

Public Document Pack



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

Julie Muscroft

Governance and Commissioning

PO Box 1720

Huddersfield

HD1 9EL

Tel: 01484 221000

Please ask for: Andrea Woodside

Email: andrea.woodside@kirklees.gov.uk

Wednesday 2 August 2023

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 10 August 2023**.

(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.

Planning Sub-Committee (Heavy Woollen Area) Membership:-

Member

Councillor Gwen Lowe (Chair)
Councillor Ammar Anwar
Councillor Timothy Bamford
Councillor Eric Firth
Councillor Adam Gregg
Councillor Steve Hall
Councillor John Lawson
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Jackie Ramsay
Councillor Joshua Sheard
Councillor Cathy Scott

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 Bellamy
D Hall
R Smith
J Taylor
M Thompson

Green

K Allison
A Cooper
S Lee-Richards

Labour

B Addy
P Moore
M Sokhal
T Hawkins
H Zaman

Liberal Democrat

PA Davies
A Munro
A Marchington
A Smith

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Sub-Committee

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

2: Minutes of Previous Meeting

1 - 8

To approve the Minutes of the meeting of the Sub-Committee held on 22 June 2023.

3: Declaration of Interests and Lobbying

9 - 10

Sub Committee Members will be asked to say if (i) 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 Disposable Pecuniary Interest which would prevent them from participating in any discussion or vote on an item, or any other interests.

4: Admission of the Public

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

5: Deputations/Petitions

The Sub-Committee will receive any petitions and/or 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 submit a petition at the meeting relating to a matter on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10, Members of the Public must submit a deputation in writing, at least three clear working days in advance of the meeting and shall subsequently be notified if the deputation shall be heard. A maximum of four deputations shall be heard at any one meeting.

6: Public Question Time

To receive any public questions.

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

Any questions must be submitted in writing at least three clear working days in advance of the meeting. Please note that, in line with pre-election restrictions, any questions relating to the Batley East Ward and By-Election issues will not be heard.

7: Site Visit - Application No: 2023/90349

Erection of detached dwelling adjacent to 11 Park View, Cleckheaton.

Ward affected: Cleckheaton

Contact: Nina Sayers, Planning Services

(Estimated time of arrival at site: 10.25am)

8: Site Visit - Application No: 2023/91556

Erection of single storey front extension and extension to rear with basement room and covered parking area with terrace above 12 Cross Park Street, Batley.

Ward affected: Batley East

Contact: Jennifer Booth, Planning Services

(Estimated time of arrival at site: 11.00am)

Planning Applications

11 - 12

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 register no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 7 August 2023.

To register, please email governance.planning@kirklees.gov.uk or phone Andrea Woodside on 01484 221000 (ext 74993).

9: Planning Application - Application No: 2023/90544 13 - 28

Erection of outside seating booths to front terrace (within a Conservation Area) at Rose and Crown, 3 The Village, Thurstonland, Huddersfield.

Ward affected: Kirkburton

Contact: Nina Sayers, Planning Services

10: Planning Application - Application No: 2023/90349 29 - 42

Erection of detached dwelling adjacent to 11 Park View, Cleckheaton.

Ward affected: Cleckheaton

Contact: Nina Sayers, Planning Services

11: Planning Application - Application No: 2023/91556 43 - 52

Erection of single storey front extension and extension to rear with basement room and covered parking area with terrace above 12 Cross Park Street, Batley.

Ward affected: Batley East

Contact: Jennifer Booth, Planning Services

Planning Update

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.

This page is intentionally left blank

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 22nd June 2023

Present: Councillor Steve Hall (Chair)
Councillor Ammar Anwar
Councillor Timothy Bamford
Councillor Adam Gregg
Councillor John Lawson
Councillor Paul Moore
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Jackie Ramsay
Councillor Mohan Sokhal
Councillor Mark Thompson

Apologies: Councillor Gwen Lowe (Chair)

1 Membership of the Sub-Committee

In the absence of Councillor Lowe, Councillor S Hall was appointed as Chair for this meeting of the Sub-Committee.

Councillor Sokhal substituted for Councillor E Firth.

Councillor Moore substituted for Councillor Scott.

Councillor Thompson substituted for Councillor Sheard.

2 Minutes of Previous Meeting

RESOLVED – That the Minutes of the Meeting of the Sub-Committee held on 16 March 2023 be approved as a correct record.

3 Declaration of Interests and Lobbying

Councillors Anwar, Bamford, Gregg, Pervaiz, A Pinnock, Ramsay and Thompson advised that they been lobbied on Application 2022/94117.

Councillor Sokhal advised that he had been lobbied on Application 2021/90086.

Councillors Bamford, Gregg, S Hall, J Lawson, A Pinnock, Ramsay and Thompson advised that they had been lobbied on Application 2022/92100.

Councillors J Lawson and A Pinnock advised that they had been lobbied on Application 2022/93344.

Planning Sub-Committee (Heavy Woollen Area) - 22 June 2023

4 Admission of the Public

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

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Site Visit - Application No: 2022/93499

Site visit undertaken.

8 Site Visit - Application No: 2022/92100

Site visit undertaken.

9 Site Visit - Application No: 2022/93344

Site visit undertaken.

10 Planning Application - Application No: 2022/93344

The Sub-Committee gave consideration to Application 2022/93344 – Conversion and extension of existing building to form 10 one bedroom apartments and associated external works at School of Dance and Performing Arts at 61-63 Moor Lane, Gomersal, Cleckheaton.

Under the provision of Council Procedure Rule 36(3), the Sub-Committee received a representation from Councillor Smaje (local member).

Under the provision of Council Procedure Rule 37, the Sub-Committee received representations from Julian Farrar (local resident), Alan Powell (agent) and Charlotte McCue (applicant).

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

- Time limit (3 years)
- Development in accordance with the approved plans
- Approval of samples of facing materials
- Appropriate surfacing
- Submission of an Ecological Design Strategy to provide biodiversity netgain
- Works in accordance with Tree Protection Plan
- Implement agreed Noise Mitigation Measures
- Reporting of unexpected contaminated land
- Provision of electric vehicle charging points
- Verification of imported materials
- Details of any external artificial lighting
- Details of the management and maintenance of communal refuse storage issues

Planning Sub-Committee (Heavy Woollen Area) - 22 June 2023

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

For: Councillors Anwar, S Hall, J Lawson, Moore, Pervaiz, A Pinnock, Ramsay and Sokhal (8 votes)

Against: Councillors Bamford, Gregg and Thompson (3 votes)

11 **Planning Application - Application No: 2022/92100**

The Sub-Committee gave consideration to Application 2022/92100 – Outline application for erection of residential development of 10 dwellings, demolition of existing extension at 27 Moor Lane, widening of existing access and realignment of boundary walls at rear of 23 to 43 Moor Lane, Gomersal, Cleckheaton.

Under the provision of Council Procedure Rule 36(3), the Sub-Committee received a representation from Councillor Smaje (local member).

Under the provision of Council Procedure Rule 37, the Sub-Committee received representations from Charles Buchanan (local resident), Nick Willock (agent) and Helen Davies (applicant).

RESOLVED – That, contrary to the Officer’s recommendation, the application be refused on the grounds that the proposed development would (i) result in the intensification in use of site (ii) be out of keeping with character of the area (iii) have a detrimental impact on the residential amenity of occupants of 25 and 27 Moor Lane due to location of site access and (iv) have inadequate visibility splays to the detriment of highway safety.

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

To delegate approval;

For: Councillors Anwar, S Hall, Moore, Ramsay and Sokhal (5 votes)

Against: Councillors Bamford, Gregg, J Lawson, A Pinnock, Pervaiz and Thompson (6 votes)

To refuse;

For: Councillors Bamford, Gregg, J Lawson, A Pinnock, Pervaiz and Thompson (6 votes)

Against: Councillors Anwar, S Hall, Moore, Ramsay and Sokhal (5 votes)

12 **Planning Application - Application No: 2021/90086**

The Sub-Committee gave consideration to Application 2021/90086 – Erection of 14 apartments in two blocks and change of use and alterations to convert existing restaurant to 6 apartments at Grameen Spice, 2 Bristfield Road, Grange Moor, Huddersfield.

RESOLVED –

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

Planning Sub-Committee (Heavy Woollen Area) - 22 June 2023

- three years to commence development
- development to be carried out in accordance with approved plans and specifications
- details of faux infilled sections
- material samples, to include natural stone, to be provided
- landscaping strategy, including to the front of the Grameen Spice, to be provided
- boundary treatment details to be provided
- detailed elevations of the bin store to be provided, giving due regard to fire safety
- remove PD rights for side windows of new build
- unit 15 side windows obscure glazed
- noise impact assessment to be undertaken
- lighting strategy to be provided
- path to the north to be provided
- parking spaces to be provided
- full technical details of surface water drainage system to be provided
- surface water flood routing plan to be provided and implemented
- details of cycle storage system to be provided, and bikes provided – to include relocation of cycle spaces to serve the 10 unit building
- details of bin store to be provided and approved
- details of temporary surface water drainage to be provided
- provision of EVCP
- bat survey to be undertaken prior to works within or upon the roof taking place
- further contaminated land investigation and, if required, remediation/validation to be undertaken
- ecological design strategy to be undertaken
- clearance to be done outside of bird breeding season, unless site surveyed

2) That authority be delegated to the Head of Planning and Development to secure a S106 Agreement to cover (i) affordable housing – 3 affordable dwellings (3 affordable rent) (ii) open space off-site contribution - £33,149 towards off-site public open space works within the area (iii) metro/sustainable travel - £25, 276 towards sustainable travel, consisting of £13k for bus stop improvements and £10,394 for resident bus passes (iv) bio-diversity - £11, 638 towards off-site measures to achieve biodiversity net gain, with alternative option to provide on-site or nearby provision if suitable scheme identified (v) management and maintenance – on site drainage features in perpetuity and ecological net gain elements for a minimum of 30 years (vi) public footpath – path along the site’s north edge to be kept open for the public.

3) That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Planning and Development shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

Planning Sub-Committee (Heavy Woollen Area) - 22 June 2023

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

For: Councillors Anwar, Bamford, Gregg, S Hall, J Lawson, Moore, Pervaiz, A Pinnock, Ramsay, Sokhal and Thompson (11 votes)

Against: (no votes)

13 **Planning Application - Application No: 2022/94117**

The Sub-Committee gave consideration to Application 2022/94117 – Change of use and alterations to convert existing building to garage MOT testing station as Crossfield Farm, 17 Woodland Grove, Dewsbury Moor.

Under the provision of Council Procedure Rule 37, the Sub Committee received representations from Nazia Shah (objection), Andy Keeling (agent) and I Ayub (applicant).

RESOLVED – That the application be refused on the grounds that;

- (i) the proposed use would have an adverse and detrimental impact on the residential amenity of the neighbouring occupants, specifically in relation to customers visiting the site, which is located directly adjacent to dwellings, resulting in views into gardens and habitable rooms, thus resulting in a detrimental and harmful loss of privacy for occupants of the neighbouring dwellings. To permit the development would be contrary to policy LP24 of the Kirklees Local and Paragraph Chapter 12 of the National Planning Policy Framework.
- (ii) the proposed development would intensify the use of the site, resulting in a significant increase in the number of vehicles entering and exiting the site. The single track access from Heckmondwike Road would not be sufficient for the additional vehicle use and the access would not allow for two vehicles to pass. This would result in vehicles having to reverse on to or off a classified B road. Access would also be difficult for service vehicles from Heckmondwike Road into the site given the width of the existing access. As such, the site access would be sub-standard and unsuitable for any further intensification in use. The scheme would neither ensure the safe and efficient flow of traffic within the development or on the surrounding highway network, thus having a detrimental impact upon highway safety. To permit the development would be contrary to LP21 of the Kirklees Local Plan and Paragraphs 110 and 111 of the National Planning Policy Framework

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

For: Councillors Anwar, Bamford, S Hall, J Lawson, Moore, A Pinnock, Ramsay and Sokhal (8 votes)

Against: (no votes)

Abstained: Councillors Gregg, Pervaiz and Thompson

14 **Planning Application - Application No: 2022/93499**

The Sub-Committee gave consideration to Application 2022/93499 – Outline application for erection of 15 dwellings with new highway access and parking at Healey Lane, Batley.

Planning Sub-Committee (Heavy Woollen Area) - 22 June 2023

Under the provision of Council Procedure Rule 37, the Sub-Committee received a representation from Damien Hartley (agent).

RESOLVED –

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

- details of appearance, landscaping, layout, and scale (hereinafter called the “Reserved Matters”) shall be submitted to and approved in writing by the Local Planning Authority no later than 3 years
- the development hereby permitted shall begin no later than 2 years from the date of approval of the last of the reserved matters
- the development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule
- the Reserved Matters referred to in Condition 1 shall include an Arboricultural Impact Assessment has first been submitted to and approved in writing by the Local Planning Authority
- there shall be no commencement of the development hereby permitted until a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new retaining walls and building retaining walls adjacent to the proposed/ existing highway has first been submitted to and approved in writing by the Local Planning Authority
- there shall be no commencement of the development hereby permitted until a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new surface water attenuation tanks/pipes/manholes located within the proposed highway footprint or influence zone of highway loading has first been submitted to and approved in writing by the Local Planning Authority
- there shall be no submission of any Reserved Matters application seeking approval of a detailed layout of development until a scheme of further intrusive site investigation to be completed
- notwithstanding the submitted details, any application seeking approval of a detailed layout of development, shall be accompanied by (i) the findings of the further intrusive site investigation (required by condition above) (ii) the submission of an updated plan which identifies the relationship of the mine entry and its zone of influence to the development layout; and (iii) any proposed remediation works and/or mitigation measures, as may be necessary, to address land instability arising from the recorded mine entry
- prior to the first occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to and approved in writing by the Local Planning Authority
- details of temporary arrangements for the storage and collection of waste
- measures to protect the public water supply infrastructure that is laid within the site boundary
- the site shall be developed with separate systems of drainage for foul and surface water on and off site

Planning Sub-Committee (Heavy Woollen Area) - 22 June 2023

- no piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have first been completed
- there shall be no commencement of the development hereby permitted until a detailed design scheme submitted
- there shall be no commencement of the development hereby permitted until an assessment of the effects of 1 in 100 year storm events has been submitted
- there shall be no commencement of the development hereby permitted until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation/site strip) has first been submitted
- details of external artificial lighting
- submission of a report specifying the measures to be taken to protect the future occupants of the development from noise
- there shall be no submission of any Reserved Matters application seeking approval of a detailed layout of development until the recommended further works measures in Section 10.0 of the approved Phase 1 Geo-Environmental Report (ref: H17075 Revision 0, dated May 2018) have first been carried out
- submission of a Phase II Intrusive where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to Condition 19
- submission of a remediation strategy where deemed required pursuant to Condition 20
- remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved
- submission of a Verification Report by a suitably competent person
- provision of electric vehicle charging points
- there shall be no commencement of the development hereby approved until a Construction Environmental Management Plan (CEMP)

2) That authority be delegated to the Head of Planning and Development to secure a S106 Agreement to cover (i) public open space provisions including off site commuted sum - £33,604.42 (ii) off-site highway works for a Traffic Regulation Order - £7,500 (iii) contribution to traffic calming measures - £35,000 (iv) 20% of total number of dwellings to be affordable with a tenure split of 55% being social rented and 45% being submarket and one being a starter home (v) incorporation of a management company (drainage, highways, public open space).

3) That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Planning and Development shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Anwar, Bamford, Gregg, S Hall, J Lawson, Moore, Pervaiz, A Pinnock, Ramsay, Sokhal and Thompson (11 votes)

Against: (no votes)

This page is intentionally left blank

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

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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

PLANNING POLICY

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

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

National Policy/ Guidelines

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

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

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

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

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

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Aug-2023

Subject: Planning Application 2023/90544 Erection of outside seating booths to front terrace (within a Conservation Area) Rose and Crown, 3, The Village, Thurstonland, Huddersfield, HD4 6XU

APPLICANT

Robert Stringer,
Stonegate Group

DATE VALID

16-Feb-2023

TARGET DATE

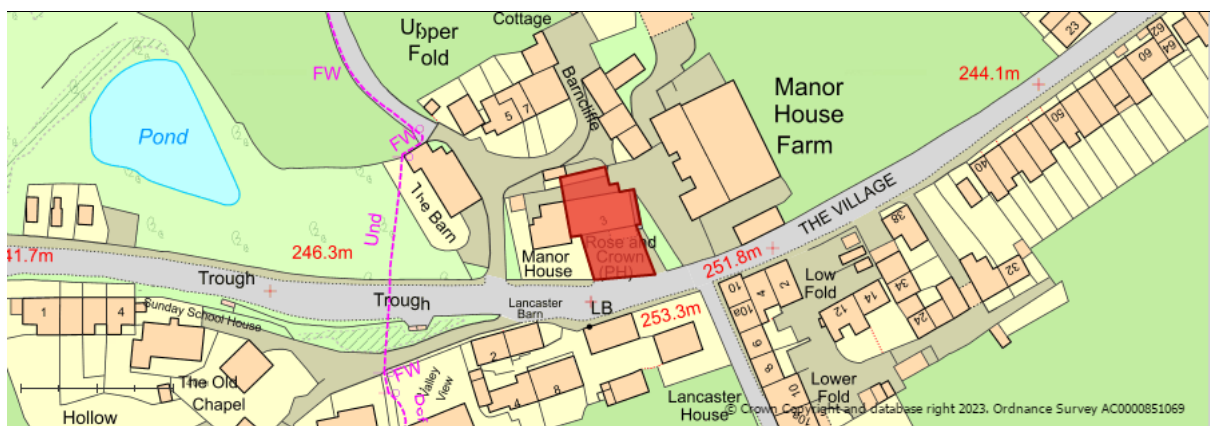
13-Apr-2023

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Kirkburton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub Committee due to a significant volume of local opinion (34 public representations received and a petition). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to the Rose and Crown, a two-storey, semi-detached property in Thurstonland, which serves a public house. The property has a car park to the front which sets the property back from the Highway. The surrounding area is predominantly characterised by residential dwellings which are similar in age and materials but vary in terms of design. There is an agricultural holding to the north and east of the site.

2.2 The property is located within Thurstonland Conservation Area and there are a number of listed buildings in the vicinity of the property.

3.0 PROPOSAL:

3.1 The application is seeking planning permission for the erection of outside seating booths to the front terrace. This application is part-retrospective.

3.2 The proposal is for the erection of four, timber framed structures which would serve as 'covered seating booths' for customers. The structures have a pitched roof design with openings to the front and side elevations. There is a dining table and fixed seating inside each structure.

3.3 The proposed structures are adjacent to the eastern and western boundary of the site and measure 3.1(w) x 2.5(d) x 2.5(h) metres.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 86/00781 Erection of illuminated signs. Consent refused.

4.2 86/02166 Erection of illuminated signs (within a conservation area). Consent granted.

- 4.3 92/00616 Erection of porch, kitchen and crate and barrel store extensions/fire escape. Conditional full permission.

Enforcement

- 4.4 COMP/20/0548 Alleged unauthorised marquee, alleged unauthorised storage use.

- 4.5 The proposal is seeking part-retrospective planning permission for 4 (currently 5) permanent wooden structures following an enforcement complaint (outlined above). Due to the scale and permanence of the structures, Officers consider they do not comply with Schedule 2, Part 2, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which allows for provision of one moveable structure within the curtilage of a drinking establishment, nor does it comply with development permitted under any other use class of the same order. Therefore, it is considered that the proposal requires planning permission.

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

- 5.1 The submitted plans raised significant concerns in terms of visual amenity and impact on the historic character. This was raised with the agent and amended plans were submitted which removed one of the seating booths which was located central to the site. These amendments have been assessed and were considered acceptable by the reasons set out in the main appraisal below.

- 5.2 The amended scheme was not readvertised as it is considered that the proposed amendments would reduce the visual prominence of the scheme whilst maintaining some of the outdoor seating, thus not prejudicing any who have already made representation. The proposed amendments would not cause any additional harm to residential amenity over and above the advertised scheme.

- 5.3 The applicant submitted a representation in support of their 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).

Kirklees Local Plan (2019):

- 6.2 **LP1** – Achieving sustainable development
LP2 – Place shaping
LP21 – Highways and access
LP22 – Parking
LP24 – Design
LP35 – Historic Environment

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and alterations and open space, to be used alongside existing SPDs previously adopted. They are now being considered in the assessment of planning applications, with full weight attached. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development. In this case the follow SPDs are applicable:
- Biodiversity Net Gain Technical Advice Note
 - Highways Design Guide
 - Planning (Listed Building and Conservation Areas) Act 1990

National Planning Guidance:

- 6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.
- 6.5 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.
- **Chapter 2** – Achieving sustainable development
 - **Chapter 6** – Building a strong, competitive economy
 - **Chapter 9** – Promoting sustainable transport
 - **Chapter 11** – Making efficient use of land
 - **Chapter 12** – Achieving well-designed places
 - **Chapter 16** – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 Final publicity expired on 18th April 2023.
- 7.2 Cllr Richard Smith requested that this application is referred to committee if officers are recommending refusal for the following reasons:
- There was limited car parking prior the development.
 - Entering and exiting of the car park was difficult and involved reversing into the main road.
 - Traffic issues are related to the nature of the village, and not the pub, as it is not suitable for the number of cars on the road especially when parking by residents and visitors is already a problem.
 - Should be supporting local businesses and not putting them in a position which makes them unviable.

NOTE: Officers are recommended approval and therefore this referral is not necessary and the application is only brought to planning committee due to the significant number of representations received, as outlined at section 1.0 of this report.

7.2 34 public representations were received from 32 individuals, 13 in objection and 21 in support of the application. A petition supporting the proposal was also submitted with 367 signatures. The comments received are summarised as follows:

7.3 Objections:

Highways:

- Lack of parking has resulted in additional parking on the road
- Reduced visibility due to number of parked vehicles
- Customers of the premises parked outside resident's houses, on dropped kerbs and on dangerous bends
- Gritters, buses and larger vehicles struggle with narrow road as a result of double parking
- Vehicles parked on pavements so pedestrians have to walk on the road
- Bottleneck created at the top of villages as parking blocks the passing point
- Need to implement traffic regulation order and traffic calming measures

Visual amenity:

- Visual appearance of seating boots, and resulting on street parking, impacts negatively on desirability and value of existing properties
- Proposal is an eye sore
- Has a negative impact on conservation area and nearby listed buildings - do not enhance the historic character
- Obscures beautiful, listed building and not in keeping with conservation area
- Timber is not sympathetic of local old stone cottages and buildings
-

Residential amenity:

- Additional noise as a result of additional people outside

General comments:

- Seats were not needed pre-COVID, so why are they required now
- No evidence that the pub plays a vital role in lives of its customers, this is a business decision which benefits the business and its customers but not the residents
- No intention to re-instate the car park
- Seating booths have internal heating but are not connected to fire alarm system

7.4 Supporting Comments:

Highways:

- Traffic issues were existing before the seating was installed and it is a result of the character of the properties, and residents having multiple vehicles, rather than the pub seating
- Most of the parking is residents who own multiple vehicles rather than a direct result of the loss of pub parking
- People used to reverse out of the car park onto road which was dangerous
- Customers generally park below the inn where there are fewer residential properties

- Farm vehicles do not struggle with manoeuvring
- The existing car park only provided limited parking (5/6 vehicles)

Visual amenity:

- Seating is confined within a tall wall and tall conifers so proposal is not in a prominent location
- The seating is only visible from directly outside the front of the property
- Improvement visually with flower beds and hanging pots
- Structures are temporary
- Proposed seating is timber similar to garden sheds in the area
- Does not harm visual amenity and does not impact on light, trees, nature or character of area

Residential Amenity:

- Less noise and increased privacy for neighbouring properties as customers are within the sheds
- The Landlord has changed the opening times which reduces noise late at night – it now closes at 10pm
-

General comments

- Great addition for residents and visitors – area attracts lots of walkers
- Additional seating allows people to get a seat at pub
- Allows nearby residents to eat out and there has been an increased demand for food
- Benefits to local population and visitors - no other shops or cafes/pubs in vicinity
- Seats have increase pub capacity and employment
- Pub provides employment, particularly for young people
- Pubs need support after challenges over last few years, centre of the village community
- The viability of pub is vital for the village and support should be given to keeping the pub open
- Seating has been in high demand
- Majority of villagers are in support of the proposal
- Provides a safe, inclusive place for families to sit which is beneficial for children and has improved customer experience
- Could introduce a parking permit system to mitigate parking concerns without affecting the business
- Removing the central cabin, would overcome the harm to visual amenity

7.5 Officers have responded to these representations in section 10 of the report.

7.6 As outlined in section 5.2, it was not considered necessary to readvertise the amended plans because they reduced the overall scale and appearance of the development originally advertised. This approach complies with the Kirklees Development Management Charter which sets out that it is the officer discretion when to re-advertise amendments to a planning application that has already been subject to statutory publicity.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objection subject to condition.

8.2 **Non-Statutory:**

KC Environmental Health – No objections subject to condition

KC Conservation and Design – Objected to the initial scheme as does not preserve or enhance the conservation area and it obscures the pub façade which forms a positive contribution to the historic character of the designated heritage asset.

The amended plan has been submitted to address the above concern.

9.0 **MAIN ISSUES**

- Principle of development
- Impact on visual amenity and historic environment
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations
- Conclusion

10.0 **APPRAISAL**

Principle of development

- 10.1 NPPF paragraph 12 and LP1 outlines a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout this proposal.
- 10.2 The site is unallocated within the Kirklees Local Plan however it is located within Thurstonland Conservation Area.
- 10.3 Policy LP2 states that: 'All development 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, as set out in the four sub-area statement'.
- 10.4 Chapter 11 of the NPPF requires that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improvement the environment and ensure safe and healthy living conditions. As well as this, Local Planning Authorities have the responsibility to help create the conditions, in which businesses can invest, expand, and adapt. It follows that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 10.5 In this case, the proposal is for the erection of structures used for seating on land to the front of a public house. The site is unallocated within the Kirklees Local Plan and therefore the principle of developing on the land could be considered favourably, so long as it enhances or preserves the natural and built environment and ensures safe and healthy living conditions of the neighbouring residents.

- 10.6 The site is also located within the Thurstonland Conservation Area and is adjacent to a listed building. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities shall pay special attention to the desirability of preserving or enhancing the appearance of buildings or land within a Conservation Area or within the setting of a listed building. Any impact on heritage assets will be given consideration having regard to Policy LP35 of the Kirklees Local Plan, and Chapter 16 of the National Policy Planning Framework.
- 10.7 In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24 suggests that proposals should promote good design by ensuring inter alia that the form, scale, layout, and details of all development respects and enhances the character of the heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.
- 10.8 As such, in the broadest form, the development of this site is considered acceptable in accordance with Local Plan Policies LP1 and LP2. However, the development must now be assessed against all material considerations including the impact on the historic environment.

Impact on visual amenity and historic environment

- 10.9 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) provides a principal consideration concerning design which states: “The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.
- 10.10 Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. LP24 states that proposals should promote good design by ensuring: “a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...” Chapter 12 of the NPPF supports this.
- 10.11 The site is located within the Thurstonland Conservation Area, which is a designated heritage asset, and is adjacent a number of listed buildings.
- 10.12 Paragraph 194 of the National Planning Policy Framework states “In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.”
- 10.13 Paragraph 195 of the National Planning Policy Framework states “Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”

- 10.14 This is supported by LP35 of the Kirklees Local Plan which states that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. This is supported by Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. KC Conservation and Design team were informally consulted on the scheme and their comments have been included within officers assessment below.
- 10.15 The application site is located within a prominent location, adjacent to the highway which serves the main thoroughfare through the village. The proposal is for the erection of four timber framed structures to the front of the Rose and Crown, set between the highway and the existing property. The structures would be set adjacent to the eastern and western boundary of the site. The hedgerow to the east of the site screens the proposal from view from the eastern side of the village, however, the structures project above the boundary treatment to the western side and the structures are visible from the highway.
- 10.16 Officers initially had concerns that the siting and scale of the proposed structures resulted in a cluttered and obtrusive development and obscured the building's façade, which forms a positive contribution to the visual amenity of the wider street scene and historic character of the conservation area. These concerns were raised with the agent who submitted amended plans which removed the 5th, smaller structure which was located directly in front of the public house. It is opined by officers that the removal of this structure would open up the view to the front of the building and significantly reduces the cluttering of the structures.
- 10.17 The host property, and properties surrounding the site, are predominantly traditional, stone-faced buildings which forms the historic character of the conservation area and adjacent listed buildings. The proposal is for timber framed structures which adds a significant amount of timber to the predominantly stone façade of the street. Representation was received both in support and objection to the visual appearance of the proposed structures. Representation outlined that the scheme is similar to timber sheds within the curtilage of other properties, whilst others described it as an 'eyesore'.
- 10.18 As outlined above, the removal of the structure to the front of the property significantly reduces the amount of timber visible from the highway and the prominence of the scheme. It is also noted that the design and materials of the structures do not lend themselves to longevity and would lead to deterioration relatively quickly (in comparison to a stone-built structure). Therefore, it is recommended that a temporary permission be granted for a limited 10-year period, to reduce the harm to visual amenity and the character of the historic environment.
- 10.19 It is therefore considered, on balance, that the proposed amended scheme would not be detrimental to the visual amenity of the host property and wider street scene and would not cause significant harm to the character of the conservation area. The proposal therefore complies with policies LP24 and LP35 of the Kirklees Local Plan, chapters 12 and 16 of the National Planning Policy Framework and section 72 of Planning (Listed Building and Conservation Areas) Act 1990.

Residential Amenity

- 10.20 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out in terms of policy LP24 c), which states that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.
- 10.21 The application site abuts a residential property to the west and there are other residential properties in close proximity to the north and south of the site.
- 10.22 The proposed structures would be single storey and would be set a significant distance from the windows serving inhabited spaces in neighbouring properties. Therefore, officers considered no significant overshadowing or overbearing impact would occur as a result of the proposed scheme. The scheme would result in development along the boundary with the adjacent property which would reduce any overlooking harm which could occur as a result of customers using the space to the front of the public house.
- 10.23 The proposed outdoor seating would increase the external capacity of a public house, which could result in loss of amenity by way of noise and disturbance by customers. Representation has been received outlining concerns regarding noise, however it is noted that supporting comments highlight that this is not a concern. Notwithstanding this, KC Environmental Health team were consulted on the scheme and recommended a condition for a Noise Management Plan, which was provided by the applicant. This document outlined measures that will be put in place to control excessive noise from the use of the outdoor area. A responsible person will be identified to oversee the plan and nearby residential receptors will be given contact details to enable complaints to be dealt with. Should this application be approved, the implementation of this plan could be secured by condition.
- 10.24 Should this application be approved a condition is recommended to limit the opening hours of the outdoor area to reduce the impact of any additional noise on nearby residents too.
- 10.25 It is noted that KC Environmental Health have recommended a condition regarding amplified music. However, this is considered to be addressed as part of the Noise Management Plan and is therefore not necessary.
- 10.26 Subject to the suggested conditions set out above, the proposal would not result in significant harm to the residential amenity of neighbouring occupants. The proposal therefore complies with policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

Highway issues

- 10.27 Local Plan Policy LP21 states that 'All proposals shall:
- a. ensure the safe and efficient flow of traffic within the development and on the surrounding highway network...
 - e. Take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely;'

- 10.28 This is supported by Chapters 9 and 12 of the NPPF and guidance within the Highways Design Guide SPDs. KC Highways Development Management have also been consulted as part of this application and do not object, subject to conditions.
- 10.29 The proposed development would result in the loss of the existing car park which served a maximum of 6 parking spaces for the public house. A number of representations have expressed safety concerns regarding the previous car parking arrangements as vehicles had to reverse onto the highway.
- 10.30 The residential dwellings surrounding the premises are characterised by terraced properties with little or no off-street parking, this is in addition to a commercial farm business operating directly in the vicinity of the premises.
- 10.31 As a result of the loss of the car park, there is likely to be an increase in on-street parking. The on-street parking provision in the village, and resulting impact on visibility, has been raised as a specific concern in a large number of representations. However, public opinion varies as to if this is a direct result of the closure of the pub car parking or due to an increase in vehicle ownership by local residents.
- 10.32 The Council's Highway Safety section have been consulted regarding this application who have received complaints relating to unregulated parking on both sides of the Village in the direct vicinity of the Rose and Crown causing obstructions.
- 10.33 Whilst it is acknowledged that the on-street parking is clearly an issue in the vicinity of the application site, the level of parking that would be achievable if the cabins were not in situ is considered to be negligible given the size of the existing car park.
- 10.34 KC Highways DM consider that whilst it would not be necessary to remove any booths to alleviate the on-street parking issues, some form of regulation to the situation, to allow the passage of two-way traffic, would be of benefit. They therefore recommended that the development should contribute to the installation of waiting restrictions in the form of Traffic Regulation Order (TRO). This would be a financial contribution for the legal advertisement and installation of the required works.
- 10.35 As outlined above, it is clear from site assessment, and submitted representation, that there are highway issues in Thurstonland which need addressing. Officers have taken the above matters in to consideration. However, it needs to be acknowledged that the parking issues within proximity to the application site are an existing problem due to a number of factors including the lack of residential parking, and not necessarily as a direct result of the proposed development. Therefore, it is considered, on balance, that given the existing highway issues, the recommended condition for a TRO would not meet the 6 tests for planning conditions as outlined in the National Planning Policy Framework and officers are not recommending this condition in this instance.
- 10.36 It is considered that, on balance, the proposed development would not result in additional harm to the safety and efficiency of the highway network. Therefore, it is considered that the proposed scheme complies with policy LP21 of the Kirklees Local Plan as well as the Highways Design Guide SPD.

Representations

10.37 34 public representations were received from 32 individuals, 13 in objection and 21 in support of the application. A petition supporting the proposal was also submitted with 367 signatures. Their comments have been summarised and responded to as follows:

10.38 Objections:

Highways:

- Proposal has resulted in additional parking on the road
- Reduced visibility due to number of parked vehicles
- Customers of the premises parked outside resident's houses, on dropped kerbs and on dangerous bends
- Gritters, buses and larger vehicles struggle with narrow road as a result of double parking
- Vehicles parked on pavements so pedestrians have to walk on the road
- Bottleneck created at the top of villages as parking blocks the passing point
- Need to implement traffic regulation order and traffic calming measures

Officer response: The above concerns have been addressed and discussed in the Highway Safety section of this report.

Visual amenity:

- Visual appearance of seating boots, and resulting on street parking, impacts negatively on desirability and value of existing properties
 - Proposal is an eye sore
 - Has a negative impact on conservation area and nearby listed buildings - do not enhance the historic character
 - Obscures beautiful, listed building and not in keeping with conservation area
 - Timber is not sympathetic of local old stone cottages and buildings

Officer response: The above concerns have been addressed and discussed in the Visual Amenity and Historic Character section of this report.

Residential amenity:

- Additional noise as a result of additional people outside

Officer response: The above concerns have been addressed and discussed in the Residential Amenity section of this report.

General comments:

- Seats were not needed pre-COVID, so why are they required now
- No evidence that the pub plays a vital role in lives of its customers, this is a business decision which benefits the business and its customers but not the residents
- No intention to re-instate the car park
- Seating booths have internal heating but are not connected to fire alarm system

Officer response: Whilst the above comments have been noted, they are not material planning considerations for a development of this nature and scale and therefore no further comment will be made.

10.39 Supporting Comments:

Highways:

- Traffic issues were existing before the seating was installed and it is a result of the character of the properties, and residents having multiple vehicles, rather than the pub seating
- Most of the parking is residents who own multiple vehicles rather than a direct result of the loss of pub parking
- People used to reverse out of the car park onto road which was dangerous
- Customers generally park below the inn where there are fewer residential properties
- Farm vehicles do not struggle with manoeuvring
- The existing car park only provided limited parking (5/6 vehicles)

Officer response: The above concerns have been addressed and discussed in the Highway Safety section of this report.

Visual amenity:

- Seating is confined within a tall wall and tall conifers so proposal is not in a prominent location
 - The seating is only visible from directly outside the front of the property
 - Improvement visually with flower beds and hanging pots
 - Structures are temporary
 - Proposed seating is timber similar to garden sheds in the area
 - Does not harm visual amenity and does not impact on light, trees, nature or character of area
- *Officer response:* The above concerns have been addressed and discussed in the Visual Amenity and Historic Character section of this report.

Residential Amenity:

- Less noise and increased privacy for neighbouring properties as customers are within the sheds
- The Landlord has changed the opening times which reduces noise late at night – it now closes at 10pm

Officer response: The above concerns have been addressed and discussed in the Residential Amenity section of this report.

General comments

- Pub provides employment, particularly for young people
- Pubs need support after challenges over last few years, centre of the village community
- Seats have increase pub capacity and employment
- The viability of pub is vital for the village and support should be given to keeping the pub open

Officer comments: The above comments have been addressed and considered within the Historic Environment section of this report.

- Great addition for residents and visitors – area attracts lots of walkers
- Additional seating allows people to get a seat at pub
- Allows nearby residents to eat out and there has been an increased demand for food
- Benefits to local population and visitors - no other shops or cafes/pubs in vicinity

- Seating has been in high demand
- Majority of villagers are in support of the proposal
- Provides a safe, inclusive place for families to sit which is beneficial for children and has improved customer experience
- Could introduce a parking permit system to mitigate parking concerns without affecting the business
- Removing the central cabin, would overcome the harm to visual amenity

Officer response: Whilst the above comments have been noted, they are not material planning considerations for a development of this nature and scale and therefore no further comment will be made.

Other Matters

Carbon Budget

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

10.41 When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. This application is for additional external seating within an existing public house and therefore no additional measures are required in this instance. The proposal therefore accords with LP51 and LP52 of the KLP.

Ecology

10.42 This application is for the erection of external seating within the boundary of an existing building and the application site is already entirely covered in hardstanding. Therefore, the site offers limited ecological potential, and the proposed change of use is considered to not cause any additional harm to ecology. Therefore, the proposal complied with LP30 of the Kirklees Local Plan.

11.0 CONCLUSION

11.1 This application for the erection of outside seating booths at the Rose and Crown in Thurstonland has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

11.2 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to the imposition of the conditions listed below.

12.0 CONDITIONS

1. Temporary permission for 10 years from the date of this permission.
2. Development to be in accordance with the submitted plans and information.
3. Development to be implemented in accordance with The Noise Management Plan and thereafter retained.
4. The use hereby permitted shall not be open to customers outside the hours of 12:00 to 22:30 Monday to Saturday and 12:00 to 22:30 Sundays.
5. The fifth structure to be removed within two months from the granting of the permission.

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

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f90544>

Certificate of Ownership – Certificate A signed and dated.

This page is intentionally left blank

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Aug-2023

Subject: Planning Application 2023/90349 Erection of detached dwelling adj,
11, Park View, Cleckheaton, BD19 3AN

APPLICANT

L Broadbent

DATE VALID

22-Feb-2023

TARGET DATE

19-Apr-2023

EXTENSION EXPIRY DATE

17-Aug-2023

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Cleckheaton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The constraints arising from the size and shape of the plot are insufficient to suitably accommodate a new dwelling. A dwelling on this site would result in a cramped form of development that would fail to sympathetically integrate with existing development in the locality, which would be detrimental to the visual amenity of the wider street scene. The proposal therefore fails to comply with Policy LP24 (a) of the Kirklees Local Plan, Principles 2, and 4 of the Housebuilders Design Guide Supplementary Planning Document and Chapter 12 of the National Planning Policy Framework.

2. The use of obscure glazing on the principal elevation would fail to address the street positively, appearing incongruous in design and detrimental to visual amenity of the wider street scene. The proposal therefore fails to comply with Policy LP24 (a) of the Kirklees Local Plan, Principle 14 of the Housebuilders Design Guide Supplementary Planning Document and Chapter 12 of the National Planning Policy Framework.

3. The siting and scale of the proposed development would have an overbearing and overshadowing impact on the occupants of nos.13 and 15 Park View and the limited amenity space which they have to the rear of their properties, to the detriment of residential amenity. The proposal therefore fails to comply with Policy LP24 (b) of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide Supplementary Planning Document and Chapter 12 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub Committee due to a significant volume of local opinion (22 representations received. 14 are in support, 8 in objection). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The site comprises a vacant plot of land to the south of 11 Park View. The site is finished in hardstanding and is surrounded by a timber boarded fence and a gate for access. It appears from historical aerial imagery and planning history that the site was previously overgrown with a detached garage erected which has now been demolished. The site previously served as rear gardens for 13 and 15 Park View. It is located on a residential cul-de-sac which is characterised by terraced and semi-detached stone fronted dwellings with detached dwellings forming a modern estate to the east.

2.2 The site is unallocated within the Kirklees Local Plan and is not in a conservation area and there are no listed buildings within close proximity to the site.

3.0 PROPOSAL:

3.1 Planning permission is sought for the erection of a detached dwelling.

3.2 The proposed dwelling would appear two-storey in height, with a steeply pitched roof and low eaves height to the front, with a gable roof feature. The dwelling would be sited within the eastern side of the plot and would front the highway. It would have a rectangular form with a single storey element projecting to the rear. The dwelling would have a ridge height of ~6.6 metres, eaves height of ~4.6 metres, width of ~9 metres and a total depth of ~8.5 metres. The dwelling is proposed to be finished in coursed stone under a grey slate roof. The access off Park View is to remain as existing.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2014/93210 Erection of one detached dwelling. Refused.

2015/90471 Erection of one detached dwelling. Refused.

2016/90818 Erection of one detached dwelling. Refused. Appeal Dismissed.

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

5.1 The submitted plans raised significant concerns in terms of visual amenity and impact on the historic character. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration.

5.2 Officers raised concerns with the applicant's agent regarding the proposal, in relation to the harm of the proposal upon character and appearance of the locality, and the harm to residential amenity of future and neighbouring occupiers. Amended plans and a justification were provided however these did not overcome officers' concerns.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

6.2 LP 1 – Achieving Sustainable Development
LP 2 – Place Shaping
LP 3 – Location of New Development
LP 7 – Efficient and Effective Use of Land and Buildings

- LP 20 – Sustainable Travel
- LP 21 – Highway Safety
- LP 22 – Parking Provision
- LP 24 – Design
- LP 30 – Biodiversity and Geodiversity
- LP 51 – Protection and Improvement of Local Air Quality
- LP 52 – Protection and Improvement of Environmental Quality
- LP 53 – Contaminated and Unstable Land

Supplementary Planning Guidance / Documents:

6.3 Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and alterations and open space, to be used alongside existing SPDs previously adopted. They are now being considered in the assessment of planning applications, with full weight attached. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development. In this case the follow SPDs are applicable:

- Kirklees Highways Design Guide SPD (2019).
- Waste Management Design Guide for New Developments (Version 5, October 2020).
- Kirklees Biodiversity Net Gain Technical Advice Note (2021).
- Kirklees Housebuilders Design Guide SPD (2021).
- National Described Space Standards (2015).

National Planning Guidance:

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

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making efficient use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Publicity ended on 10th April 2023.

7.2 22 representations were received as a result of the above publicity, 14 in support and 8 in objection to the scheme. The full comments are available to view on the Council's Planning Webpage, but a summary of the comments raised is provided below:

7.3 Supporting comments:

- Improvement on existing
- Land is currently an eyesore
- Dwelling would improve street scene
- Meet shortage for housing
- Good for community
- Good for area
- Local youths are causing bother
- No reason for the project not to go ahead
- No detriment to surrounding properties

7.4 Objections:

- 4th time application has been submitted and no change in circumstance
- Application is contrary to inspectorate's previous appeal decision
- Insufficient garden or amenity space
- Incompatible with design and character of area
- Inadequate parking, existing parking is a problem
- Dangerous for pedestrians and children
- Overlooking and overshadowing existing properties and gardens
- Too small plot for dwelling

8.0 CONSULTATION RESPONSES:

8.1 Statutory Consultees:

KC Highways Development Management – No objection subject to condition.

The Coal Authority: No objections subject to a condition.

8.3 Non-Statutory Consultees:

KC Environmental Health – No objections subject to condition

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.
- 10.2 The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.
- 10.3 The site is unallocated on the KLP Policies Map. Policy LP2 states that: "All development 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, as set out in the four sub-area statement boxes below..."
- 10.4 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is 5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply.
- 10.5 The Housing Delivery Test results are directly linked to part of the five year housing land supply calculation. The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five year supply position. Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.6 Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site in theory, is not of sufficient size to accommodate a single dwelling. One dwelling is proposed in this instance. It is noted that the proposed site is significantly smaller than the scale recommended for one dwelling when applying the density calculations. Given the size of the plot, in relation to the proposed dwelling, there is not sufficient space to be able to support a new dwelling on this site. A new dwelling would result in a cramped form of development that would fail to sympathetically integrate with existing development in the locality.

- 10.7 It is noted that there is history of refusals for new dwellings on this site for a similar reason to those discussed above. The most recent application (2016/90818) was refused and dismissed at appeal with the inspector outlining that the constraints arising from the size and shape of the plot are insufficient to suitably accommodate the dwelling, which had a smaller footprint to that proposed under this application.
- 10.8 In respect of the above, whilst it is acknowledged that there has been a change to both local and national planning policy since the above application was decided, the overall constraints at the site are changed. Officers therefore have concerns regarding the principle of a new dwelling on this site. A more detailed assessment of the proposal's design and its impact on the surrounding environment, assessed against Policy LP24 of the Kirklees Local Plan amongst other Policies, is undertaken below.

Impact on visual amenity

- 10.9 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 126 provides a principal consideration concerning design which states: "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."
- 10.10 Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.
- 10.11 LP24 states that proposals should promote good design by ensuring: "a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape..."
- 10.12 Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.
- 10.13 Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: "New residential development proposals will be expected to respect and enhance the local character of the area by:
- Taking cues from the character of the built and natural environment within the locality.
 - Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.
 - Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context."

- 10.14 Principle 15 states that the design of the roofline should relate well to site context. Further to this, Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.
- 10.15 The proposed detached dwelling would have a pitched roof design with a gable feature in the roof. It would be finished in new coursed stone. Park View is predominantly finished in stone and red brick. Given the age of the adjacent properties, it would be difficult to match the materials directly. It is noted that there is an estate comprising modern detached dwellings located to the east of the site, which are similar in both design and materials to the proposed. Although fenced off from Park View, when officers visited the site, 12 Mount View Court was visible from the street scene. However, it is noted that this boundary appears to be lined in foliage and therefore no.12 may be less visible in summer months. Notwithstanding the principle of development, it is considered, on balance, that the design of the dwelling itself, if being considered in isolation, would generally be in keeping with the character of house type in the surrounding area in terms of visual amenity.
- 10.16 Notwithstanding this, the front elevation of the property would serve three openings which would all be obscurely glazed. The use of obscure glazing on the principal elevation would fail to address the street positively, appearing incongruous in design and detrimental to the wider street scene. It is noted that in the inspectorate's report for the appeal of 2016/90818, they highlighted the use of obscure glazing in all of the windows on the principal street elevation of the dwelling would be inappropriate, for the reasons outlined above. This design feature is not considered to constitute 'good design'.
- 10.17 As outlined in the principle of development section of this report, officers have significant concerns regarding the scale of the development within the plot and the resulting overdevelopment of the application site. A dwelling on this site would likely result in a cramped form of development that would fail to sympathetically integrate with existing development in the locality, which would be detrimental to the visual amenity of the wider street scene.
- 10.18 Officers therefore consider that the proposal would cause detrimental harm to the visual amenities of the locality and can therefore not be supported. The proposal would fail to comply with Policy LP24 of the Kirklees Local Plan, Principles 2, 4, and 14 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 10.19 Section B and C of LP24 states that alterations to existing buildings should: "...maintain appropriate distances between buildings' and '...minimise impact on residential amenity of future and neighbouring occupiers."
- 10.20 Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

10.21 Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: “Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.” The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

10.22 The properties mostly likely to be affected by the proposed development are considered to be nos. 9, 11, 13 and 15 Park View, no.11 Mount View Court and nos. 1, 3 and 5 Westburn Place. However, the proposed development is considered to be a sufficient distance away from any other neighbouring properties not referred to so as to prevent undue harm in terms of loss of light, loss of outlook, overlooking or loss of privacy, or the creation of an overbearing effect.

Impact on 9 and 11 Park View

10.23 No’s 9 and 11 Park View are a pair a semi-detached, two-storey dwellings, located due north of the site. They are oriented towards the site with primary openings in the southern elevation, including two dormer windows in the roof space.

10.24 The proposed dwelling would be oriented north, towards the front elevations of no’s 9 and 11. The proposal would be two storey, with a steep roof pitch and low eaves height on the front elevation. There would be a separation distance of ~12.3m between the properties. It is noted that there are no primary inhabited rooms in the front elevation of the proposed dwelling and all openings are shown as being obscurely glazed on the submitted plans. Therefore, it is considered that no significant overlooking harm would occur as a result of the proposal. As the proposal is set directly in front of the front elevation of nos.9 and 11, officers do have some concerns regarding the overbearing and overshadowing impact to both the neighbouring and future occupants. However, given that the proposal meets the required separation distance of 12 metres as outlined in the Housebuilders Design Guide, refusal on this element of the scheme could not be reasonably sustained in this instance.

Impact on 13 and 15 Park View

10.25 No’s 13 and 15 Park View are terraced, two-storey dwellings, located west of the site. They both have two storey gable end projections out the rear of the properties. No. 13 has an opening(s) in the rear elevation but the gable end facing towards the property is blank and there is a detached garage between the property and the application site. No.15 has openings in both the ground floor and first floor of the gable end. The properties primary amenity space is to the rear, adjacent to the site.

- 10.26 The openings in the rear of no.13 are ~11.1 metres from the side elevation of the proposed dwelling. The openings in the rear of no.15 are ~7.8 metres from the proposed dwelling. There are two openings proposed in the western elevation of the proposal which serve the kitchen area. The site plan proposes that the existing, 2 metre timber fence would be retained. This would prevent any harmful overlooking harm to the occupants of no.13 or 15. It would appear that the first-floor window of no.15 is stained glass and therefore there would be no overlooking. However, there may still be potential for overlooking from the other openings in the rear elevations of nos. 13 and 15.
- 10.27 Notwithstanding the above, the erection of a dwelling in this location would have an oppressive and overshadowing impact on the neighbouring properties, and the limited amenity space which they have to the rear of their properties. It would not meet the separation distances outline within the Housebuilders Design Guide SPD. Therefore, officers have significant concerns regarding the harm to residential amenity of the neighbouring occupiers.

Impact on 11 Mount View Court.

- 10.28 11 Mount View Court is a two-storey, detached dwelling located to the east of the site. It is separated from park view by fencing and shrubbery. There are two ground floor openings in the side elevation which do not appear to serve primary inhabited space.
- 10.29 There are no openings proposed in the side elevation of the proposed dwelling. There would remain a separation distance of ~7.8 metres which is considered a sufficient distance given the lack of habitable rooms windows.

Impact on 1,3 and 5 Westburn Place

- 10.30 1, 3 and 5 Westburn Place are a terrace of two-storey properties located south east of the application site. The properties all have primary openings in the rear elevation which faces the rear of the proposed property.
- 10.31 The proposed dwelling would have openings in the rear elevation at both ground and first floor level serving primary inhabited spaces. These openings would all be set ~22 metres from the rear elevations of the properties on Westburn Place and therefore exceed the separation distance outlined in the Housebuilders Design Guide SPD. This is considered a sufficient distance to prevent any significant harm to the occupants of nos. 1, 3 and 5 Westburn Place.

Amenity of the future occupiers

- 10.32 Principle 16 of the Housebuilders Design Guide SPD states that: "All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan." Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: "All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces."

- 10.33 The proposed dwelling exceeds the minimum recommendations as set out within the NDSS for such a dwelling. The proposed development has a small patio area to the rear which would be small for a property of this scale. However, given the character of the terraced houses surrounding the property predominantly also have limited amenity space, a refusal of this element of the scheme could not be reasonably sustained in this instance.
- 10.34 It is considered the proposed development would have an oppressive and overshadowing impact on the nos.13 and 15 Park View and their limited amenity space, at the detriment of residential amenity. The proposal therefore fails to comply with LP24(b) of the Kirklees Local Plan, principle 6 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

Highway issues

- 10.35 Paragraph 111 of the NPPF 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.”
- 10.36 Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.
- 10.37 A two-bedroom dwelling is proposed at the site, and the Kirklees Highways Design Guide SPD states that at least two on-site spaces are required for dwellings of this capacity.
- 10.38 The application site is located adjacent to an adopted highway. A driveway is proposed to the side of the dwelling with tandem, off-street parking for two vehicles. KC Highways Development Management (HDM) are satisfied sufficient on-site parking has been proposed for such a development. Details of the surfacing of this can be controlled by condition, should the application be approved.
- 10.39 The applicant would also be required to demonstrate adequate bin storage and collection points however this can be secured by condition should the application be approved.
- 10.40 It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

REPRESENTATIONS

- 10.41 22 representations were received as a result of the above publicity, 14 in support and 8 in objection to the scheme. The full comments are available to view on the Council’s Planning Webpage, but a summary of the comments and officers responses are provided below:

10.42 Supporting comments:

- Improvement on existing
- Land is currently an eyesore
- Dwelling would improve street scene

Officers Response: Officers have undertaken a full assessment of the visual amenity of the proposed dwelling in the visual amenity section of this report.

- Meet shortage for housing

Officers Response: Officers have undertaken a full assessment of housing demand in the principle of development section of this report. Whilst the erection of one dwelling would make a very small contribution, this is not considered to outweigh the significant concerns set out in the main assessment.

- Good for community
- Good for area
- Local youths are causing bother
- No reason for the project not to go ahead

Officers Response: These comments have been noted. However, when taking into account the relevant material planning consideration set out in the main assessment, the proposal, in the opinion of officers, is not considered to comply with planning policy.

- No detriment to surrounding properties

Officers Response: Officers have undertaken a full assessment of the impact on neighbouring occupants in the residential amenity section of this report.

10.43 Objections:

- 4th time application has been submitted and no change in circumstance
- Application is contrary to inspectorates' previous appeal decision

Officers Response: Officers have taken the planning history into consideration during assessment of this application.

- Insufficient garden or amenity space

Officers Response: Officers have undertaken a full assessment of the impact on future occupiers in the residential amenity section of this report.

- Incompatible with design and character of area

Officers Response: Officers have undertaken a full assessment of the design in the visual amenity section of this report.

- Inadequate parking, existing parking is a problem
- Dangerous for pedestrians and children

Officers Response: Officers have undertaken a full assessment of the impact on highway safety in the highway safety section of this report.

- Overlooking and overshadowing existing properties and gardens

Officers Response: Officers have undertaken a full assessment of the impact on neighbouring occupants in the residential amenity section of this report.

- Too small plot for dwelling

Officers Response: Officers have undertaken a full assessment of size of the plot in the principle of development and visual amenity section of this report.

OTHER MATTERS

Carbon Budget

- 10.44 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.45 Due to the nature of the scheme, this being a proposal providing one new residential unit within the site, it is considered that one electric vehicle charging point for this dwelling should be provided to aid in the contribution to climate change. This matter could be conditioned should planning permission be granted.

Ecology

- 10.46 The existing site consists of an area of hardstanding which is considered to have low potential for protected species or biodiversity given the current use of the land and as the proposal would not include any demolition. It is therefore considered that the proposal is unlikely to cause harm to protected species.
- 10.47 However, Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD set out that proposals should provide net gains in biodiversity. Given this, the provision of bird boxes on the proposed dwelling are to be recommended as a condition should permission be granted.

Land Contamination

- 10.48 KC Environmental Health were consulted on the proposal and given the size of the development, full contaminated land conditions were originally considered unreasonable in this case. However, considering the findings of the coal mining risk assessment, KC Environmental Health consider an unexpected contamination land condition necessary, which should be applied should planning permission be granted.
- 10.49 The application site falls within the defined Development High Risk Area for Coal Mining. As such the applicant was required to submit a Coal Mining Risk Assessment which was referred to The Coal Authority for consultation.
- 10.50 The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. As such, should planning permission be granted for the proposed development, conditions would be added ensuring the applicant provided a scheme of intrusive investigations and clarifies the safety of the site.

10.51 The proposal therefore complies with LP51 and LP52 of the Kirklees Local Plan.

Construction

10.52 The Council's Environmental Health Officer has requested that construction site working times be conditioned if the application were approved. Construction practices are covered by other regulations, and it is not considered necessary or reasonable to attach a condition regarding site working times, but an informative regarding construction practices can be attached should planning permission be granted.

11.0 CONCLUSION

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

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. 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.

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2F90349)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2F90349>

2016/90818:

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f90818)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f90818>

Certificate of Ownership – Certificate A signed and dated.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 10-Aug-2023

Subject: Planning Application 2023/91556 Erection of single storey front extension and extension to rear with basement room and covered parking area with terrace above 12, Cross Park Street, Batley, WF17 5NX

APPLICANT

I Patel

DATE VALID

07-Jun-2023

TARGET DATE

02-Aug-2023

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Batley East

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed front extension, by reason of its scale and design, would result in the formation of an incongruous feature within the street scene, harmful to the character of the host property and the wider area. To permit the proposals would be contrary to Policy LP24, KDP1 & KDP2 of the House Extension & Alterations Supplementary Planning Document and advice within chapter 12 of the Nation Planning Policy Framework.

2. The proposed rear extension, by reason of its projection and width, would overdevelop the rear of the property resulting in the formation of an incongruous feature relative to the host property and the wider area. To permit the proposals would be contrary to Policy LP24, KDP1 & KDP2 of the House Extension & Alterations Supplementary Planning Document and advice within chapter 12 of the Nation Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub-Committee at the request of Ward Councillor Habiban Zaman for the reasons outlined below.

“Can I request this application to go to the planning committee as I do not agree with the officer’s recommendation for the application to be refused.

1. I do not agree with part of the property having a balcony. I believe a balcony would enhance the appearance of the property if it was across the whole area. I am not sure why it is being suggested to only have it as part of the property?

2. Other similar properties in the Batley East/West area have had approval which have been able to take advantage of a permitted development right to extend upwards

3. I believe the application would be highly beneficial for the family to enjoy which would give privacy to this family and prevent any overlooking on neighbours yards.”

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

2.0 SITE AND SURROUNDINGS:

2.1 12 Cross Park Street is a stone built, mid terraced property with a small, enclosed area to the front and a small yard area to the rear.

2.2 There is an open grassed area to the front with trees, other residential properties to the sides and rear.

3.0 PROPOSAL:

3.1 The applicant is seeking permission for a single storey extension to the front and a rear extension with a basement room, covered parking and roof terrace above.

3.2 The extension to the front is proposed to project 1.5m from the front of the dwelling, extending across the width of the dwelling with a lean to roof form for the most part although there would be a pitched detail over the central front door.

3.3 The rear extension is proposed to project 4.9m from the rear wall of the dwelling with a width of 4.1m for the basement and 5.1m for the covered parking area with stairs along the side up to the roof terrace. The terrace would have a width of 9.4m and glazed balustrading at a height of 1.6m.

3.4 The walls of the extensions would be constructed using stone with tiles for the roof covering of the front extension.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2023/90401 - Erection of single storey front extension and rear extension with basement room, covered parking and roof terrace above – Refused (appeal submitted to the Planning Inspectorate which is awaiting a decision)

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

5.1 Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants. However, the applicant is aware of concerns regarding the development proposals as an identical scheme has already been refused under 2023/90401. An appeal has been submitted but is currently undetermined.

5.2 Following the previous refusal, advice was provided to the applicant regarding an amended scheme to potentially address the reasons for refusal however, the applicant has chosen to submit an identical scheme.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

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

Supplementary Planning Guidance / Documents:

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

National Planning Guidance:

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

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application publicity ended 17/07/2022.
- 7.2 One response has been received. However, the content raises no material considerations in relation to the proposal.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory:

None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with the House Extensions & Alterations SPD and Chapter 12 of the NPPF, regarding design. In this case, the principle of extending the property is considered acceptable, subject to being assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.
- 10.2 Planning permission was refused for an identical scheme (2023/90401) earlier this year and which is now subject to the appeal process. There have been no changes proposed as part of this planning application now under consideration and nor have there been any changes to either local or national planning policy.

Visual Amenity

- 10.3 Key Design Principle 1 of the House Extension & Alterations SPD does state that extensions and alterations to residential properties should be in keeping with the appearance, scale, design and local character of the area and the street scene. Furthermore, Key Design Principle 2 of the House Extensions & Alterations SPD goes on to state that extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and details.
- 10.4 *Front Extension:* Paragraph 5.13 of the House Extensions & Alterations SPD states that front extensions are highly prominent in the street scene. As per paragraph 5.14 of the SPD, careful consideration needs to be given to ensure they are carefully designed to limit the potential for them to erode the character, they should be small and subservient to the main house and constructed using appropriate materials.
- 10.5 The host property does have a small amenity space that extends across the frontage of the house and which separates it from the back of the footway by a low boundary wall. There are no front extensions or similar developments within the row of terraced properties within the immediate vicinity of the site. In this case, the proposal is to erect a large front extension that would extend across the whole frontage of the property and extend up to the back of the footway, infilling the existing amenity space and removing the boundary wall. This would not be in keeping with the host property and would introduce a form of development that is not evident within the row of terraced properties. Whilst it is acknowledged that the proposed materials would match the main house with the use of stone for the walling with tiles for the roof covering. For the reasons outlined above, the front extension would detract from the visual amenity of the host building and terrace as a whole and would be harmful to visual amenity, contrary to Policy LP24 of the KLP, Principles 1 and 2 of the House Extensions and Alterations SPD as well as the aims of chapter 12 of the NPPF.

- 10.6 *Rear Extension including terrace:* Paragraphs 5.1 and 5.2 of the House Extensions & Alterations go into further specific detail regarding rear extensions requiring development to maintain the quality of the residential environment, respect the original house and use appropriate materials. Paragraph 5.28 of the House Extensions & Alterations SPD does support appropriately designed and sited balconies which do not negatively affect neighbouring properties or alter the local character of the area.
- 10.7 The proposed rear extension would cover a significant area of the land to the rear of the dwelling. Although it is noted that the extension has been designed to be partially open to provide a parking canopy, the scheme would not appear subservient, resulting in the overdevelopment of the host property and associated curtilage. Furthermore, the proposed extension would exceed the recommended projection for rear extensions set out in the House Extensions & Alterations SPD whereby there has been no justification or mitigating factors set out by the applicant or which have been viewed on site by officers. In addition, the incorporation of a terrace at first floor would increase the overall scale of the rear extension. Once again, it is acknowledged that the walling material for the extension would be constructed using stone to match the main house. However, this is not considered to overcome the significant concerns that officers have in terms of the scale of the extension. In all, it is considered by officers that the rear extension with terrace is not considered to be acceptable in terms of visual amenity.
- 10.8 For the reasons outlined above, the proposals for 12 Cross Park Street do not comply with Policy LP24(a) of the Kirklees Local Plan in terms of the form, scale and layout, KDP 1 & 2 of the House Extensions & Alteration SPD and the aims of chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 10.9 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The House Extensions & Alterations SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light and Key Design Principle 6 on preventing overbearing impact.
- 10.10 There are no properties opposite the front which could be affected by the works proposed.
- 10.11 *Impact on 5 Bridge Street:* The front extension would have minimal impact on the adjoining dwelling to the north-west in terms of overshadowing, overbearing or overlooking. The neighbours rear wall has no windows which would be affected by the rear extension and first floor terrace proposed. With regard to the impact on the adjoining 5 Bridge Street, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact within the House Extensions & Alterations SPD, policy LP24 of the KLP (c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.

- 10.12 *Impact on 16 Cross Park Street:* The front extension would be at a slightly lower level than the adjoining dwelling. Given the relationship between the properties, the single storey front extension would not result in any overshadowing, overbearing or overlooking. The rear extension would have limited impact on the adjoining dwelling to the south-east despite the projection proposed given the land is used for parking and the windows are set back from the shared boundary. However, the first-floor terrace would have the potential for overlooking this could be mitigated by the imposition of a condition requiring the erection of screening. With regard to the impact on the adjoining 16 Cross Park Street, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact within the House Extensions & Alterations SPD, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals, on balance and with the inclusion of a condition for the erection of adequate screening, are considered to be justifiable.
- 10.13 *Impact on 1 Bridge Street:* The proposals to the rear of the dwelling would not have a significant impact on the flats to the rear with regard to overbearing or overshadowing. Although there is a terrace proposed, the potential for overlooking is limited over and above the existing windows to the rear of the property. With regard to the impact on the 1 Bridge Street, the scheme has been considered in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact within the House Extensions & Alterations SPD, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF and the proposals are considered to be acceptable.
- 10.14 Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5, 6 & 7 of the House Extensions & Alterations SPD and Paragraph 130 (f) of the National Planning Policy Framework.

Highway Safety

- 10.15 The proposals would result in no significant intensification of the domestic use. It is noted that parking provision would reduce from two spaces to one space. However, given the potential for on-street parking, this is considered to represent an, on balance, sufficient provision. Bin storage for the dwelling would not be moved as part of the proposals. As such, the scheme would not represent any additional harm in terms of highway safety and would comply with Policies LP21 and LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extensions & Alterations SPD.

Other Matters

- 10.16 *Carbon Budget:* The proposal is a small-scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

Representations

- 10.17 One representation has been received. The concerns raised relate to potential damage to the cobbles at the rear from construction traffic. This is not a material consideration.
- 10.18 Ward Councillor H Zaman requested the application to be referred to planning committee for the reasons set out in section 1.0 above. Officers respond to the reasons as follows:
1. I do not agree with part of the property having a balcony. I believe a balcony would enhance the appearance of the property if it was across the whole area. I am not sure why it is being suggested to only have it as part of the property?
Officer response: This is noted. However, the reason an amendment was recommended following the original refusal was to minimise the overall bulk and massing of the rear extension.
 2. Other similar properties in the Batley East/West area have had approval which have been able to take advantage of a permitted development right to extend upwards.
Officer response: This is noted however, there are no permitted development rights to erect a raised platform e.g. the balcony/terrace.
 3. I believe the application would be highly beneficial for the family to enjoy which would give privacy to this family and prevent any overlooking on neighbours yards."
Officer response: This is noted. The application is not recommended to be refused on residential amenity grounds.

11.0 CONCLUSION

- 11.1 The proposed front extension, by reason of its scale and design, would result in the formation of an incongruous feature within the street scene, harmful to the character of the host property and the wider area. To permit the proposals would be contrary to Policy LP24, KDP1 & KDP2 of the House Extension & Alterations SPD and advice within chapter 12 of the Nation Planning Policy Framework.
- 11.2 The proposed rear extension, by reason of its projection and width, would overdevelop the rear of the property resulting in the formation of an incongruous feature relative to the host property and the wider area. To permit the proposals would be contrary to Policy LP24, KDP1 & KDP2 of the House Extension & Alterations SPD and advice within chapter 12 of the Nation Planning Policy Framework.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Background Papers:

Current application

[Planning application details | Kirklees Council](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f91556>

Certificate of Ownership – Notice served on neighbouring properties and Certificate B signed and dated.

Previous refusal

[Planning application details | Kirklees Council](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f90401>

This page is intentionally left blank