways Safety & Parking
- Flood Risk & Drainage
- Biodiversity & Ecology
- Planning Obligations
- Other Material Considerations

## 10.0 OFFICER ASSESSMENT

### Principle of Development

#### Spatial Strategy

- 10.1 Policy LP1 of the Kirklees Local Plan (KLP) sets out the Local Planning Authority's approach to the presumption in favour of sustainable development, as laid out in National Planning Policy Framework (NPPF) (Chapter 2), particularly Paragraph 11(c). 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'.
- 10.2 Policy LP2 requires that 'proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places'. The policy's supporting text identifies the Batley and Spen sub-area as having a range of settlements with distinctive characters, but that the area is at risk from traffic congestion and faces issues with brownfield site re-development and associated flood risks.
- 10.3 To achieve sustainable growth, a housing need of c. 1,635 new residential dwellings has been identified within Policy LP2 between Heckmondwike and Cleckheaton, through a combination of housing and mixed-use site allocations, over the lifetime of the adopted Kirklees Local Plan. As this site is unallocated, it represents a windfall site which would provide over and above that need which has been identified within the KLP.
- 10.4 Policy LP3 concerns the location of new development. In considering the abovementioned requirements of Policies LP1 and LP2, proposals are also required to reflect a settlement's size and function, place shaping strengths and opportunities/challenges for growth, spatial priorities for urban renaissance and regeneration, and the need to provide new homes and jobs.
- 10.5 The site lies within the defined Littleton Local Centre. Policy LP13 concerns town centre uses. The policy defines Local Centres as areas to 'provide for top-up shopping and local services particularly food and drink'. NPPF (Chapter 11) Paragraph 123 requires that Local Planning Authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.
- 10.6 As the proposal contains elements of community facilities, including retaining the existing church, a café area, and community hall as well as new residential dwellings, it is considered that the proposal would not detrimentally impact on the role of the defined Local Centre in terms of neutralising the intended function of the designation for enhanced local services provision. Similarly, there is an identified demonstrable need for affordable housing within this area of the borough which this proposal would help to achieve.
- 10.7 Officers note the unallocated nature of this site. However, it is also considered that a new residential development of 22 dwellings on this site would not be out of keeping with the housing need for the Liversedge/Batley and Spen area and would retain the mixed-use commercial and residential function of the surrounding area. As such, Officers consider that the principle of development to be in accordance with Policies LP1, LP2, LP3, and LP13 of the adopted Kirklees Local Plan and NPPF (Chapters 2 and 11), particularly Paragraph 123.

## Affordable Housing

- 10.8 Policy LP11 requires that proposals for over 10 new residential dwellings contribute to the provision of affordable homes by securing 20% of the total number of new dwellings as affordable homes. The policy further states that achievement of a higher proportion of affordable housing on sites is encouraged.
- 10.9 This application proposes 22 affordable dwellings. This equates to 100% provision of affordable homes on this site. Occupancy of the dwellings is intended to be limited to parishioners of the Methodists Church who will also run the community and faith facilities on the ground floor of the development.
- 10.10 Officers note that the applicant is not a Registered Provider of affordable housing and, as such, careful negotiation with the Council's legal team has taken place to secure the appropriate tenure of the new dwellings and their affordable housing status in perpetuity via a Section 106 Agreement.
- 10.11 The provision of 22 100% affordable homes is considered to be over and above the policy requirements of Policy LP11 and, furthermore, should be considered as a material consideration in its own right. This will be weighed against the other policy and material considerations of the proposal in the planning balance at Section 11 of this report.

## **Design**

### Housing Density

- 10.12 Policy LP7 states that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. It also identifies that proposals should encourage the use of previously developed land in sustainable locations and give priority to despoiled, degraded, derelict and contaminated land that is not of high environmental value.
- 10.13 NPPF (Chapter 11) Paragraph 119 states that proposals should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Additionally, Paragraph 124 requires that LPAs should support development that makes efficient use of land. This includes consideration of the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.
- 10.14 Given the size of the site and the proposed quantum of new residential dwellings, the proposal would have a net housing density of c. 122 dwellings per hectare. This is considerably higher than the base policy requirement, however Officers consider that there is significant justification for such an overprovision of housing density on this site.
- 10.15 The proposal would re-develop a previously developed site and provide much needed older people's and affordable housing. Therefore, it is considered that the proposal would be in accordance with the requirements of NPPF (Chapter 11) in making an efficient use of land for a mixed-use development with a number of public benefits.

### Housing Mix & Type

- 10.16 Policy LP11 requires proposals of 10 or more dwellings to provide a mix of housing reflecting the proportions of households that require housing, achieving a mix of house size and tenure. This includes provision of dwellings suitable for adaptation and/or use from those with specialist needs.



- 10.17 The proposal would provide 22 1-bed apartments for older people.
- 10.18 KC Strategic Housing have reviewed the submitted information and have noted that the Kirklees Strategic Housing Market Assessment (SHMA) indicates that in the Batley and Spennings Dale area, 1-2 bed homes and 1-2 bed homes for older people are specifically needed.
- 10.19 Officers note this demonstrable need for 1-2 bed homes [for older people] in this specific area but also consider that the proposal does adhere to the adopted policy requirements for the provision of new homes reflecting the proportions of households requiring need. Whilst the proposal is considered to provide demonstrably needed housing for a proportion of the local population, it does not cater the wider housing need in the area.
- 10.20 As such, the proposal is considered to be contrary to Policy LP11 of the adopted Kirklees Local Plan, albeit tempered by the demonstrable need. This policy conflict shall be weighed against the other policy and material considerations of the proposal in the planning balance at Section 11 of this report.

#### Layout

- 10.21 Policy LP24 states that good design should be at the core of all proposals in the district and should be considered at the outset of the development process. Furthermore, proposals should promote good design by ensuring that the form, scale, layout and details of the development respect and enhance the character of the area, provide high levels of sustainability, and minimise the risk of crime, amongst other criteria.
- 10.22 NPPF (Chapter 12) sets out the national approach to achieving well-designed places. Paragraph 130 states that proposals should function well and add to the overall quality of the area for the lifetime of the development, be visually attractive as a result of good architecture, be sympathetic to local character and history, establish or maintain a strong sense of place, optimise the site's potential to accommodate and sustain an appropriate amount and mix of development, and create places that are safe, inclusive and accessible.

#### *Site Layout*

- 10.23 The proposed building would be located towards the northern portion of the site front the A638 and occupy an internal footprint of c. 455 sqm (c. 110 sqm for Use Class F1(f) public worship or religious instructions, c. 245 sqm for F2(b) halls or meeting places for the principal use of the local community, and c. 100 sqm for E(b) sale of food and drink for consumption (mostly) on the premises). This represents a c. 123 sqm increase for the existing internal building footprint on the site.
- 10.24 The remainder of the site would be formed largely of hardstanding (car parking spaces and paved footways around the building). Pedestrian access from the north would remain via a stepped access point and a level pedestrian access within the northern boundary. The existing northern boundary wall would be removed and replaced with railings to improve visibility. Existing boundary walls to the south, east and west would be retained. Vehicular access would be via the existing southern entrance off Carr Street which would be widened, and a secure access barrier installed.

- 10.25 Officers recognise that the site is limited in terms of space, with consideration having to be given to providing acceptable residential amenity to neighbouring occupiers and development in Flood Zone 2 and 3. As such, given the functional needs of the proposed building, the associated works and the site, the site layout is considered to be acceptable in design terms. Further consideration of specific aspects of the layout, such as landscaping and car parking, will be considered in the following sections.

#### *Internal Building Layout*

- 10.26 The proposed internal space would be split over 4 floors and a roof terrace, with community facilities being located on the ground floor and residential dwellings forming a regular layout over the first, second and third floors.
- 10.27 Movement around the building would be facilitated by stairwells and an elevator with residential floors being formed of a central corridor with apartments accessed directly from it. The first floor would contain 8 dwellings, with the second and third floors containing only 7 dwellings as the south-easternmost dwelling has been removed for alleviate residential amenity concerns on neighbouring occupiers. Some of the dwellings would have access to their own private balconies. Plant rooms would not be located directly over dwellings to reduce any direct noise impacts on future occupiers.
- 10.28 The ground floor would host a church hall and shared residents' dining area, a café area and kitchen, community hall, and other shared utility spaces, including a laundry, bin store, and multi-functional office/consultation rooms.
- 10.29 Officers consider that the proposed internal building layout is acceptable in principle. Further technical consideration of potential noise and odour impacts shall be assessed in later in this report.

#### Form, Scale & Massing

- 10.30 The proposal would be formed of a core 4-storey building with a central 5 - 5.5 storey element incorporating a roof terrace and conservatory, and lower 2-storey elements on the eastern wing. Roof lines and types would be regularly broken up across the span and depth of the building to avoid large areas of visual monotony. The building would also make use of regular recesses and articulation to break up what would otherwise likely be large spans of regimented full-length windows and the potential impacts of unmitigated massing on visual amenity.
- 10.31 The use of balconies on the northern and southern elevations is also considered to help reduce the vertical emphasis of the regular window pattern (which is required due to the internal layout of the building). The western wing would incorporate 45° off-set windows, some with Juliette balconies, to avoid overlooking into neighbouring dwellings. The ground floor community spaces would have glazed external walls on the northern elevation to distinguish them from the residential elements above and provide a much-needed juxtaposition between the uses.
- 10.32 The northern, southern and eastern elevations would incorporate significant areas of built-in signage made of a contrasting material to the rest of the building. These would include a recessed cross and wording advertising the Methodist Church and The Haven (the residential element) respectively.
- 10.33 The external design of the proposal is considered to have taken visual cues from the surrounding industrial and commercial vernacular and materials palette, with strong emphasis being given to breaking up potentially monotonous linear and vertical emphases in the residential of roofing elements of the building. The massing of the building is also considered to be sufficiently mitigated through the considered use of

articulation and materials which allows for a successful interplay between the sectional flat-roofed core element of the building and the mono-pitched roofed eastern and western wings.

### Materials

- 10.34 The applicant has submitted indicative proposed materials, with the exact materials to be used being secured by conditions to ensure that the proposal is in-keeping with the local vernacular and is built to satisfactory standards of design and visual amenity.
- 10.35 The indicative proposed materials include course split faced Yorkshire stone, buff bricks, off-white render, anthracite grey coping and fittings (including windows and doors), and grey and silver powder-coated galvanised steel accents (including signage and cross).
- 10.36 Officers consider the indicative proposed materials to be acceptable in principle and shall secure the relevant conditions for the full details of all external materials to be used before the development is constructed.

### On-Site Landscaping

- 10.37 The main areas for on-site landscaping would be on the northern site boundary with the A638 where new grass and tree planting would be introduced. Further small-scale tree planting would also be introduced in and around the car park to the south, east, and west of the proposal. However, Officers note that no firm details of the types of trees to be planted has submitted at this stage.
- 10.38 The proposal would also include a secure private roof terrace for use by future occupiers. This area would provide a conservatory with WC facilities, outdoor seated areas, and raised planters and would form the main outdoor amenity space for future residents.
- 10.39 KC Landscape have reviewed the submitted information and recommend the imposition of a condition for the full details of all proposed hard and soft landscaping and ongoing maintenance and management arrangements. Officers agree with this approach and shall secure the necessary conditions.
- 10.40 Given the above, Officers consider that the proposal is in accordance with Policy LP24 of the adopted Kirklees Local Plan, Housebuilders Design Guide SPD, and NPPF (Chapter 12), particularly Paragraph 130.

### **Landscape Character**

- 10.41 Policy LP32 requires that proposals should be designed to take into account and seek to enhance the landscape character of the area, with particular consideration of the setting of settlements and buildings within the landscape, as well as other environmental features in the vicinity.
- 10.42 NPPF (Chapter 12) Paragraph 130 requires proposals function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history (including the surrounding built environment and landscape setting), establish or maintain a strong sense of place, optimise the site's potential for sustainable development, and create safe, inclusive and accessible places.
- 10.43 The submitted Design and Access Statement provides an analysis of the surrounding area's residential and environmental character in terms of massing, house types and materials, and landscaping. This details that the context of the surrounding area is formed of bungalows to the north which are elevated above the level of the proposal

site due to the area's topography, 2 and 3 storey dwellings adjacent to the site and more widely in the area, and existing 2 and 3 storey industrial and commercial units present in the immediate vicinity of the site.

- 10.44 The form, scale and massing of the proposal is assessed in the previous section in design terms. However, in considering the context surrounding the site and its previously developed nature, the proposal is not expected to be out-of-keeping with the surrounding residential and commercial/industrial vernacular and landscape character.
- 10.45 The proposal would form a modern and visually attractive focal point on the boundary of the defined Littleton Local Centre on a gateway road towards the larger settlements of Cleckheaton and Heckmondwike/Dewsbury. Officers consider that the height of the proposal can be accommodated on the site due to the surrounding topography and existing built form. The A638 would also likely assist in reducing any dominance of the proposal on the prevailing character of the area due to its large width and busy nature giving the impression of a denser suburban area.
- 10.46 Overall, Officers consider that the proposal is in accordance with Policy LP32 of the adopted Kirklees Local Plan and NPPF (Chapter 12), particularly Paragraph 130.

## **Amenity**

### Separation Distances

- 10.47 Policy LP24(b) requires that proposals provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary.
- 10.48 Principle 6 of the adopted Housebuilders Design Guide SPD sets out the typical minimum separation between new and existing dwellings. These are:
- 21m between rear habitable room windows;
  - 12m between habitable and non-habitable room windows;
  - 10.5m between habitable room windows and boundaries of adjacent undeveloped land; and,
  - 2m (minimum) between side walls and shared boundaries where a new dwelling is located within a regular street pattern of 2-storeys or above.
- 10.49 The proposal is able to achieve the necessary required separation distances to habitable and non-habitable windows of neighbouring dwellings due to the layout and configuration/directionality of the setting of the proposed windows.

### Residential Amenity

#### *Overbearing*

- 10.50 The proposed building would be larger than the existing residential dwellings in the immediate vicinity of the site. However, the site is considered to be able to accommodate a larger building due to the surrounding context and development pattern. As noted above, the proposal is also able to achieve the requisite separation distances to existing dwellings and has gone through an iterative design process to remove potentially harmful elements of the eastern elevation which could have caused issues in residential amenity terms. Overall, the proposal is not expected to have a significantly detrimental impact on the residential amenity of neighbouring occupiers in terms of overbearing.

### *Overshadowing*

- 10.51 The applicant has submitted an overshadowing analysis which details that some limited overshadowing could take place on nearby properties to the north for limited times during the day and different times throughout the year. Officers do not consider the potential overshadowing effects to be significantly detrimental to the residential amenity of neighbouring occupiers as any effects would be temporary and not sustained for large periods. Officers also consider that due to the configuration of the site layout and the proposed building, it is unlikely that it would exacerbate any existing issues of overshadowing from nearby multi-storey uses and dwellings.

### *Overlooking*

- 10.52 The proposed building and windows have been laid out and configured to try and avoid issues of overlooking. However, Officers recognise that the balconies on the southern elevation could lead to some limited impacts on the residential amenity of neighbouring occupiers to the south and west of the site in terms of overlooking their rear courtyard areas.
- 10.53 It is noted that the design of the balconies has attempted to reduce the potential impacts by enclosing the corners and directing outlooks towards the south of the site. It is possible that some incidental overlooking may occur, particularly in the summer months due to the south-facing orientation of the apartments at the rear of the proposal. However, Officers consider that any impacts would likely not have a significantly detrimental effect on the residential amenity of neighbouring occupiers in terms of overbearing due to the design and orientation of the proposed balconies, and the small nature of the existing rear courtyard areas and their largely overshadowed nature impacting on usability resulting from their host dwellings.

### *Loss of Outlook*

- 10.54 The site currently houses an existing church building with very little soft landscaping present on-site. The introduction of the proposed building and improved (albeit still limited soft landscaping) is not expected to cause a detrimental loss of outlook for neighbouring occupiers. The proposal would also remove car parking from directly underneath the rear windows of the existing dwellings to the east. The re-development of the site with an architecturally interesting building and improved soft landscaping is expected to be a general betterment to that currently on-site. Therefore, the proposal is not expected to cause harm to the residential amenity of neighbouring occupiers in terms of loss of outlook.

### *Future Occupiers*

- 10.55 The sizes of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 10.56 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

- 10.57 NDSS for new residential dwellings state that single storey 1-bed 2-person dwellings should be at least 50 sqm in size, with 1.5 sqm of built-in storage. The proposed apartments range from 48.7 sqm to 51.6 sqm. There are a total of 5 apartments which fall under the required 50 sqm (first floor Apartments 2, 3, and 8; second floor Apartment 16; third floor Apartment 24). Officers note that these dwellings also have access to a private balcony area of between c. 10.3 sqm to 15 sqm. Whilst the balcony spaces would likely only be regularly used during the summer months, the proposed shortfall on internal square meterage of some of the apartments is not considered to be significantly detrimental to the residential amenity of future occupiers due to the ease of access to the communal areas on the ground floor and proposed private balcony spaces.
- 10.58 The proposal also offers future occupiers access to a range of on-site amenities, including a laundry and church, and is located close to shops, healthcare, and other local services. As the proposed occupancy conditions are for older parishioners of the church, the proposed good levels of residential amenity of future occupiers are not expected to diminish over time due to the nature and proposed use of the development.
- 10.59 Overall, the proposal is considered to be in accordance with Policy LP24 of the adopted Kirklees Local Plan and the Housebuilders Design Guide SPD in terms of residential amenity.

#### Noise & Odour

- 10.60 Policy LP52 requires that proposals which have the potential to increase noise, vibration, light, dust, odour, shadow flicker, chemical or other forms of pollution must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

#### *Noise*

- 10.61 The applicant has submitted a Noise Impact Assessment in support of this application. This details that through the imposition of planning conditions for achieving acceptable atmospheric plant noise emission limits and technical specifications of plant and machinery, and alternative means of ventilation (in accordance with Approved Document F of The Building Regulations 2010 (as amended)) due to the potential amenity impacts of keeping windows open in the proposed dwellings, there would be no reasons in relation to noise impacts why the proposal should not be approved.
- 10.62 KC Environmental Health have reviewed the submitted information and note that due to likely uncertainties of the exact construction specifications to be used, some information regarding the party walls, floor, and ceilings between the commercial and residential aspects of the proposal has not been provided at this stage. In light of this, KC EH recommend conditions to secure these details and ensure the construction of these elements meets the higher standards of construction. Conditions to secure the full details of proposed ventilation units should also be secured. Furthermore, in the interests of preserving good levels of residential amenity, conditions to limit the operational hours of the commercial aspects of the proposal should be secured.
- 10.63 Officers also note that the proposed building would also be required to meet the standards laid out in Approved Document E of the Building Regulations 2010 (as amended).

### *Odour*

- 10.64 No information has been provided at this stage regarding the type of ventilation and extraction units required for the commercial café kitchen. Full details of these would need to be provided via conditions to ensure no loss of amenity for future occupiers from noise or odour from the use of the kitchen.
- 10.65 Officers consider that the imposition of conditions for the abovementioned matters, and the control of fats, oils and grease from the commercial kitchen, are appropriate and shall be secured. As such, the proposal is considered to be in accordance with Policy LP52 of the adopted Kirklees Local Plan.

### Refuse & Waste

- 10.66 Policy LP24(d)(vi) requires that proposals incorporate adequate facilities to allow occupiers to separate and store waste for recycling and recovery that are well designed and visually unobtrusive and allows for the convenient collection of waste.
- 10.67 The submitted plans and information show the provision of a new internal bin store at the south west corner of the proposed building which could accommodate five 1100 litres waste bins. The applicant has also confirmed that future occupiers would be responsible for presenting the bins at kerbside for collection. Swept path analyses have also been provided showing the ability of Refuse Collection Vehicles (RCVs) to enter and leave the site in forward gear.
- 10.68 KC Waste Strategy have reviewed the submitted information and note that due to the proposed quantum of residential development and community uses (including the café/commercial kitchen), a management company should be incorporated to remove commercial and residential waste from the site on an increased [weekly] timetable. Without the incorporation of such a management company, it is likely that the proposed quantum of waste storage would be insufficient for the proposed quantum of residential and commercial development, based on the Council's fortnightly collection timetables. Incorporation of a management company would be secured via a Section 106 Agreement.
- 10.69 The applicant's attention is also brought towards the relevant Waste Management in Buildings and fire regulations (BS 5906:2005, BS476-22:1987, BS EN 1634-1:2008, and CFPA-E Guideline No 7:2022 F) for the provision and use of internal bin stores.
- 10.70 No concerns have been raised by consultees with regards to RCV manoeuvrability within the site.
- 10.71 Given the above, and the incorporation of a management company to secure the requisite levels of residential and commercial waste collection from the site, the proposal is considered to be in accordance with Policy LP24 of the adopted Kirklees Local Plan.

### External Lighting

- 10.72 No details of proposed external lighting have been received at this stage. To ensure that the proposal maintains good levels of residential amenity for neighbouring and future occupiers, the full details of any external lighting shall be secured by conditions. This should be done in accordance with the Institution of Lighting Professionals Guidance Note 1 for the reduction of obtrusive light.

## Highways Safety & Parking

### Locational Sustainability

- 10.73 Policy LP20 requires that proposals are located in accordance with the Council's spatial strategy to ensure the need to travel is reduced and that essential travel needs can be met by forms of sustainable transport other than the private car. Furthermore, proposals should be designed to encourage sustainable modes of travel and demonstrate how links have been utilised to encourage connectivity.
- 10.74 Policy LP48 further requires that community facilities are provided in accessible locations where they can minimise the need to travel or can be made accessible by walking, cycling and public transport.
- 10.75 The site lies adjacent to an existing bus stop with regular services to Bradford, Cleckheaton, Wakefield, Dewsbury, and Heckmondwike. The site is also located close to a small supermarket, health centre, and other local amenities and services both in and outside of the designated Littletown Local Centre.
- 10.76 In this regard, the proposal is considered to be in a sustainable location in terms of reducing the need to travel by private vehicle through good public transport links and the site's relatively close proximity to local good and services. As such, the proposal is considered to be in accordance with Policies LP20 and LP48 of the adopted Kirklees Local Plan.

### Highways Safety

- 10.77 Policy LP21 requires proposals to demonstrate sustainable modes of transport and be accessed effectively and safely by all users. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe. Furthermore, proposals are required to demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.
- 10.78 NPPF (Chapter 9) Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 further details priority use of new roads, addressing the needs of people with disabilities, creating safe and secure places, allowing for efficient delivery of good and emergency service access, and enabling the use of electric vehicles.
- 10.79 The applicant has submitted a Transport Statement (TS) in support of this application. This concludes that the proposal would result in a negligible increase in traffic along the local highway network based on the TRICS data provided.
- 10.80 KC Highways have reviewed the submitted information and note that the TRICS assessment has only been undertaken on the proposed C3 element of the proposal. No consideration has been given to the proposed community uses in terms of traffic generation. It is noted that the TS discounts assessment of these uses as they already exist on-site. However, the inclusion of a new café area has not been considered with the TS.



- 10.81 Officers note the shortcomings of the submitted information. Notwithstanding this, the proposed café is expected to have a modest 24 seats, which would result in the need for 6 car parking spaces (as assessed in the following section). Given that the estimated trip generation in peak hours is expected to be c. 19 in the morning peak and c. 17 in the evening peak, the additional cumulative traffic generation from the new proposed community uses is not expected to be severe.
- 10.82 Vehicular access to the site would be via an existing entrance on Carr St, which would be widened and made secure. Pedestrian and wheelchair access would continue off the A638 through enhanced gateways to better the permeability of the site.
- 10.83 In light of this, the proposal is not expected to result in cumulative severe impacts on highways safety and, therefore, is considered not trigger the requirements of NPPF (Chapter 9) Paragraph 111.

#### Car & Cycle Parking

- 10.84 Policy LP22 requires that proposals provide full details of the design and levels of proposed parking provision following the principles set out in the policy wording. In doing so, they should demonstrate how the design and amount of parking proposed is the most efficient use of land within the development as part of encouraging sustainable travel.

#### *Car Parking*

- 10.85 The submitted Transport Statement references car parking standards set out in the Kirklees Unitary Development Plan. For the avoidance of doubt, the adopted Development Plan for the borough of Kirklees is the Kirklees Local Plan and its associated Supplementary Planning Documents.
- 10.86 The Highway Design Guide SPD does not set local parking standards but notes that it should be used as an initial point of reference in designing new schemes. Based on the calculations within the SPD for this proposal, a total 27 car parking spaces would be required (22 residential occupier spaces and 5 visitor spaces). Additional community use car parking would also be required. KC Highways have confirmed that the expected quantum of car parking for these uses would be:
- Church hall (51 seats) – 10 spaces
  - Community hall (56 seats) – 10 spaces
  - Café (24 seats) – 6 spaces
  - Expected total (including residential) – 53 car parking spaces
- 10.87 The application proposed 26 car parking spaces, 3 of which would be disabled parking spaces. It is also noted that 6 of the proposed spaces are tandem which are not independently accessible. The functional use of these spaces for residential use is therefore questionable. Given the abovementioned SPD calculations, the proposal would provide a shortfall of 1 residential/visitor car parking space (notwithstanding the 6 tandem parking spaces) and no car parking provision for the community uses. This results in a total combined shortfall of 27 on-site car parking spaces. The proposal also represents a reduction of 14 car parking spaces from what is currently available on-site.
- 10.88 The applicant notes that car ownership amongst future residents is expected to be inherently low, due to the age restricted nature of the proposals and the proximity of nearby public transport and local good and services. Officers note this position, but also note that this cannot be fully substantiated as the proposal is for C3 older people's housing without specific care requirements, meaning car ownership by future residents would not be based on or limited by expected mobility or other health issues as they might in a care home setting.

- 10.89 This shortfall in on-site provision would likely lead to an increase in on-street parking on Carr St. Given the nature of Carr St as a single carriage cul-de-sac which already sees a relatively high level of on-street parking from neighbouring uses, the addition of further parked cars could restrict the free flow of traffic along the highway. However, Officers consider that the potential impact of this would not likely be severe, as set out by NPPF (Chapter 9) Paragraph 111.
- 10.90 KC Highways have reviewed the submitted information and have raised an objection due to the lack of on-site car parking spaces to be provided. This objection is noted and shall be weighed in the planning balance at the end of this report.

#### *Cycle Parking/Storage*

- 10.91 The Highway Design Guide SPD recommends 1 cycle storage space per dwelling. The applicant is proposing the provision of 6 cycle stands, equating to 12 cycle storage spaces: a shortfall of c. 10 spaces under the SPD guidance. These are currently shown as uncovered and not located near the entrance of the proposed building, or in an area with good natural surveillance throughout the day. No cycle storage has been proposed for the proposed community uses.
- 10.92 Officers consider that the proposal cycle parking/storage arrangements would be inadequate for the proposed development in terms of the quantum proposed and its setting within the site.

#### *Electric Vehicle Charging Points*

- 10.93 KC EH recommend a condition to secure EVCPs for at least each residential unit with a dedicated car parking space, plus at least 10% of residential car parking spaces which are not allocated to specific dwellings, and at least 10% of all non-residential car parking spaces. This would equate to a requirement of c. 2 - 3 EVCPs based on the proposed 26 car parking spaces. The applicant is proposing the installation of 2 Electric Vehicle Charging Points which is considered to be adequate in planning policy terms. Conditions shall be secured for the full details of EVCPs prior to the first use of the proposal.
- 10.94 The applicant's attention is also drawn to the requirements of Approved Document S of The Building Regulations 2010 (as amended) which sets out the new building regulations for the provision of EVCPs and/or the installation of new cable routes to facilitate future EVCP installations for new residential and mixed-use developments.
- 10.95 Overall, the proposal is considered to be contrary to Policy LP22 of the adopted Kirklees Local Plan with a standing KC Highways objection. This policy conflict shall be weighed against the other policy and material considerations of the proposal in the planning balance at Section 11 of this report.

### **Flood Risk & Drainage**

#### Flooding Risk & Sequential Test

- 10.96 Policy LP27 requires that proposals must be supported by an appropriate site-specific Flood Risk Assessment in line with national planning policy. The national policy requirements are set out in NPPF (Chapter 14). This details the sequential approach to development and flood risk to steer new development to areas with the lowest risk of flooding from any source.

- 10.97 The application site is located within Flood Zones 1, 2, and 3a (least, medium, and high probability of flooding respectively). As such, compliance with the sequential test as set out in the NPPF is required. The National Planning Policy Guidance (NPPG) for 'Flood risk and coastal change' further sets out the requirements with regards to the sequential test for developments and flood risk.
- 10.98 NPPF (Chapter 14) Paragraph 162 states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
- 10.99 The applicant has submitted a Site-Specific Flood Risk Assessment (FRA) in support of this application. This details that the site has been laid out to concentrate the majority of new development in Flood Zone 1. Whilst there is new development in areas of Flood Zone 2 within the site, the proposed ground floor uses which would likely be susceptible to flooding risk are classed as 'less vulnerable' in Annex 3 of the NPPF. The 'more vulnerable' residential uses would be located on the first – third floors so would not likely be at risk from flooding. In this regard, the FRA notes that the site has been designed sequentially and would therefore meet the requirements of the sequential test. The FRA further notes that as a result of this, the exception test set out in NPPF (Chapter 14) Paragraph 163 would not be applicable.
- 10.100 The submitted FRA also proposes a number of mitigation measures to ensure that the proposed development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. These include raising finished floor levels to mitigate for potential 1 in 100 year + Climate Change events and 1 in 1000 year rainfall events, and the inclusion of a Flood Evacuation Management Plan.
- 10.101 KC Lead Local Flood Authority and the Environment Agency have reviewed the submitted information and raise no objections subject to securing the submitted mitigation measures by conditions. Officers note this recommendation and shall secure the relevant conditions. Notwithstanding this, the EA note that adopting their position does not remove the need for the Local Planning Authority to apply the sequential test.
- 10.102 KC Emergency Planning have also reviewed the submitted information and raise no objections to the proposal. They do advise, however, that the applicant and future residents sign up to received flood alerts and warnings for the River Spen.
- 10.103 The proposal is for a replacement church (which has occupied the site for a number of years) alongside other community facilities and C3 residential dwellings. Given that the site is already developed with, in part, the same use being proposed, it is considered that the site is adequate for its intended purpose. As such, there are not considered to be any other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding in the vicinity of the proposal site. The submitted FRA is also considered to adequately assess the development vulnerability hierarchy within the different Flood Zones on the site and proposes reasonable mitigation measures so that the development will be safe for its lifetime taking account of the vulnerability of its users and without increasing flood risk elsewhere, as would be required by Part (b) of the exception test.
- 10.104 As the proposal is considered to meet the requirements of the sequential test set out in NPPF (Chapter 14) Paragraph 162, the exception test as set out in Paragraphs 163 and 164 is not considered to be applicable in this instance.

10.105 Following the above assessment, the proposal is considered to be in accordance with Policy LP27 of the adopted Kirklees Local Plan and NPPF (Chapter 14).

#### Surface & Foul Water Drainage

10.106 Policy LP28 contains a presumption for the use of sustainable drainage systems (SuDS). In addition to this presumption, the policy also states that 'development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available or can be co-ordinated to meet the demand generated by the new development'.

10.107 NPPF (Chapter 14) Paragraph 169 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

10.108 The submitted FRA details some aspects of potential surface water drainage arrangements for this site, however full details of a surface water drainage strategy have not been submitted at this stage.

10.109 KC Lead Local Flood Authority (LLFA) have reviewed the submitted information. They note that some specific information relating to a proposed surface water drainage strategy has not been submitted at this stage, but also that these matters can be satisfactorily dealt with by pre-commencement conditions. This includes details of on-site surface water attenuation and off-site discharge. The LLFA note that surface water is likely to be discharged via the existing Yorkshire Water combined sewer in Carr Street (subject to YW approval) and do not raise any objections in this regard.

10.110 Yorkshire Water have also reviewed the submitted information and note that the proposed method of surface water drainage via the existing public sewer network is not the preferred option under the sustainable drainage hierarchy. YW require further details, to be secured by pre-commencement conditions, to ensure that the proposal complies with the relevant legislation and regulations for connection and surface water drainage via a public sewer. They also require that foul water from the café kitchen passes through an adequate fat and grease trap, the details of which can be secured by conditions. YW also require that the surface and foul water drainage systems are separate to their relative points of discharge.

10.111 Foul water drainage from the proposal is expected to be via the existing mains sewer.

10.112 Officers note these consultee comments and recommendations for pre-commencement conditions to be secured for surface and foul water drainage strategies. These shall be secured with the agreement of the applicant, as detailed in Section 10.134 of this report. As such, the proposal is considered to be in accordance with Policy LP28 of the adopted Kirklees Local Plan and NPPF (Chapter 14).

#### **Biodiversity & Ecology**

##### Biodiversity Net Gain

10.113 Policy LP30 requires that proposals do not result in unmitigated or uncompensated significant loss of or harm to biodiversity and should provide biodiversity net gains through good design.

- 10.114 The Council's adopted Biodiversity Net Gain Technical Advice Note Paragraph 3.1.1 states that 'at this time, in the absence of legislation, a minimum of 10% net gain in biodiversity is required'.
- 10.115 NPPF (Chapter 15) Paragraph 174(d) further requires that proposals should minimise impacts on and provide net gains for biodiversity. In addition, Paragraph 180(a) also states that if a proposal would result in unmitigated or uncompensated significant harm to biodiversity, planning permission should be refused.
- 10.116 The applicant has not submitted a completed a DEFRA Biodiversity Metric 3.1 to ascertain site's biodiversity baseline and potential BNG impacts of the proposal. However, Officers note that the site currently has limited ecological value and potential, with only some small areas of lawn and sporadic shrub planting around the existing building. The proposal would introduce c. 15 new trees onto the site and provide areas for further soft landscaping and planting on the proposed roof terrace and to the east of the site. As noted in Section 10.39, the full details of the proposed soft landscaping would be secured by conditions.
- 10.117 Officers consider it highly likely that the proposal would provide a biodiversity net gain on the site but note that this cannot be quantified at this stage. KC Ecology have reviewed the submitted information and request conditions to secure ecological enhancements to promote BNG on this site. The details of soft landscaping can also be secured to maximise the proposal's BNG potential. In this regard, the proposal is considered to be in accordance with Policy LP30 of the adopted Kirklees Local Plan and NPPF (Chapter 15).

#### Protected Species

- 10.118 Policy LP30 requires that proposals must protect Habitats and Species of Principal Importance unless the benefits of the development clearly outweigh the importance of the biodiversity interest, in which case long term compensatory measures will need to be secured.
- 10.119 The site lies within a Bat Alert Area. As such, the applicant has submitted a Bat Survey Report in support of this application. This details that on-site emergence surveys have been undertaken which resulted in very low contacts with bats, and that no roosts were identified or suspected within the surveyed building. The report recommends the introduction of a works stoppage protocol during demolition of the existing building if bats are found with consultation required by a suitably licensed ecologist. Further recommendations are made for the inclusion of integral bat roost features within the proposed development.
- 10.120 The site also lies in the vicinity of a Swift (*Apus apus*) nesting record, focussed around a sighting on 19/07/2016 at the land adjacent to 52 Valley Rd, Liversedge, c. 377m south east of the proposal site. Given the distance from the site and the lack of sighting records since 2016, the proposal is considered not to pose a risk to nearby Swift nesting habitat.
- 10.121 KC Ecology have reviewed the submitted information and concur with the findings in the submitted ecology reports and recommended securing conditions for the provision of integral bat boxes within the proposal. As such, Officers consider that the proposal is considered to be in accordance with Policy LP30 of the adopted Kirklees Local Plan and NPPF (Chapter 15).

## Planning Obligations

### Required Financial Obligations

10.122 Policy LP63 states that the council will seek to secure well-designed new and improved open space [...]. New housing developments will also be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposal. New open space should be provided in accordance with the council's local open space standards or national standards where relevant.

10.123 The adopted Open Space SPD sets out the Council's approach to securing off-site public open space financial contributions where a proposal provides a shortfall in the quantum of required on-site public open space. These planning obligations are required to improve the local public open space offer due to the increased impacts of new residential development on existing provision. The obligations cover a number of public open space typologies and are tailored to local need and the type of residential development proposed.

10.124 As a residential development for older people's housing comprising of 22 new dwellings, the required off-site public open space contribution for this application is **£31,463.56**. This figure breaks down to:

- Amenity Green Space – £8,793.96
- Parks and Recreation – £12,218.18
- Natural and Semi-Natural Green Space – £10,451.43

10.125 The nearby facilities of Firthcliffe Recs, Royds Park, Millbridge Park, and Radulf Gardens have been identified by KC Landscape as requiring improvement. The financial contributions above should be allocated to these facilities to enhance local public open space provision. The contributions would be sought via a Section 106 Agreement. As such, the proposal is considered to be in accordance with Policy LP63 of the adopted Kirklees Local Plan.

10.126 Following the above assessment of the proposal, a Section 106 Agreement will be required to secure the following Heads of Terms:

- 22 affordable dwellings in perpetuity
- Age-restricted occupancy to over 55s and faith-based (Methodists)
- Off-site Public Open Space contribution of £31,463.56
- Incorporation of a management company for the collection of residential and commercial waste

## Other Material Considerations

### Contaminated Land

10.127 Policy LP53 requires that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology will require the submission of an appropriate contamination assessment and/or land instability risk assessment. Furthermore, any development which cannot incorporate suitable and sustainable mitigation measures (if required) which protect the well-being of residents or protect the environment will not be permitted.

10.128 NPPF (Chapter 15) Paragraph 183 requires that proposals ensure that the site is suitable for its intended purpose taking into account the ground conditions and any risks arising from land instability and contamination, and that any contaminated land is remediated with works overseen by a competent person.

- 10.129 The applicant has submitted a Phase I Desk Study Report for ground contamination, Coal Mining Risk Assessment, and Minerals Resource Assessment in support of this application. These conclude that the site is not likely to be at risk from previous coal mining workings in the wider area or that the proposal would have a detrimental impact on the mineral resources which underlay the site. However, the site is considered to be at risk from contaminated land from made ground, ground gas, and asbestos (amongst other potential sources). The Phase I Report recommends a Phase II Assessment is undertaken prior to development to confirm any actual risks from potentially contaminated land.
- 10.130 KC Environmental Health have reviewed the submitted information and agree with the conclusions that a Phase II intrusive ground investigation is required to be secured by pre-commencement condition. Further subsequent conditions shall also be secured for the remediation and verification of any confirmed contaminated land.
- 10.131 Given the above, Officers consider that the proposal is in accordance with Policy LP53 of the adopted Kirklees Local Plan and NPPF (Chapter 15), particularly Paragraph 183.

#### Construction Matters

- 10.132 As with any new development project, there would likely be some disturbance to residential amenity during the construction phase of the proposal. Officers note, however, that this in itself is not a material consideration in planning terms that would weigh against a grant of planning permission.
- 10.133 In noting this, KC Environmental Health have recommended conditions to limit on-site working hours to minimise adverse impacts on occupiers of nearby properties during the construction process. Officers agree with this approach and shall secure the necessary conditions. Officers also consider that a Construction Method Statement should be secured via conditions to minimise disruption on residential amenity during the construction process.

#### Pre-Commencement Conditions

- 10.134 The recommendation proposes pre-commencement planning conditions. Therefore, in accordance with Section 100ZA of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Local Planning Authority served notice upon the applicant to seek agreement to the imposition of such conditions. The applicant agreed to the imposition of the relevant pre-commencement conditions (proposed Conditions 4 – 12) in writing on 25/11/2022.

### **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The proposal is considered to be in accordance with Policies LP1, LP2, LP3, LP7, LP13, LP20, LP24, LP27, LP28, LP30, LP32, LP48, LP52, LP53, and LP63 of the adopted Kirklees Local Plan.

- 11.3 It is also considered, however, that the proposal is contrary to Policies LP11 (in terms of housing mix) and LP22 which is substantiated by a standing objection from KC Highways. As Officers have previously assessed, conflict with Policy LP11 is considered to be somewhat tempered by the demonstrable need of the proposed housing mix. With regards to Policy LP22, the consultee objection has been duly noted but it is not considered that the proposal would lead to a severe cumulative effect on highways safety as detailed by NPPF (Chapter 9) Paragraph 111. Although the policy conflict still weighs against the grant of planning permission for this application.
- 11.4 The proposal is not considered to be contrary to Policy LP21 in highways safety terms, although Officers note the deficiency of some of the information provided relating to traffic generation from the proposed community uses. Similarly, to Policy LP22, the proposal is not expected to cause a severe cumulative effect on highways safety as detailed by NPPF (Chapter 9) Paragraph 111.
- 11.5 In assessing the planning balance in light of the considered policy departures and objections, Officers also note that the proposal has a number of public benefits associated with it. These are considered to be:
- Re-development of a previously developed site
  - Short term local economic benefit during construction
  - Longer term local economic benefit of an increased local population who will require the use of local goods and services
  - Provision of 22 affordable homes for older people
  - Improved local community facilities
- 11.6 Additionally, whilst the Council is currently able to demonstrate a five-year housing land supply, the provision of 22 C3 dwellings would nonetheless contribute positively to the ongoing supply and the Government's aim in NPPF (Chapter 5) Paragraph 60 of boosting significantly the supply of housing through ensuring that a sufficient amount and variety of land can come forward where it is needed, and is therefore considered to be a benefit, carrying its own weight.
- 11.7 Overall, given the assessment of the proposal against the policies in the adopted Kirklees Local Plan, and other material considerations relevant to the proposal, the public benefits of the proposal are cumulatively deemed to outweigh the specific conflicts within the relevant Development Plan policies as detailed above. As such, it is considered that the development would constitute sustainable development and can be considered favourably as a departure from adopted Development Plan policy.
- 11.8 Therefore, **approval** of this application is recommended, subject to a signed Section 106 Agreement and the imposition of the conditions listed below.

## 12.0 CONDITIONS

1. Development to begin within 3 years
2. Development in accordance with approved plans
3. Completion of a Section 106 Agreement

### *Pre-Commencement*

4. Construction Method Statement
5. Contaminated Land Phase II Intrusive Site Investigation Report
6. Details of Contaminated Land Remediation Strategy
7. Implementation of Contaminated Land Remediation Strategy
8. Contaminated Land Verification Report
9. Details of surface and foul water drainage strategies
10. Details of overland flow routing



11. Details of construction phase surface water flood risk and pollution prevention plan
12. Details of surface water pollutant interceptor for car park/hardstanding areas

*No Development above Slab Level*

13. Details of all external materials
14. Details of hard and soft landscaping including Landscape Management Plan
15. Details of commercial kitchen extraction scheme
16. Details of ventilation of habitable rooms
17. Details of commercial pollution prevention (fats, oils, and grease)

*Prior to First Use/Occupation*

18. Laying out of car parking, turning, loading areas
19. Details of secure cycle parking
20. Details of Electric Vehicle Charging Points
21. Details of external lighting
22. Details of refuse and waste storage and collection
23. Details of acoustic performance of party floors, walls, and ceilings
24. Details of integral bat boxes

*Other*

25. Separate surface and foul water drainage systems
26. Completion of surface water drainage works prior to first piped discharge
27. Development in accordance with Flood Risk Assessment
28. Development in accordance with Bat Survey Report
29. Development in accordance with Noise Impact Assessment
30. Noise levels from fixed plant and equipment
31. Hours of commercial operations
32. Occupancy restrictions

and any other conditions deemed necessary by the Head of Planning and Development.

## **13.0 HUMAN RIGHTS**

### **13.1 APPROVAL**

- Article 8: The right to respect for private and family life.
- Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate, and in accordance with planning law.

## **14.0 STANDING DUTIES**

### **14.1 Due regard has been given to the following duties:**

- Environment Act 2021
- The Conservation of Habitats and Species Regulations 2017 (R9)
- Equality Act 2010
- Planning Act 2008 (S183)
- Natural Environment & Rural Communities Act 2006 (S40)
- The Planning and Compulsory Purchase Act 2004
- Crime and Disorder Act 1998 (S17)

- Human Rights Act 1998 – this incorporates the rights of the European Convention on Human Rights into UK Law - Article 8 – Right to Respect for Private and Family Life
- Planning (Listed Buildings and Conservation Areas) Act 1990 (S66(1) and S72)
- The Town & Country Planning Act 1990 (as amended)

#### Local Financial Considerations

14.2 Under Section 70(2) of the Town and Country Planning Act 1990, the Council is required when determining planning applications to have regard to any local financial considerations, so far as material to the application.

14.3 Local financial considerations are not considered to be material to this case.

#### Crime and Disorder

14.4 The application raises no significant crime and disorder issues.

#### Equality and Diversity

14.5 The application raises no significant equality and diversity issues.

#### **Background Papers:**

Application and history files.

[Planning application details | Kirklees Council](#)

#### **Certificate of Ownership:**

Certificate A signed.