

Public Document Pack



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

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Wednesday 11 October 2023

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Meeting Room 3 - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 19 October 2023**.

(A coach will depart the Town Hall, at 10.05am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Huddersfield Town Hall.)

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

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

A handwritten signature in black ink, appearing to read 'Julie Muscroft', on a light-colored background.

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

The Planning Sub-Committee (Huddersfield Area) members are:-

Member

Councillor Sheikh Ullah (Chair)
Councillor Donna Bellamy
Councillor Paola Antonia Davies
Councillor James Homewood
Councillor Jo Lawson
Councillor Manisha Roma Kaushik
Councillor Musarrat Khan
Councillor Susan Lee-Richards
Councillor Imran Safdar
Councillor Andrew Marchington
Councillor Tony McGrath
Councillor Mohan Sokhal
Councillor Bernard McGuin

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

Substitutes Panel

Conservative

B Armer
D Hall
A Gregg
R Smith
J Taylor
M Thompson

Green

K Allison
A Cooper

Labour

B Addy
A Anwar
S Hall
P Moore
E Firth
T Hawkins
H Zaman

Liberal Democrat

J Lawson
A Munro
A Pinnock
A Smith

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Sub-Committee

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

2: Minutes of previous meeting

1 - 4

To approve the Minutes of the meeting of the Sub-Committee held on 7 September 2023.

3: Declaration of Interests and Lobbying

5 - 6

Members will be asked to say if there are any items on the Agenda in which they have any disclosable pecuniary interests, any other interests, or been lobbied, which may prevent them from participating in any discussion of the items or participating in any vote upon the items.

4: Admission of the Public

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

5: Deputations/Petitions

The Sub-Committee will receive any petitions and/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.

7: Site Visit - Application No: 2023/91462

Erection of single storey side extension and enlarged porch with associated external alterations at 17 Maplin Avenue, Salendine Nook.

Ward affected: Lindley

Estimated time of arrival at site: 10.20am

Contact: Tom Hunt, Planning Services

8: Site Visit - Application No: 2023/90876

Variation of conditions 4 & 5 (hours of use) on previous permission 2018/93872 for replacement of existing Redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path at Colne Valley High School, Gillroyd Lane, Linthwaite.

Ward affected: Colne Valley

Estimated time of arrival at site: 10.40am

Contact: John Holmes, Planning Services

9: Site Visit - Application No: 2023/93823

Variation of condition 2 (plans and specifications) and 5 (soft landscaping scheme) on previous permission 2016/93243 for erection of 17 dwellings at Thirstin Road, Honley (formerly Thirstin Mills).

Ward affected: Holme Valley North

Estimated time of arrival at site: 11.05am

Contact: Farzana Tabasum, Planning Services

10: Site Visit - Application No: 2022/92799

Erection of extensions, conversion of existing attached barn to living accommodation and associated works at 17 Town Gate, Upperthong.

Ward affected: Holme Valley South

Estimated time of arrival at site: 11.25am

Contact: John Holmes, Planning Services

Planning Applications

7 - 8

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 16 October 2023.

To register, please email governance.planning@kirklees.gov.uk or phone Sheila Dykes 01484 221000 (ext 73896) or Andrea Woodside 01484 221000 (ext 74993).

11: Planning Application - Application No: 2022/92799

9 - 26

Erection of extensions, conversion of existing attached barn to living accommodation and associated works at 17 Town Gate, Upperthong.

Ward affected: Holme Valley South

Contact: John Holmes, Planning Services

12: Planning Application - Application No: 2023/90876 27 - 40

Variation of conditions 4 & 5 (hours of use) on previous permission 2018/93872 for replacement of existing Redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path at Colne Valley High School, Gillroyd Lane, Linthwaite.

Ward affected: Colne Valley

Contact: John Holmes, Planning Services

13: Planning Application - Application No: 2022/93823 41 - 60

Variation of condition 2 (plans and specifications) and 5 (soft landscaping scheme) on previous permission 2016/93243 for erection of 17 dwellings at Thirstin Road, Honley (formerly Thirstin Mills).

Ward affected: Holme Valley North

Contact: Farzana Tabasum, Planning Services

14: Planning Application - Application No: 2023/91462 61 - 74

Erection of single storey side extension and enlarged porch with associated external alterations at 17 Maplin Avenue, Salendine Nook.

Ward affected: Lindley

Contact: Tom Hunt, Planning Services

Planning Update

An update report providing further information on matters raised after the publication of the agenda will be added to the online agenda prior to the meeting.

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Thursday 7th September 2023

Present: Councillor Sheikh Ullah (Chair)
Councillor Paul Davies
Councillor James Homewood
Councillor Jo Lawson
Councillor Mohan Sokhal
Councillor Donna Bellamy
Councillor Tony McGrath
Councillor Paola Antonia Davies
Councillor Andrew Marchington
Councillor Susan Lee-Richards

Apologies: Councillor Imran Safdar
Councillor Bernard McGuin

1 Membership of the Sub-Committee

Councillor E Firth substituted for Councillor Kaushik.

Apologies for absence were received on behalf of Councillors McGuin and Safdar.

2 Minutes of previous meeting

RESOLVED – That the Minutes of the Meeting held on 20 July 2023 be approved as a correct record.

3 Declaration of Interests and Lobbying

Councillors P Davies, Homewood, J D Lawson, Sokhal and Ullah advised that they had been lobbied on Agenda Item 8 (Application for Definitive Map Modification Order).

Councillor Bellamy advised that, in relation to Agenda Item 10, she is a Member of Holme Valley Parish Council.

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 for a Definitive Map Modification Order (DMMO) to record Colders Lane, Meltham, as a Public Bridleway on the Definitive Map and Statement

Site visit undertaken.

8 Application for a Definitive Map Modification Order - Colders Lane, Meltham

The Sub-Committee gave consideration to a report which set out an application for a Definitive Map Modification Order to record Colders Lane, Meltham, as a Public Bridleway on the Definitive Map and Statement.

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

RESOLVED – That a Definitive Map Modification Order be made under Sections 53(c)(ii) and 53 (c)(iii) of the Wildlife and Countryside Act (para. 13 refers) to (i) delete Meltham Footpath No.75 (draft map 1 points A-B refers) from Leygards Lane to Colders Drive and (ii) add a restricted byway from Legards Lane to No.67 Colders Lane (draft map 2 points A-C refers), which shall have a variable width of between 2.5m and 9m (map 2 refers).

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

For: Councillors Bellamy, E Firth, P Davies, P A Davies, Homewood, J D Lawson, McGrath, Marchington, Lee-Richards, Sokhal and Ullah (11 votes)

Against: (no votes)

9 Planning Application - Application No: 2022/94118

The Sub Committee gave consideration to Application 2022/94118 – External and internal alterations to convert one dwelling into two dwellings (as the original buildings) with parking to the rear at 2-4 Lumb Lane, Almondbury.

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;

- three years to commence development
- development to be carried out in accordance with the approved plans and documents
- parking provided in accordance with the submitted plans prior to the development being brought back into use and retained thereafter
- permeable surfacing to new parking space to serve no.2
- area shown for the turning of vehicles on site layout (vehicles tracking) plan no.P02/P to be retained without obstruction for the turning of vehicles

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

For: Councillors Bellamy, E Firth, P Davies, P A Davies, Homewood, J D Lawson, McGrath, Marchington, Lee-Richards, Sokhal and Ullah (11 votes)

Against: (no votes)

10

Planning Application - Application No: 2023/92035

The Sub Committee gave consideration to Application 2023/92035 – Demolition of four existing agricultural buildings and erection of replacement agricultural building at 80 Cliff Road, Holmfirth.

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;

- three years to commence development
- development to be in full accordance with submitted plans
- plinth to be coursed natural stone to harmonise with the stone at 80 Cliff Road
- roof colour to be medium or dark grey
- all redundant buildings to be permanently removed before new one brought into use
- scheme of land restoration to be submitted and approved, including timescale of works to be undertaken, before new building is first use
- standard condition on unexpected contamination
- installation of sparrow fence

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

For: Councillors Bellamy, E Firth, P Davies, P A Davies, Homewood, J D Lawson, McGrath, Marchington, Lee-Richards, Sokhal and Ullah (11 votes)

Against: (no votes)

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KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

LOBBYING

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

Signed:

Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

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

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

Lobbying

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

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

PLANNING POLICY

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

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

National Policy/ Guidelines

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

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

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

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

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

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 19-Oct-2023

Subject: Planning Application 2022/92799 Erection of extensions, conversion of existing attached barn to living accommodation and associated works (within a Conservation Area) 17, Town Gate, Upperthong, Holmfirth, HD9 3UX

APPLICANT

T Fleming

DATE VALID

22-Aug-2022

TARGET DATE

17-Oct-2022

EXTENSION EXPIRY DATE

03-Mar-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: Holme Valley South

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 This application has been brought to the Huddersfield Planning Sub-Committee due to the significant number of representations which have been received.
- 1.2 This is in accordance with the Council's Scheme of Delegation set out in the Constitution.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site relates to 17 Town Gate, which is an unlisted two storey dwelling, and an attached barn which is situated in Upperthong Conservation Area and fronts on to Town Gate. The street is narrow and surrounded on both sides by vernacular stone buildings, and drystone walls which are typically cottages and farm buildings dating back to at least the 18th Century.
- 2.2 The Royal Oak Inn is situated directly to the west of the site, to the further west is a historic footpath (HOL/72/20) which runs in a north / south direction. Grade II listed buildings are 30m to the west and 65m to the east of the site with intervening buildings between.
- 2.3 The southern part of the site is a large undeveloped area of land which is part of the ownership of the applicant, with the curtilage associated with the dwelling being the northerly and eastern part of this area of open land.
- 2.4 The south facing rear elevations of the historic buildings along Town Gate are vernacular in style, with mullioned windows, stone elevations and mostly linear stone slate pitched roofs, which all contribute to the character of the settlement. Single storey extensions have been constructed to the rear of several buildings along the row and some of these make a negative contribution to the character of the conservation area, including the white conservatory on the rear of the application building. Despite this, the historic character and function of the buildings along Town Gate can still be understood, with their simple roof forms and vernacular materials and detailing surviving.
- 2.5 The overall site is 0.19 hectares in size.

3.0 PROPOSAL:

- 3.1 The applicant is seeking permission for the following development:
'Erection of extensions, conversion of existing attached barn to living accommodation and associated works (within a Conservation Area)'

- 3.2 The works would see conversion, partial demolition and alteration to the existing part of the building to accommodate living accommodation, single storey extensions of the building to the rear and side, and associated alterations.
- 3.3 The single storey extension to the side would have a 2.1m projection to the side (reducing to 1.6m at the front of this part of the proposal) with a height to the eaves of 3.2m and height to the topmost part of the lean to roof of 4.3m. The single storey side element would be set back from the front by 2.3m.
- 3.4 The single storey element to serve a living room would project 3m from the rear of the existing rear wall. The part to serve the dining room would project 3.6m from the rear. The eaves height would be 3m with the single storey element to serve the living room tying into the existing rear roof slope, and the part to serve dining room being 4.4m to the topmost part of the lean-to roof.
- 3.5 In addition, the existing front porch would be amended to a stone and slate roof, a number of alterations including insertion of 4 rooflights and insertion of a window to the north elevation, insertion of 6 roof lights and one window to the southern elevation.
- 3.6 The proposal would see part of the existing building, to the rear, extended at the first-floor level. This would be 2.5m x 3.3m and to the south-western corner of the building. This element of the proposal would be above the vehicular access and would serve a bedroom. One window would be inserted to the rear elevation as part of this element of the proposal and a window in the existing gable wall.
- 3.7 Hardstanding would be created to the rear, the submitted plans indicate block paving to this element of the scheme. The hard standing would serve a vehicular parking and turning area and is located to the rear of the property. It is considered likely this element of the scheme could be undertaken in any case by utilising 'permitted development' rights.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 None

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

- 5.1 Following consideration of the proposal as initially submitted, the Council's Conservation Team stated they did not support the proposal and suggested amendment be considered by the applicant.
- 5.2 In light of the suggested amendment the applicant submitted further amendments on 5th May 2023 (drawings 4416-06-04a, 4416-06-05a & 4416-06-06a) and a further supporting statement in addition (dated 5th May), which satisfactorily addressed the concerns raised by the Conservation Team (discussed in greater length in the following report).

5.3 Within their consultation response the Council's Highways Development Management Team requested further information, in relation to swept path analysis for vehicular traffic using the proposed access. Drawings 4416-07-02 & 4416-07-04 were subsequently submitted, on 2nd October 2023, which provided this detail.

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) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

6.2 The site within the Strategic Green Infrastructure Network, and the Conservation Area, as identified within the Kirklees Local Plan. The site also falls within the Holme Valley Neighbourhood Plan Area. The Holme Valley Neighbourhood Development Plan was adopted on 8th December 2021 and therefore forms part of the Development Plan. Within the Holme Valley Neighbourhood Development Plan, the site is within a Landscape Character Area (no.4 – River Holme Settled Valley Floor).

6.3 Policies relevant to the consideration of this application are as follows:

Kirklees Local Plan (2019):

LP1 Achieving Sustainable Development
LP2 Place Shaping
LP21 Highway Safety
LP22 Parking Provision
LP24 Design
LP30 Biodiversity and Geodiversity
LP31 Strategic Green Infrastructure Network
LP35 Historic Environment
LP51 Protection and Improvement of Local Air Quality
LP52 Protection and Improvement of Environmental Quality

Holme Valley Neighbourhood Development Plan

Policy 1 – Protecting and Enhancing the Landscape Character of Holme Valley.

Policy 2 – Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design.

Policy 12 – Promoting Sustainability.

Policy 13 – Protecting Wildlife and Securing Biodiversity Net Gain.

Supplementary Planning Guidance / Documents:

House Extensions and Alterations SPD

National Planning Policy:

- Chapter 2 Achieving sustainable development
- Chapter 12 Achieving well-designed places
- Chapter 14 Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 Conserving and enhancing the natural environment
- Chapter 16 Conserving and enhancing the historic environment

Legislation

- The Town & Country Planning Act 1990 (as amended).
- The Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990
- The Planning and Compulsory Purchase Act 2004.
- The Conservation of Habitats and Species Regulations 2017

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was initially advertised with comments invited to be submitted by 28th September 2022. Following the receipt of amended plans the application was further advertised inviting comments to be submitted by 31st May 2023. Whilst further information was subsequently submitted in relation to access details (requested by the Highways DM Team) it is considered that the scheme as advertised adequately alerted the public to the nature of the application and further advertisement was not necessary in this case.
- 7.2 There has been a significant number of representations received, with 152 received in total (31 following the re-advertisement of the proposal). Including from Holme Valley Parish Council. 117 are in objection to the proposal, raising the following (summarised) concerns:
- Object to raising of the boundary wall adjacent to neighbouring public house car park
 - Proposal would impact on the amenity of customers of the public house
 - Impact of the proposal upon the view from the adjacent public house
 - Detrimental impact on the long term viability of the public house
 - The proposal would have a detrimental impact on Visual Amenity / Character of the host property and wider locality
 - Loss of the public house has further consequences for local communities
 - The Council has a responsibility to help and support local businesses
 - Approval of an increased boundary adjacent to the public house would be failure on behalf of the Council in exercising statutory duties
 - Overshadowing of the public house adjacent to the site.
 - Proposal against interests of people of Upperthong
 - Purchased property in this locality 48 years ago with a key reason being the central focal point of the adjacent public house
 - Loss of trade and financial impact upon the public house as a result of the proposal
 - Impact of the proposal upon bats
 - Out of keeping and will negatively impact on the Conservation Area
 - Impact of the proposal upon access and highway safety given sightlines of the access
 - Turning manoeuvres as a result of the proposal will need to be undertaken within the main road

- It is likely the case the remaining green space of the site is intended to be developed
- The proposal is contrary to local policies
- Discrepancies in the plans in relation to the position of the garage
- Change of use to domestic curtilage / the proposal would impact on wildlife
- Application form states the site cannot be viewed from the highway when it can be
- Planting of laurels at odds with desire for natural species within the Conservation Area
- The proposal will lead to the loss of Green Belt land
- No impact assessment has been conducted (LVIA / TVIA)
- Proposal would likely lead to prolonged disruption to the village
- No Site notice put in place
- Right to light for no.15a and the impact of the proposal from the 25 / 45 degree rule from the proposed two storey extension
- Land levels increase impact of the proposal upon 15a
- Red line should only extend to the land the development taking place within
- Ownership certificate incorrect, not clear if they own the boundary wall
- Delivery of materials during construction
- Emergency Vehicles struggle to get down Town Gate
- Method of construction of the boundary wall and foundations required to ascertain if the correct ownership certificate has been signed
- The access to the site is at a pinch point in the road
- Construction up to the boundary requires a structural survey to be undertaken
- Heritage statement is misleading
- Historic maps show a gap between the host property and adjacent public house
- Wall and flat roof garage not in keeping with the locality
- Loss of privacy for properties to the rear
- View is visible from the street and is not simply lost for users of the public house
- Pub was a hub during covid, its loss would have a big impact in the locality
- Impact upon services / infrastructure, roads cannot cope with heavy traffic
- Proposal would break the building line
- Detrimental impact upon the Conservation Area contrary to NPPF and LP35
- Proposal would be contrary to policy LP24 and LP48
- Health and safety impact in relation to construction workers parking
- A condition restricting the extent the laurel bush height can reach is required
- Impact in relation to construction activities
- No inclusion of green technologies such as electric vehicle parking
- Welcome removal of garage and raising of boundary wall, do not support the planting of the laurel bush.
- Flood risk from the proposed hard surfaced areas
- Consider a condition is necessary to ensure that no planning application can be submitted in the future in relation to remaining land within the submitted red line boundary, which is intended to remain free from development.
- Any permission should be subject to condition requiring temporary structures to be re sited or no higher than the boundary wall to the public house
- Construction hours should be controlled by condition
- Proposal would provide significant financial gain

- 7.3 With regard to letters of support, a total of 35 have been received, making the following summarised points:-
- Removal of UPVC windows and porch a welcome improvement
 - The proposal will improve / maintain the heritage integrity of the site
 - Removal of the roller shutter welcomed
 - Off road parking will ease congestion
 - Works appear in keeping with the Conservation Area
 - Glad to see development as a family home rather than as a housing estate development across the entire site
 - Stone wall will be in keeping
 - People have a right to privacy
 - Care appears to have been made putting together the application
 - Good choice of materials selected as part of the proposal
 - Only recently part of the pub car park began being used as a beer garden
 - Established similar precedent
 - Boundary treatment visually attractive and benefits in reducing noise
 - Barn and pigsty used to be in the area now a car park serving the public house

7.7 The representations received are addressed within the following report.

7.8 Holme Valley Parish Council (comments on the original proposal):

“Support in principle because the highways access and the street frontage would be improved but, given the level of local concern, the Parish Council urges Kirklees to encourage dialogue between the contesting parties to reach a compromise on the height of the adjoining wall”.

8.0 CONSULTATION RESPONSES:

8.1 The following have been consulted regarding this proposal:
KC Conservation Team – No objection subject to conditions
KC Highways DM – No objection subject to conditions

8.2 The response of the consultees is detailed in greater depth with the ‘Appraisal’ section of this report.

9.0 MAIN ISSUES

- Principle of development
- Impact upon the character and appearance of the area (including impact upon historic environment)
- Residential amenity
- Highway issues
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

10.1 The site is within the Upperthong Conservation Area and the Strategic Green Infrastructure Network 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 chapter 2 of the National Planning Policy Framework.

- 10.2 Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.
- 10.3 Taking account of the development proposed, and the designation(s) of the site, in this case, it can be stated that the principle of development is acceptable subject to the assessment of impacts on visual and residential amenity, the impact on the Conservation Area, as well as other matters which are discussed in greater detail in the following report.

Impact upon the character and appearance of the area (including impact upon historic environment)

- 10.4 Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design. Key Design Principles 1 and 2 of the Council’s adopted House Extensions & Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality.
- 10.5 Policy 1 of the Holme Valley NDP sets out that development proposal should demonstrate how they have been informed by the key characteristics of the Local Character Assessment (LCA), in this case River Holme Settled Valley Floor (LCA4). This sets out the following:

‘One key characteristic of the area is framed views from the settled valley floor to the upper valley sides and views across to opposing valley slopes and beyond towards the Peak District National Park.

- *Framed views from the settled valley floor to the upper valley sides and views across to opposing valley slopes and beyond towards the Peak District National Park.*
- *Boundary treatments comprised largely of millstone grit walling. The stone walling which runs parallel with Upperthong Lane is representative of local vernacular detailing.*
- *A network of Public Rights of Way (PRoW) including the Holme Valley Riverside Way which follows the River Holme from Holmbridge through Holmfirth and downstream. National Cycle Route no. 68 follows minor roads through Upperthong towards the centre of Holmfirth before climbing the opposing valley slopes.*
- *Mill ponds reflect industrial heritage and offer recreation facilities.*

Key built characteristic of the area are

- *Mill buildings, chimneys and ponds, including Ribbleden Mill with its chimney, associated mill worker houses and ashlar fronted villas link the area to its industrial and commercial heritage and are a legacy of the area’s former textile industry.*
- *Terraced cottages and distinctive over and under dwellings feature on the steep hillsides with steep ginnels, often with stone setts and narrow roads.*

- *Narrow winding streets with stepped passageways, stone troughs and setts characterise the sloping hillsides above Holmfirth town centre.*
- *Small tight knit settlements on the upper slopes are characterised by their former agricultural and domestic textile heritage.*
- *There are mixed areas of historic and more recent residential and commercial developments.'*

10.6 Policy 2 of the Holme Valley NDP states that new development should protect and enhance local built character and distinctiveness, strengthen the local sense of place by respecting the existing grain of development in the surrounding area, use local materials and detailing which add to the quality or character of the surrounding environment, respect the scale, mass, height and form of existing buildings in the locality and their setting.

10.7 Paragraph 5.6 of the House Extensions and Alterations SPD sets out that single storey extensions to rear should:

- be in keeping with the scale and style of the original house;
- not normally cover more than half the total area around the original house (including previous extensions and outbuildings);
- not exceed 4 metres in height;
- not project out more than 3 metres from the rear wall of the original house for semi-detached and terraces houses or by 4 metres for detached properties;
- where they exceed 3m in length the eaves height should generally not exceed 2.5 meters; and
- retain a gap of at least 1 metre from a property boundary, such as a wall, fence or hedge.

10.8 Paragraph 5.17 of the House Extensions and Alterations SPD sets out that single storey extensions to the side should:

- not extend more than two thirds of the width of the original house;
- not exceed a height of 4 metres; and
- be set back at least 500mm from the original building line to allow for a visual break.

10.9 Paragraph 5.13 relates to front extensions and details that as front extensions are highly prominent in the street scene and can erode the character of the area if they are not carefully designed, large extensions (single and two-storey) and conservatories on the front of an existing house will not normally be acceptable and are considered likely to appear particularly intrusive.

10.10 Section 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character of appearance of Conservation Areas. This is echoed within policy LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF.

10.11 Paragraph 195 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset the Local Planning Authority should give great weight to the heritage asset's conservation irrespective of the level of harm.

- 10.12 LP35 of the Kirklees Local Plan requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets. This has been thoroughly assessed through the application process.
- 10.13 At paragraphs 199 – 202 the NPPF is clear, that where development leads to substantial harm, this is necessary to achieve substantial public benefits that outweigh that harm or, in the case of less than substantial harm this should be weight against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.14 The scheme as initially submitted sought a larger two storey development to the dwelling and also a detached garage, as well as the raising of a boundary wall which is shared / adjacent to the public house. These elements of the scheme were removed within an amended proposal in response to initial concerns which were raised by the Council's Conservation Team. The two storey element of the scheme is reduced and features one small opening serving a bedroom in the original gable. Paragraph 5.8 of the SPD sets out the general parameters against which such extensions would be considered. In this case, the limited size and layout of the extensions would comply with these parameters.
- 10.15 With regard to the proposal which is under consideration (the amended scheme received 5th May 2023), the Conservation Team were further consulted and set out that with regard to the front porch this has been amended to stone and slate roofed porch which is accepted, as it reflects the local vernacular of the area and is an enhancement of the existing UPVC porch.
- 10.16 Within the initial response of the Conservation Team, they suggest the existing gated field access be used / retained to allow full conversion of the existing building. Subsequently justification for loss of this access was provided by the applicant's agent, within an email dated 5th May. Within their email they set out that a swept path analysis of both the existing barn access and the existing gated field access confirms that it is not possible to turn in or out of the gated field access without multiple manoeuvres. They go on to state that the existing barn access will allow a car to turn both in and out in a forward gear.
- 10.17 The justification provided for not using the existing access is accepted by the Conservation Team, they further advise that they consider the amendment of the proposal reducing part of the proposed two storey element to single storey overcomes their previous concerns. Concerns raised by the Conservation Team in relation to the detached garage and raising of the boundary wall have been addressed as these elements of the proposal have been removed. Conditions recommended include submission of details of external materials and window details to be agreed in writing by the Local Planning Authority.
- 10.18 The proposed development has reduced the scale and amount from that for which permission was initially sought, and has redesigned the extensions which are proposed, with the scheme now seeking principally single storey additions.

- 10.19 The additions and alterations are considered not to have a harmful impact upon the historic character of the building and the wider Conservation Area, following amendment of the scheme from that as initially proposed. It is considered the additions would be subservient, and subject to inclusion of the conditions recommended by the Conservation Team, would not harm the character and setting of the Conservation Area. The proposals are considered to be of a respectful design and material palette and would create an enhancement of the conservation area through the changes to the existing porch. The other extensions and alterations are confined to the rear of the property and would address the garden area of the dwelling. Whilst this is visible from the public footpath running along the western boundary of the site, the extensions and alterations would appear as largely organic changes to the building with a 'neutral' impact on the significance of the conservation area.
- 10.20 It is recommended the conditions of approval include a requirement for the materials of construction used for the access and turning area to be used by vehicles, to ensure these are in keeping with the historic character of the host property and its setting.
- 10.21 The proposal is considered to have been revised to a scale and design which will have an acceptable visual impact and will lead to some small-scale improvements in relation to previous interventions which have taken place. Whilst there would be the insertion of roof lights, a condition could be included to ensure these are of a conservation style and which remain in keeping with the host property.
- 10.22 It is therefore concluded that, with the inclusion of conditions, the proposal is acceptable in this regard, in accordance with the aforementioned policy and legislation.

Residential Amenity

- 10.23 Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing. Principle 7 of the House Extensions SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained. Principle 16 goes requires that proposals maintain appropriate storage arrangements for waste.
- 10.24 Policy 2 of the HVNDP sets out that proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings and prevent or reduce pollution as a result of noise, odour, light and other causes. Light pollution should be minimised and security lighting must be appropriate, unobtrusive and energy efficient.

- 10.25 Concerns were raised in regard to the impact of the proposal upon the nearest neighbouring residential occupier (no.15a – Stone House). There are a number of openings, at the first-floor level, in the side elevation of no.15a which face the application site. The side elevation of no.15a appears to form the boundary with the application site. A recent addition to the rear of no.15a has, what appear to be, screened windows on this boundary.
- 10.26 Given the predominantly single storey design of the proposed extensions, with the first-floor element being of a modest scale, it is considered the proposal would not have a significant impact upon the occupiers of no.15a in terms of causing overshadowing or being unduly oppressive / overbearing.
- 10.27 In terms of overlooking, the only side opening proposed towards no. 15A is a doorway which is within the single storey side extension. As such, the proposal is not considered to lead to an unacceptable level of overlooking. The openings to the rear are at a distance in excess of 30m from properties to the south of the site. The openings to the rear are therefore considered to be sufficient distance from neighbouring occupiers that they would not lead to unacceptable levels of overlooking from occurring. In addition, the proposed development is at a distance from these properties such that it is concluded the development would not be unduly oppressive and would not lead to an unacceptable level of overshadowing.
- 10.28 The creation of the access would see small scale increase of traffic movements in proximity to the adjacent public house. It is considered this would not be to a level for which a reason for refusal could be substantiated in this case. The scale of the proposed extensions, being at a land level lower than the adjacent public house, would not lead to a significant level of overshadowing or be unduly oppressive / overbearing to users and the occupier(s) of the adjacent public house. A single new opening would be created facing the public house, this is a secondary window to bedroom 5 in the existing ‘barn’ element of the building. Given its scale, function and separation to the car park/side elevation of the public house, it is concluded this would have a neutral impact with regard to overlooking of this property. This conclusion is on the basis this window would subject to condition that it is fixed shut, and obscurely glazed, to ensure it would not unduly impact the public house, its operational flexibility or its residents.
- 10.29 The proposal would improve the potential for keeping bins to the rear of the property, by improving the access to the rear in terms of surfacing. In addition, it is considered that a suitable level of amenity space would remain for users of the site. In terms of the impact of the proposal upon the occupiers of the site, as a result of living accommodation being closer to the existing public house. The new window proposed to the gable facing the public house would be subject to condition that it is fixed closed and obscure glazed, which would ensure there is no significant noise disturbance from activities at the public house. In addition, whilst the proposal would see built form closer, it is considered the impact of the development would not be significantly greater than that of the existing dwelling and pressure upon the operation of the public house in relation to the residential use of the application site is not considered to be significantly increased as a result of the proposed development.
- 10.30 It is therefore concluded that the proposed development would have an acceptable impact upon the residential amenity of existing and future occupiers and meets the requirements of the aforementioned policies in this regard.

Highway issues

- 10.31 Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Key Design Principles 15 and 16 of the adopted House Extensions & Alterations SPD seek to ensure that acceptable levels of off-street parking / waste storage areas are retained and are also considered to be relevant.
- 10.32 The application has been submitted with a highways technical note and plans which provide swept path analysis for vehicles using the proposed access. It is noted that the existing access can accommodate and be used for vehicles already, with the proposal seeking to alter the existing buildings to allow for a turning and parking area to be created to the rear of the host property.
- 10.33 The technical note concludes that the proposals improve the access arrangements by removing vehicles reversing directly onto Town Gate by providing internal turning so that vehicles can enter and exit the site in a forward gear. The proposals also include increased parking capacity within the site to 3 spaces, removing any significant potential for on-street parking. As the proposals merely include an extension to the existing dwelling, the development will not lead to any significant intensification of use of the existing access located off Town Gate and represents an improvement to the existing arrangement.
- 10.34 Within their initial response, Highways DM stated that they agree with this conclusion and have no objection in principle. Following the receipt of swept path analysis plans the Highways Team provided a further response, whereby they advise that whilst the turning movements are tight, the details provided demonstrate that access and egress from the proposed access is possible.
- 10.35 The proposed access and associated alterations, including the creation of an area for off-street parking and turning are concluded to be acceptable in this case. The proposal would allow for vehicles to enter and egress the site in forward gear and would potentially reduce reversing manoeuvres into the road from the access as it exists already.
- 10.36 It is considered that, having regard to the details submitted and the response of the Highways DM, the proposed development would not have a detrimental impact in relation to access and highway safety. This part of the highway is characterised by low vehicular speeds due to the constrained nature of the roadway / accesses and it is considered the proposal would assist the flow of traffic by ensuring an increased and more usable area of off-street parking was available for occupiers of the host property / visitors to the property.
- 10.37 The Highways DM recommend that conditions are included upon any grant of permission which require surfacing to be permeable and also that the running areas are provided in accordance with submitted plan ref: 4416-06-04a. As a condition of any permission would require details of materials of construction to be submitted to the LPA for written approval (and this would include details of the access) it is considered that ensuring the materials were permeable could be ensured by such a condition. A suitable area for storage of bins would be available to the rear of the property as a result of the proposed access, in accordance with the recommendations within the House Extensions and Alterations SPD.

- 10.38 It is therefore considered that subject to condition that the turning area is provided, the proposed development would have an acceptable impact upon access and highway safety and parking and this element of the proposal meets the requirements of the aforementioned policies.

Other matters

Climate Change

- 10.39 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. Policy 12 of the Holme Valley NDP sets out specific policy related to sustainability.
- 10.40 Principle 8 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should, where practicable, maximise energy efficiency. Principle 9 goes on to highlight that the use of innovative construction materials and techniques, including reclaimed and recycled materials should be used where possible. Furthermore, Principles 10 and 11 request that extensions and alterations consider the use of renewable energy and designing water retention into the proposals.
- 10.41 Considering the scale and nature of the proposed development, especially that it is for private use, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. It would, however, provide habitable accommodation within an existing building – as well as extending the building – which would make efficient use of existing resources. For an application of this scale, it is considered it would be unreasonable of the LPA to insist upon the provision of an electric vehicle charging point as part of the development. The proposed development would therefore comply with policies within Chapter 14 of the National Planning Policy Framework and Policy 12 of the Holme Valley NDP.

Strategic Green Infrastructure Network

- 10.42 Policy LP31 of the Kirklees Local Plan identifies a number of areas which form part of the Strategic Green Infrastructure Network. This policy sets out that priority will be given to safeguarding and enhancing green infrastructure networks, green infrastructure assets and the range of functions they provide. This policy sets out that development should ensure the function and connectivity of green infrastructure is retained / replaced, new or enhances green infrastructure is provided / integrated into new developments. In addition, this policy requires integration of developments into walking / cycling network and providing new links where appropriate and the protection of biodiversity / ecological links. Where the creation of new or enhanced green infrastructure is proposed, provided it does not conflict with other policies within the Kirklees Local Plan, Policy LP31 sets out that the Council will support such development.

10.43 The proposed development is not considered to conflict with the requirements of Policy LP31 and the impact of the proposal upon the strategic green infrastructure network is considered to be largely neutral in this case given the scale of the development which is proposed.

Ecology

- 10.44 Policy 13 (Protecting Wildlife and Securing Biodiversity Net Gain) of the Holme Valley NDP sets out that development proposals should demonstrate how biodiversity will be protected and enhanced including the local wildlife, ecological networks, designated Local Wildlife Sites and habitats.
- 10.45 Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.
- 10.46 Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.
- 10.47 Principle 12 of the Kirklees House Extensions and Alterations SPD states that extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity.
- 10.48 Concerns have been raised within third party representations in relation to the impact of the proposal upon bats and that there have been sightings of bats in the locality. In addition, concern is raised in relation to the planting of a laurel hedging, and that this is not a native species, as well as the impact of the proposal in relation to wildlife which use the land to the south of the dwelling.
- 10.49 It is considered that it would be unreasonable of the LPA to insist upon a bat survey to be submitted as part of this application in this case given the extent of the works proposed and that it is not within the defined 'bat alert zone'. It is recommended that an informative note be included upon any grant of permission in relation to the requirements, in law, in the event bats (which are a protected species) are encountered during the construction phase of the development.
- 10.50 In terms of the planting of laurel, it is considered that for a development of this scale it would be unreasonable of the LPA to require a detailed landscaping plan to be provided in relation to wider landscaping of the site and the biodiversity value of the site to be enhanced and improved given the development relates to works to an existing dwelling.
- 10.51 Development upon the wider land parcel, to the south of the site, is not being sought as part of this application and as such it is considered the proposal would not have a significant impact upon the value of this land in relation to local wildlife which may utilise it for foraging or as a habitat.
- 10.52 It is therefore considered that, subject to inclusion of the recommended informative note, the proposal is acceptable in regard to ecology / impact upon a protected species and meets the requirements of the aforementioned policy and legislation.

Representations

10.53 Insofar as they are not addressed within any other section of this report, the representations which have been received are addressed (in italics) as follows:

- Object to raising of the boundary wall adjacent to neighbouring public house car park
- Approval of an increased boundary adjacent to the public house would be failure on behalf of the Council in exercising statutory duties
- Discrepancies in the plans in relation to the position of the garage
- Wall and flat roof garage not in keeping with the locality

10.54 *These elements of the scheme have been removed within the amended plans received 5th May 2023*

- Impact of the proposal upon the view from the adjacent public house
- Planting of laurels at odds with desire for natural species within the Conservation Area
- A condition restricting the extent the laurel bush height can reach is required
- Welcome removal of garage and raising of boundary wall, do not support the planting of the laurel bush.

10.55 *The LPA is unable to control the planting of trees, shrubs, bushes or any other vegetation as this falls outside the definition of development as set out within section 55 of the Town and Country Planning Act 1990 (as amended).*

- Detrimental impact on the long term viability of the public house
- Loss of the public house has further consequences for local communities
- The Council has a responsibility to help and support local businesses
- Loss of trade and financial impact upon the public house as a result of the proposal
- Pub was a hub during covid, its loss would have a big impact in the locality

10.56 *Whilst this is a consideration which can be material in the determination of any planning application, in this case the scale of the proposal and nature of the works for which permission is require / being sought is not considered to be of such significance that it would be reasonable of the LPA to refuse permission on this basis.*

- It is likely the case the remaining green space of the site is intended to be developed

10.57 *Further development of land to the south is controlled by existing planning legislation whereby, should such development not be within that already permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended) an application for planning permission would need to be submitted to the LPA for determination.*

- Change of use of land to domestic curtilage

- 10.58 *The extent of the works for which permission is being sought is considered to be within the confines of the residential curtilage associated with the existing dwelling.*
- Application form states the site cannot be viewed from the highway when it can be.
 - No impact assessment has been conducted (LVIA / TVIA)
 - Red line should only extend to the land the development taking place within
 - Ownership certificate incorrect, not clear if they own the boundary wall
 - Method of construction of the boundary wall and foundations required to ascertain if the correct ownership certificate has been signed
 - Construction up to the boundary requires a structural survey to be undertaken
- 10.59 *It is considered sufficient information is submitted which allows the LPA to be able to determine this application.*
- The proposal will lead to the loss of Green Belt land
- 10.60 *The application side does not fall within the Green Belt.*
- Delivery of materials during construction
 - Proposal would likely lead to prolonged disruption to the village
 - Impact upon services / infrastructure, roads cannot cope with heavy traffic
 - Health and safety impact in relation to construction workers parking
 - Impact in relation to construction activities
 - Construction hours should be controlled by condition
- 10.61 *Given the scale of the development, it is considered it would be unreasonable of the LPA to require planning conditions to be in place upon any grant of permission which related to noise / dust suppression measures or details relating to construction vehicular parking or the type of vehicles to be used during the construction phase or construction activities. There is other health and safety and environmental protection legislation that would govern nuisance caused.*
- Consider a condition is necessary to ensure that no planning application can be submitted in the future in relation to remaining land within the submitted red line boundary, which is intended to remain free from development.
- 10.62 *The LPA is not able to impose condition(s) on any planning application which restricts the ability to subsequently submit a further planning application. Such a condition would not be necessary, relevant to the development permitted, reasonable or enforceable and would therefore fail four of the six tests which planning conditions are required to meet as set out in the National Planning Practice Guidance (NPPG - Paragraph: 003 Reference ID: 21a-003-20190723).*
- Any permission should be subject to condition requiring temporary structures to be re sited or no higher than the boundary wall to the public house

10.63 *At the time of the Case Officers' site visit no temporary structures which require planning permission were noted to be on site. In the event structures - which need planning permission - are placed upon the site this would be controlled by the requirement for planning permission and enforcement powers are available to the LPA where such permission is not in place.*

- Proposal would provide significant financial gain

10.64 *The impact of the grant of planning permission, in respect of the subsequent financial benefit for the applicant, is a matter which is not afforded any weight in the determination of this planning application. The assessment of the application relates to the planning merits of the scheme in light of all relevant material considerations.*

10.65 The points made in support of the application are noted and where relevant have been taken into account within the determination of this application.

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, the proposed development would constitute sustainable development and is therefore recommended for approval.

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

1. Time limit for commencement of development.
2. Development to be completed in accordance with the approved Plans and Specifications.
3. Submission of a scheme of materials of construction, including hard surfaces.
4. Submission of a scheme detailing windows to be installed.
5. Provision of turning area shown on drawing no.4416-06-04a and permeable surfacing of such areas.
6. Rooflights to be 'conservation' style.
7. Window to be installed in the side gable serving bedroom 5 to be fixed shut and to be Obscure glazed (minimum grade 4).

Informative Note(s):

1. Bats

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=2022%2f92799)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92799>

Certificate of Ownership – Certificate A completed.

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 19-Oct-2023

Subject: Planning Application 2023/90876 Variation of conditions 4 & 5 (hours of use) on previous permission 2018/93872 for replacement of existing Redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path Colne Valley High School, Gillroyd Lane, Linthwaite, Huddersfield, HD7 5SP

APPLICANT

Lee Richardson, Colne
Valley High School

DATE VALID

20-Mar-2023

TARGET DATE

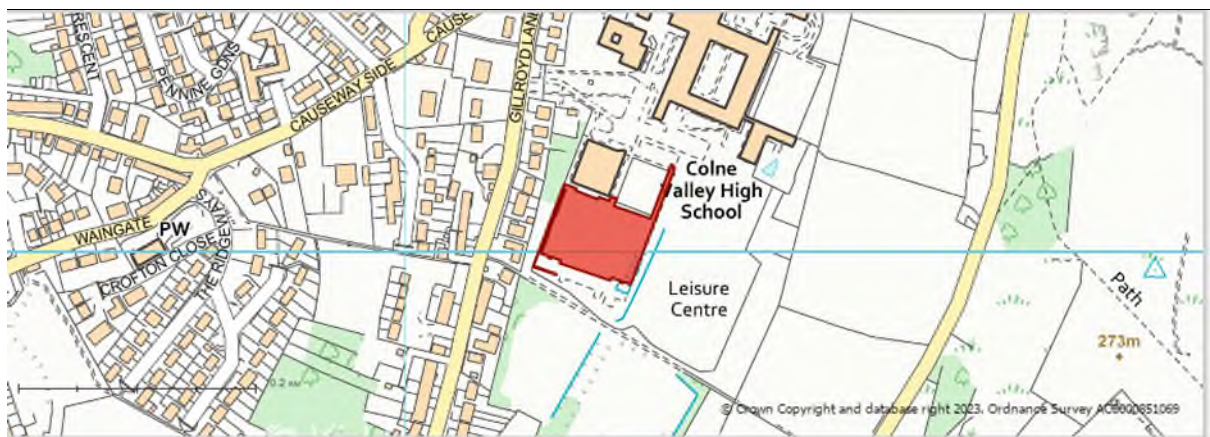
15-May-2023

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: Colne Valley

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

DELEGATE refusal of the application for the following reason:

1. The proposal, to extend the hours of use of the 3G synthetic turf pitch, would have a detrimental impact upon the residential amenity of nearby properties as a result of noise, through voice and ball strike and use of artificial lighting at unsocial hours. This is contrary to Policies LP24 (b) and LP52 of the Kirklees Local Plan and those within Chapter 15 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to committee at the request of Ward Cllr Harry McCarthy, for the following reasons:

‘There is a clear need for the increased sports provision that this application would grant, and there would be a loss of provision if it was not granted. If this application is rejected, it will conflict with the NPPF’s objectives to promote healthy and safe communities: by preventing provision of local sports facilities which enable and support healthy lifestyles, by not providing the recreational facilities our community needs, and by any by reducing access to open spaces and opportunities for sport and physical activity.

There is a clear need for extension of hours, as currently there is not enough capacity to support local football and sports clubs in the local area. Local football clubs have explored other provision locally, for example utilising natural grass pitches (NGPs) owned by other local schools, however this has proved to not be feasible, and by using pitches outside of the local area. Without the extension of hours, a local football club has informed us that they may have to fold a number of their teams.

There are significant capacity shortages across most pitch types in Kirklees, including artificial grass pitches (AGPs), and this issue will worsen over time with housing growth. This has been illustrated in Kirklees Council’s Playing Pitch Strategy adopted in 2015, and in subsequent work since the previous planning decision. Paragraph 98 of the NPPF states that “planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities” and plans should seek to accommodate what provision is needed.

The Playing Pitch Strategy recommended that floodlit artificial grass pitches are required to address shortfalls in provision. Artificial grass pitches do not have the same capacity restraints that natural grass pitches have, and can be programmed to accommodate significant amounts of match play and training. AGPs also relieve pressure on natural grass pitches. Local Natural Grass Pitches have proved unsuitable for use by local football clubs.

The peak times for community use of artificial grass pitches are weekday evenings and weekends. If community groups and sports clubs are unable to use these facilities because there are planning restrictions in place during these times, there is a direct impact on community sport.

Sport England have illustrated in their response that curtailment of hours can impact on the sustainability of AGPs. If the school cannot use revenue from community use for routine maintenance there is doubt that the surface, which has a finite lifespan, can be replaced.'

- 1.2 The Chair of the Sub-Committee has confirmed that the reasons for the referral to the committee by Cllr Harry McCarthy are valid having regard to the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to part of the Colne Valley High School grounds, formerly a 'Redgra' area and which has been redeveloped with a '3g' artificial surface sports pitch. This is located to the rear of the existing Sports Centre building on this site. North-west of the application site are residential properties along Gillroyd Lane/The Rock which are separated with a landscaped strip and at a lower ground level. Open land and school grounds adjoin the remainder of the other site boundaries. The whole of the school premise is served by a controlled access from Gillroyd Lane.

- 2.2 In relation to neighbouring properties, the nearest residential properties to the west of the site are at the following distances (note: all measurements are at the rearmost point of the property and the acoustic fence of the sports pitch):

- No.191 Gillroyd Lane – 13.3m
- No.189 Gillroyd Lane – 14.1m
- No.187 Gillroyd Lane – 21.2m
- No.185 Gillroyd Lane – 22m
- No.183 Gillroyd Lane – 22.2m

- 2.3 The pitch is at an elevated position in relation to the residential properties to the west such that the first floor windows to the rear of these properties are at the same / similar level as the pitch.

3.0 PROPOSAL:

- 3.1 Submitted under Section 73 of the Town and Country Planning Act 1990 (as amended), this application seeks permission for the variation of condition 4 (Hours) on previous permission 2018/93872 replacement of existing Redgra track with 3G synthetic turf pitch consisting of spectator area, perimeter fencing, floodlights, storage container and link path.

- 3.2 Condition no.4 & 5 permits hours of use for the sports pitch of 8.00am – 6.30pm Monday to Saturday.
- 3.3 The reasons for the conditions are in the interest of amenities of the nearby occupiers of the residential properties on The Rock/Gillroyd Lane, west of the site, to prevent noise (through voice and ball strike) and light pollution at unsocial hours and to comply with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
- 3.4 The submitted application form set out the hours for which they wished to alter condition no.4 to permit hours of use of 09.00 – 21.00 Monday to Friday and 09:00 – 14:00 on Saturday and Sunday in any given week of the year other than on a day which falls on a bank holiday.
- 3.5 It is worth noting that the hours of use have recently been applied to be extended to 08:00 – 21:30 on a 7 day basis (detailed in the planning history section of this report). This application is a reduction in the hours the subject of the recent refusal (2021/93796) although is still seeking to extend the hours in the evenings on 5 days a week and to include Sunday hours for the pitch.
- 3.6 The application has been submitted with accompanying details of the original application in relation to noise and lighting, as well as the following:
- Linthwaite Football Club letter dated Monday 20th March 2023
 - Letter from occupiers of 179 Gillroyd Lane
 - Linthwaite football club statement
 - Former Cllr Warner Email dated 20th March 2023
 - Letter dated 20th March 2022 from Member of Parliament - Jason McCartney MP
 - Statement from Golcar United FC
- 3.7 In summary, the above listed documents detail that anti social behaviour is taking place at the site, at the times for which consent is being sought to use the site. In addition, the listed documents set out that the proposal would bring beneficial impact to all ages in relation to increasing access to facilities which promote active and healthy lifestyles.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 The most relevant planning history for the site relates to the following: -

2021/93796 – Variation of condition 4 (Hours) on previous permission 2018/93872 replacement of existing Redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path – **Refused** 21st January 2022 for the following reason:

‘The proposal to extend the hours of use of the 3G synthetic turf pitch would have a detrimental impact upon the residential amenity of nearby properties as a result of noise, through voice and ball strike at unsocial hours, contrary to Policies LP24 (b) and LP52 of the Kirklees Local Plan and those within Chapter 15 of the National Planning Policy Framework.’

4.2 A subsequent appeal to this refusal was lodged (ref: APP/Z4718/W/22/3291359) and was dismissed on 11th July 2022. This application and the appeal decision can be viewed [here: Planning application details | Kirklees Council](#)

4.3 Other relevant planning history relates to the initial grant of permission for the pitch, details as follows:

2018/93872 – Replacement of existing Redgra track with 3G synthetic turf pitch consisting of spectator area, perimeter fencing, floodlights, storage container and link path – **Approved** 11th April 2019

4.4 This application can be viewed [here: Planning application details | Kirklees Council](#)

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

5.1 Confirmation was sought with the applicant, in relation to whether extending the hours (for a trial period only) for use on Sunday mornings. Such a trial period extension of the hours would allow for noise monitoring to be undertaken for the duration of the trial period. It was subsequently confirmed that the application is to be determined on the basis of the hours as requested in the submission documents.

6.0 PLANNING POLICY:

6.1 The site is Green Belt on the Kirklees Local Plan.

6.2 The following allocation and policies were considered relevant to the consideration of consent:

Kirklees Local Plan

LP24 – Design

LP21 – Highway safety and access

LP47 – Healthy, active and safe lifestyles

LP48 – Community facilities and services

LP50 – sport and physical activity

LP52 – Protection and improvement of environmental quality

LP56 – facilities for outdoor sport, outdoor recreation and cemeteries

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) at the time of determination the application was assessed against the version of the NPPF which was published 19th February 2019. The assessment of this application is against the version of the NPPF published on 5th September 2023, although it is considered that insofar as it is relevant to the consideration of this application there has not been a significant amendment to the NPPF.

The Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

Chapter 8 – promoting healthy and safe communities

Chapter 12 – Achieving well-designed places

Chapter 13 –protecting Green Belt Land

Chapter 15 - Conserving and enhancing the natural environment

Legislation

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

- 6.3 Insofar as they are relevant to the consideration of this application the following 'Assessment' makes reference to the applicable policy / legislation.

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The Council are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, this application has been publicised via neighbour notification letters / site notice / newspaper advertisement.

Letters of Objection

- 7.2 One letter of objection has been received, raising the following, summarised, concerns:
- The noise from the existing development is creates significant noise
 - Unable to enjoy use of external areas due to noise
 - Noise can be heard within dwellings nearby
 - There has not been consultation with neighbours by the applicant

Letters of Support

- 7.3 Two letters of support have been received, raising the following summarised points in support of the proposal:
- Benefits of sport and physical activity can build a lifetime habit of participation Short sighted to not allow increased use which will lead to increased instances of anti-social behaviour, misuse of alcohol, criminal damage and no doubt further criminality.
 - Local sports clubs need access to much needed facilities in order to help children and young people develop resilience, determination and self-belief, and instilling values and virtues such as friendship and fair play.
 - It can help children and young people to connect with their peers, tackling loneliness and social isolation and building stronger communities.

Letters of Comment

None

- 7.4 It should be noted that the description of development made reference to hours of use but only condition 4. The updated description also makes reference to condition 5 however it is not considered necessary to re advertise this and the description of development as advertised adequately alerted the public as to the nature of the proposal.

8.0 CONSULTATION RESPONSES:

- 8.1 The following consultations have been undertaken for this application with the summarised responses listed below.

KC Environmental Health – Does not support the proposed additional hours.

Sport England – Support the proposed development.

- 8.2 Whilst not a statutory consultee for this type of application, as per the definition set out in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended), Sport England requested they be consulted in relation to the proposed hours and subsequently provided comments.

- 8.3 The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

9.0 MAIN ISSUES

- Principle of development
- Amenity issues
- Review of Conditions

10.0 APPRAISAL

Principle of development

- 10.1 This Section 73 application seeks to amend the hours of use of the development permitted by consent 2018/93872.

- 10.2 It is considered that the key determining issue in the consideration of this application is the impact upon residential amenity. The National Planning Policy Framework is not considered to have been amended significantly with regard to the determining issue considered applicable in this case.

- 10.3 The determining issue is assessed as follows: -

Amenity issues

- 10.4 Paragraph 185 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. This is echoed within Kirklees Local Plan Policy LP24 which states that: -
- ‘Proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary’.*
- 10.5 Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level.
- 10.6 During the consideration of the original application for permission for the pitch (2018/93872) extensive negotiations took place and sought appropriate fencing, floodlighting and hours of use for the proposed enhanced pitch to alleviate any potential concerns which may arise from an intensified use of the area. The principal reason for this was on the grounds of residential amenity and to balance the amenities of nearby residents with the positive outcomes to health and wellbeing the provision of the artificial pitch would bring.
- 10.7 In the most recent consultation response provided by Environmental Health on the original application, dated 25th March 2019, it was set out that they had previously expressed concerns regarding the potential of noise from the use of the pitch affecting residents of nearby premises. The response goes on to detail that the applicant has now provided revised proposals to reduce the likelihood of any significant adverse noise impact by revising the hours of use and the acoustic barrier and pitch perimeter fencing arrangements. Reference is made to a letter from Mrs Dobrucki, Finance Director of the MFS Academies Trust and a document MUK1973 - Colne Valley High School, Proposed Usage propose use of the pitch from 08:00 to 18:30 Monday to Saturday with no use on Sundays.
- 10.8 Within the response of the Environmental Health Team for this application, they set out that within their comments under the original application concerns were raised about the effect the proposal would have on the amenity of neighbouring properties and following discussion and negotiation the hours as conditioned upon permission 2018/93872 were agreed.
- 10.9 They go on to state that they continue to take the stance that any extension of these hours will likely have an impact on the amenity of the neighbouring properties and therefore they do not support the variation.

10.10 Sport England have requested they are consulted about this proposal, whilst not a statutory consultee as per the definition set out in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended), their request was followed up with a letter to them inviting comments. They responded with a letter of support which sets out the following points:

- Since the original decision was taken the Council has undertaken further work to understand the adequacy of playing pitch provision across football, rugby (league and union) cricket and hockey in Kirklees. The picture has been consistent between the Playing Pitch Strategy undertaken in 2015 and the current iteration (which has reached final draft stage) in that there are significant capacity shortages across most pitch types in most parts of Kirklees which will worsen with planned housing growth. The PPS is a Council document and its recommendations have been agreed at Cabinet.
- In light of the above both strategies have recommended that a significant number of floodlit artificial grass pitches are needed to help address the shortfalls. Artificial grass pitches do not have the capacity constraints that grass pitches have and can be programmed to accommodate significant amounts of match-play and training. Because AGPs relieve the pressure on natural grass pitches, the latter can be given time to rest and regenerate thus improving their capacity for use.
- AGPs however do not fulfil their potential if their use is significantly constrained by restrictive planning conditions. Peak times for community use are weekday evenings and weekends. Curtailment of hours in these periods directly impacts on their value for community sport.
- Curtailment of hours of use also impacts on the sustainability of the AGP. Such facilities need routine maintenance and as the surface has a finite lifespan the establishment of a sinking fund is needed to replace their carpet. If the school cannot use revenue from community use to create a sinking fund then there will be doubt as to how the surface can be replaced.

10.11 Links to guidance documents about life cycle costs, acoustics and lighting is provided within the consultation response. As this proposal relates to extension to the hours of use which are in place to control noise, it is considered this guidance is not of relevance in the consideration of this application.

10.12 With regard to the 'AGP Acoustics – Planning Implications' document referred to by Sport England, this provides general guidance and advice about sound levels and that resultant noise should not exceed 50 decibels experienced by residential properties. The guidance provides general advice in relation to proximity and provides a concluding statement that with suitable noise mitigation measures, it is considered that acceptable noise levels can be achieved for the majority of AGP sites and will operate without adversely affecting neighbouring residential properties.

10.13 With regard to the life cycle costs document submitted, this is a general guidance document which provides estimated percentage amounts which would need to be allocated from the Sinking Fund to anticipated costs as a result from use for Football, Hockey, Rugby League & Rugby Union.

10.14 The response of Sport England provides the following concluding statement:

'Noise and light pollution are common issues that need consideration in the development and on-going use of floodlit AGPs. Sport England has developed guidance for Planning and Environmental Health professionals on assessing the noise and light associated with AGPs using established thresholds and identifying potential mitigation measures. The application includes detailed analysis of the potential additional hours of use against identified thresholds from both guidance documents. It is therefore both perplexing and disappointing that the Council's Environmental Health Officer has not given similar regard to such pertinent guidance in their application response.'

10.15 In respect to maintenance costs provided by the sinking fund it stands to reason that whilst increased use would increase funds collected, and therefore increase the size of the sinking fund, the increased use would increase the maintenance burden too. The document submitted refers to percentage amounts to be allocated from the sinking fund to anticipated maintenance costs rather than a figure or amount which needs to be reached to ensure the maintenance of the development can be undertaken. As such it is considered that limited weight can be afforded this matter.

10.16 It is clear in this case there are competing pressures surrounding the use of the land, it is unfortunate the AGP is sited on this part of the school site, immediately adjacent to residential properties whereby the uses are not wholly compatible with one another.

10.17 A balance has been struck already by the granting of planning permission in 2019 (ref: 2018/93872) which allowed for the construction of the pitch subject to conditions which restrict the hours of use. The 2019 consent was granted on the basis of extensive negotiations with the Environmental Health Team, the applicants and LPA, there was submission of a number of documents and details including acoustic fencing detail and noise assessments (which has been submitted again as part of this S73 application).

10.18 The 2021 application to extend the hours of use and subsequent appeal is a material consideration which weighs against the granting of permission in this case given the findings of the Inspector in that case whereby they set out the following:

'The original application was supported by a Noise Impact Assessment1 (the 'NIA') which indicated that the original proposal would ensure appropriate noise levels for nearby gardens and habitable rooms. The NIA does however acknowledge that noise levels may exceed the stipulated criteria at times and moreover, it did not consider the use of the pitch during the hours now sought. The NIA also did not take into account the current conditions of the appeal site, namely any specific effects of the acoustic boundary. As such, there is no conclusive evidence before me to indicate that the noise levels which could be generated by the use of the pitch during the extended hours would be compatible with existing noise levels in the evenings and weekends, when background noise levels are likely to be lower'

- 10.19 As previously stated there has not been the submission of further noise assessment, the conclusions of the Inspectorate that noise levels generated by the use would be incompatible with evenings and weekends given background noise levels would likely be lower is considered to be a logical conclusion to be drawn. Whilst the hours the subject of the 2021 application were longer than those being applied for now, the conclusion of the Inspectorate (in relation to noise) in their consideration of the appeal to the refusal of that application is still considered of relevance.
- 10.20 In this case there is support expressed by the applicant from local ward members and also from Sport England as well as other members of the public.
- 10.21 There is a clear benefit in the extended use of the pitch insofar as it can promote active and healthy lifestyles and increased access to such facilities is considered to be beneficial to the wider community. However, this has to be balanced against the residential amenity of neighbouring occupiers. It is noted residents have objected to both applications to extend the hours, and stated in those objections that noise from the use of the pitch is noticeable to them.
- 10.22 There has been extensive investigation and discussion undertaken in relation to noise impact, during the processing and subsequent determination of the 2019 consent, for which this application seeks to vary condition 4 (hours of use). This is confirmed in the response of the Environmental Health Team provided for this application.
- 10.23 It is considered that the maximum the use can be considered to be acceptable has been granted permission by the 2019 consent. The current balance of the impact as a result of noise and benefits to allow opportunities and promote healthy and active lifestyles is considered to be acceptable only on the basis of restrictive condition no.4 which is in place on the 2019 permission.
- 10.24 It is considered that to allow extended hours of the use permitted by the 2019 permission would tip this balance disproportionately against the residential amenity of neighbouring occupiers for which there are not considered to be any material considerations which indicate a different approach should be undertaken in this case by the LPA. This also takes into account the balance referred to in the Inspectors' decision letter pursuant to the 2021 application:

"I acknowledge that the increased hours of use proposed may benefit sports groups in the local community by providing more hours/days to use the pitch. I afford this matter moderate weight, given the importance the Framework places on achieving healthy communities by enabling and supporting healthy lifestyles through the provision of sports facilities.

However, I have found that the proposal would be likely to harm the living conditions of nearby occupiers, resulting in conflict with the development plan as a whole, to which I afford substantial weight. Therefore, material considerations do not indicate that a decision should be made other than in accordance with the development plan"

10.25 Weighing up the planning history of this site, including the Inspectorate's decision upon the 2021 application, the content of third-party representations and consultee responses, it is concluded that in this case the proposed additional hours of use would have an unacceptably adverse and harmful impact upon the residential amenity of neighbouring occupiers as a result of additional noise, contrary to policies LP24 (b) and LP52 of the KLP as well as chapter 15 of the NPPF.

Review of conditions

10.26 In the instance of any grant of approval of a S73 application a new consent is issued by the LPA, as such all conditions upon the original consent are required to be reviewed and where necessary re applied or amended.

10.27 Whilst the recommendation is for refusal, it is considered that for completeness a summary of the conditions in the event of an approval, and their re wording or inclusion upon any grant of permission (as necessary), be included here:

Condition no.1 (Time limit)

10.28 As this condition relates to the timeframe to commence the development inclusion of this condition would not be necessary.

Condition no.2 (plans list)

10.29 It is considered the plans list table referred to within this condition would need to be re worded to make reference to the original consent (ref: 2018/93872) as well as worded to make reference to the details submitted as part of this application.

Condition no.3 (Community use agreement)

10.30 This condition has not been discharged, therefore this condition would be recommended to be re worded to require a scheme to be submitted and approved in writing by the LPA within a 3 month period of the date of determination. The submitted scheme would need to provide detail of pricing policy, hours of use, access by non-school users, management responsibilities and a mechanism for review.

Condition nos.4 & 5 (Hours of use including hours the lighting can be on)

10.31 The impact of amending these conditions is discussed at paragraphs 10.4 – 10.25.

Condition no.6

10.32 This condition would be re worded to make reference to the submitted detail and its continued retention.

11.0 CONCLUSION & RECOMMENDATION

- 11.1 There has been no significant change to the site allocation or national/local planning policy and guidance since the 2019 consent. Having regard to the detail submitted, subsequent discussions with the applicant and the Environmental Health Team as well as third party representation received it is recommended that the application be refused on the basis it would lead to a detrimental impact to neighbouring occupiers from resultant noise nuisance. Refusal for the reason set out at the beginning of this report is therefore recommended.

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=2023/90876>

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 19-Oct-2023

Subject: Planning Application 2022/93823 Variation of condition 2 (plans and specifications) and 5 (soft landscaping scheme) on previous permission 2016/93243 for erection of 17 dwellings (within a Conservation Area) Thirstin Mills, Thirstin Road, Honley, Holmfirth, HD9 6JG

APPLICANT

North Park (Greetland)
Ltd

DATE VALID

23-Nov-2022

TARGET DATE

22-Feb-2023

EXTENSION EXPIRY DATE

31-May-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: Holme Valley North Ward

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION: Approve

Grant the variation of conditions 2 and 5

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development to allow for the completion of a deed of variation to the original Section 106 Obligation to confirm the existing obligation/s and to include an additional obligation to seek off site contributions to secure the shortfall of biodiversity net gain to the previously approved landscaping scheme for the site, upon completion of the deed of variation.

1.0 INTRODUCTION:

1.1 This application is brought to committee at the request of Ward Cllr Charles Greaves, who states:

- “Due to the failure of the applicant to discharge the pre-commencement conditions,
- the failure of officers to identify and address this at the time,
- that enforcement action was started but then not followed through,
- that the work has not been completed in accordance with the conditions set down by the planning committee,
- that the developers have offered no solution to address the issue,
- that the developers submitted a s106 viability appraisal based on the costs of undertaking this work which they have not incurred (which should trigger a review of the s106),
- that the legal power to reopen the s106 exist but have not been utilised,
- that officers have not established whether the current condition of the banking is stable,
- that no proper arrangements are in place for the long-term maintenance of the banking,
- that officers have failed to deal with this issue in a timely manner,
- that the recommendation of officers is not appropriate to the circumstances,
- that it undermines the role and purpose of planning committees and its directions to officers, that for officers to allow a developer to fail to meet their obligations and to support the developer is doing so, sets a precedent that would encourage others to choose to fail in meeting their obligations, and
- that in doing so it risks undermining the trust and confidence of the residents and councillors of Kirklees in how the planning process is managed and enforced.

- 1.2 The Chair of the Sub-Committee has confirmed that Cllr Greaves 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 Situated approximately 350 metres from the centre of Honley, this is the former site of Thirstin Mills. The site has now been developed following the granting of planning permission 2016/93243 for the erection of 17 dwellings. Most, if not all, of the dwellings are occupied.
- 2.2 Thirstin Road bounds the site, to the north and east. A protected woodland area (which also forms part of the Wildlife Habitat Network) and a public footpath (HOL/186/10) runs along the western edge of the site with Scotgate Road running parallel to the southern boundary. A number of residential properties overlook the site from the east on the opposite side of Thirstin Road. These are a mixture of semi-detached and terraced properties with a few detached dwellings.
- 2.3 The site is constrained by a steep embankment to the western boundary which was formerly present and shown to be retained as part of the development under the implemented planning permission. This embankment forms part of the individual domestic curtilages to the dwellings, that back onto it.

3.0 PROPOSAL:

- 3.1 This application is submitted under Section 73 (S73) of the Town and Country Planning Act 1990. It seeks to vary conditions 2 and 5 of planning permission 2016/93243

Condition 2 states:

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: *For the avoidance of doubt as to what is being permitted, to ensure the amenities of existing neighbouring residential properties and future residents of the dwellings hereby approved are protected, to ensure the satisfactory appearance of the development on completion, to conserve and enhance the significance of the Honley Conservation Area, and to accord with Policies BE1, BE2, BE5, BE12, T10 and T19 of the Kirklees Unitary Development Plan as well as the aims of the National Planning Policy Framework*

Condition 5 states:

5. The approved soft landscaping scheme as shown drawing reference no. 0542-2 rev B shall be carried out during the first planting, seeding or management season following the commencement of superstructure of the hereby approved dwellings or in accordance with a phasing plan which shall have been submitted to and approved in writing by the Local Planning Authority before commencing on the superstructure of the dwellings. The approved landscaping scheme shall, from its completion, be maintained for a period of five years from the completion of planting works. All specimens which die within this period shall be replaced with like for like species.

Reason: *To ensure that there is a well laid out scheme of healthy trees and shrubs, in the interests of amenity, to conserve and enhance the significance of the Honley Conservation Area, and to accord with Policies BE1, BE2, BE5 and EP11 of the Kirklees Unitary Development Plan, the National Planning Policy Framework and Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System as well as Policies PLP30 & PLP32 of the Publication Draft Local Plan.*

- 3.2 The proposals seek to substitute the landscaping plan reference 0542-Rev B approved under condition 5 of planning consent 2016/62/93243/W. The approved landscaping scheme was shown to provide a matrix of native trees and shrubs, with trees to have been planted at 3m centres and shrubs at 1m centres. The covering letter initially submitted with this application stated the request to change the landscape proposals for the banking:
“has arisen as it has been identified that the gradient of the banking along the western boundary of the site would not be suitable for substantial planting in line with the approved plans. Tree planting in this location has the potential to disrupt the mesh put in place to stabilise the banking and there is potential, once trees mature, a fallen tree would significantly damage the reinforcement, which could then result in collapse. Therefore, it is proposed to incorporate a natural landscape zone along the banking as it has been identified that the root systems within low level planting is fine allowing it to pass through the mesh reinforcement unhindered.”.
The revised plan, titled: Landscape Option 1 ref DR-6264-01.01, showed low level planting to the embankment, in the form of only a species rich grassland mix.
- 3.3 The covering letter contradicted with the submitted plan in that it referred to “natural landscape zone”, whereas the plan showed the embankment to be replaced with grass and over time to allow woodland trees to seed and establish a naturalised scrub/woodland edge. The plan, titled: Landscape Option 1 ref DR-6264-01.01, has now been substituted with the drawing ref number 2287-0101-P02. This shows the western embankment in its current state consisting of a self-seeded banking which over time has established and naturalised with woodland trees and shrubs creating a scrub /woodland edge. This drawing also shows landscaping within the front gardens as existing, which has been carried out by owners/residents of the dwellings. The proposals are therefore to retain the embankment in its current form, with no supplemental planting.
- 3.4 In the event Members agree with Officers recommendation:
- Except for reference to updated policies, the wording of condition 2 would remain unchanged.
 - The plans table would need to be updated to replace the previously approved landscape plan, drawing reference 0542-2 rev B under planning permission 2016/93243 with the revised plan showing the embankment as existing, drawing ref no. 2287-0101-P02,
 - Condition 5 is to be omitted.
 - A supplemental S106 agreement (deed of variation) would be necessary which requires the applicant to agree to the obligations within the original S106 agreement and the inclusion of the additional obligation to secure off site contributions as set out in the assessment below.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 The site has an extensive planning history, however the most relevant is listed below:

2016/93243 - Erection of 17 dwellings (within a Conservation Area) – granted 07/02/2018

2018/91138 - Discharge conditions 4 (boundary treatments), 7 (highways), 8 (construction traffic), 11 (retaining wall), 13 (drainage), 14 (watercourse) on previous permission 2016/93243 for erection of 17 dwellings – details satisfactory. Conditions discharged subject to development being completed in accordance with the approved details.

2021/91689 - Variation condition 2 and 5 on previous permission 2016/93243 for erection of 17 dwellings (within a Conservation Area) – refused 29/06/2022 on grounds that the submitted information failed to demonstrate how the objectives (to conserve/enhance) and when the works will be carried out through the submission of an appropriate method statement and phasing maintenance timetable.

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

5.1 A request for a deed of variation was made, which is awaited. This would include the new obligation to off-set the shortfall (in monetary value) between the approved landscaping scheme in comparison to the self-seeded naturalised embankment in its current form, to be put towards off site contributions on Council owned land to enhance biodiversity net gain.

5.2 Clarity on initial plan as the details submitted seem to contradict the contents of the supporting covering letter.

5.3 Evidence of how the western embankment is proposed to be accessed, given it is private land forming part of the curtilage areas to each dwelling backing onto it. The agent advised “in terms of access to the banking we’d need agreement to enter the banking from each owner”. Subsequently, the applicant has set out in the revised statement that not all residents/owners will authorise access to their private land (embankment), for any works to be carried out by the applicant.

5.4 Following a joint site visit by KC Ecology, Landscape, Enforcement and case Officers, a revised plan showing the embankment established with self-seeded landscaping, as existing was requested, along with evidence of the residents/ householders denying access for works to be carried out. Plan received and written statement from applicant, who advises that not all residents are agreeable and would not allow access to embankment, which is private land.

5.5 Additional statement received from applicant on 21st July 2023, which includes within it, amongst other matters, that people, when purchasing the dwellings on this site were:

“made aware of the incompatibility of the two separate designs and people were advised of the issue and told we’re re submitting the condition and hopefully we wouldn’t have a problem with a wildflower mix”

5.6 It was considered necessary and appropriate to publish this statement and allow local residents and owners of the dwellings on the application site, an opportunity to respond to the contents of the statement.

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) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

The site lies within the Honley Conservation Area.

Kirklees Local Plan (2019):

6.2 LP24 - Design
LP30 - Biodiversity & Geodiversity
LP32 - Landscape
LP35 - Historic Environment

Supplementary Planning Guidance / Documents:

6.3 Kirklees Highways Design Guide (2019)

National Planning Policy Framework (NPPF) September 2023:

6.4 Most relevant to this application is the following:
Chapter 12 – Achieving well-designed places
Chapter 15 – Conserving and enhancing the natural environment (paragraphs 174 (d,e, f), 183 and 184 relating to ground stability)
Chapter 16 – Conserving and enhancing the historic environment

Neighbourhood Development Plans:

6.5 The Holme Valley Neighbourhood Development Plan (HVNDP) was adopted on 8th December 2021 and therefore forms part of the development plan. The Policies relevant are:
Policy 1 – Protecting and Enhancing the Landscape Character of Holme Valley
Policy 2 – Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design
Policy 13 - Securing Biodiversity Net Gain

The site is within the Landscape Character Area 6 (Honley Village Centre) within the HVNDP.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised in accordance with the Kirklees Development Management Charter, via neighbour notification letters, a site notice and within the newspaper. Final publicity expired 6th October 2023.

7.2 Seven representations were initially received, the concerns of which are summarised below:

- One in support of the original submission to vary the landscaping
- Further clarity required on species of plants proposed. No details of when the maintenance of the embankment would be done or how the embankment is to be cleared for new planting
- Proposed wording on condition 5 refers to outdated timescales
- No justification why planting to front gardens should be amended/ should just be supplemented.
- Suggestions given to clear existing embankment/clearing
- “Sensible to not plant trees as initially approved given it may impact on the stability of the banking and block out daylight”
- Question the practicality and reality of maintaining the embankment area once developer’s obligations come to an end
- No easy access from dwellings and unsafe to access from embankment side, due to gradient.
- One resident states they have not been approached by anyone to inspect the embankment areas,
- Too steep to mow and weed the embankment
- Question posed- Why was mesh used to stabilise the embankment if there is a risk trees will destabilise it?
- Mesh not strong enough to prevent tree growth, as illustrated to rear of some dwellings but agree trees may not be suitable
- 5 year management clause as original condition should remain and commence from alternative approved scheme
- Back gardens waterlogged in periods of heavy rain. Original approved landscaping to include shrubs would absorb the rainfall but agree no trees due to steepness
- The initial proposals to amend the landscaping with low level planting is unrealistic, impractical and does not take account of the steepness of embankment and denseness of the undergrowth that has established over three years.
- It is doubtful the two sprays of weed killer will kill the existing plants/weeds and will disturb wildlife/ecology that now lives in the undergrowth
- Spraying of weed killer is risk to residents health
- The removal of exiting established self seeded planting would expose the meshing to the embankment

7.3 Following advertisement of the revised plan showing the embankment to be retained as existing, three representations were received. The concerns of which are summarised below:

- The banking as it is, is an eyesore full of overgrown weeds does not conserve or enhance the conservation area
- This is due “to the incompetence of the developer”
- utilising existing soils on site for the regrading and stabilisation of the banking has resulted in weeds - growth has come from below
- This latest amendment to the landscaping plans - particularly insofar as they relate to the banking - seem to imply that the current proposal is to do nothing

- permission in place at the time of purchase was for the banking to be landscaped and managed for five years and the properties were purchased on this basis
- The latest plan to do nothing completely absolves the developer from any responsibility and represents a dereliction of duty by the planning department if this amendment is allowed to proceed.
- The developer has a contractual obligation to the owners on this site - residents have all paid money (as part of the house price) to attend to the banking and he needs to do what he initially said he would do.

7.4 The revised statement received in late July 2023 was advertised and neighbour letters sent out to those that initially commented and all seventeen households of the site. At the time of writing no further representations had been received.

8.0 CONSULTATION RESPONSES:

8.1 K.C Ecology – the habitats in their current form on the embankment are at a shortfall of 50% biodiversity units of the approved landscaping plans. Discussed below in assessment.

8.2 K.C Landscape – The original intention of condition 5 for the landscape, was to improve the habitat, wildlife and conserve and enhance the conservation area. No landscape planting proposals have been carried out on the embankment area and there is bank stabilisation mesh on the steep banking, which is now in private ownership (rear gardens) through which, what looks to be, established self-seeded vegetation.

Alternative planting schemes have been received due to safety concerns of removing the established vegetation on the steep banking and damage to the mesh, and the difficulty of accessing the rear gardens to carry out the works and maintain it for 5years. (Discussed below in assessment).

9.0 MAIN ISSUES

- Scope of this application and principle of development
- Relevant history of site
- Impact on amenity and biodiversity
- Planning obligations
- Representations
- Other matters
- Conclusion

10.0 APPRAISAL

Scope of this application and principle of development

10.1 Annex A of the Government guidance on “Flexible options for planning permissions”, details the S73 variation of condition process. It advises that local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.

- 10.2 In this case, the significant changes to policy since the original grant of the 2016/93243 planning permission is the adoption of the Kirklees Local Plan, Holme Valley Neighbourhood Development Plan and revised NPPF. The proposed variations will be considered against the relevant policies contained within these, in the recommendation of this application.
- 10.3 The principle of development of this site along with the embankment along the western boundary has previously been accepted and permission implemented. The application relates to the changes to the soft landscape details of the embankment to the rear of the approved properties, along the western boundary. Consequently, the assessment of impacts on visual amenity and the impact on the significance of the Honley Conservation Area whilst encouraging biodiversity interests within the site is a key consideration, which was the reasoning for condition 5 on the 2016/93243.

Relevant history of site

- 10.4 The wording of condition 5 is such that the approved soft landscaping scheme as shown drawing reference no. 0542-2 rev B should have been carried out during the first planting, seeding or management season following the commencement of superstructure of the hereby approved dwellings or in accordance with a phasing plan which shall have been submitted to and approved in writing by the Local Planning Authority before commencing on the superstructure of the dwellings.
- 10.5 This condition was breached, in that the approved landscaping scheme was not carried out as required by the condition nor was an alternative phasing plan been submitted and approved, prior to commencing on the superstructure of the dwellings. All the dwellings are completed and presumed now occupied. This is verified in the representations received under this application and evidenced during a recent site inspection.
- 10.6 This application was received as a result of the Local Planning Authority serving a breach of condition notice on the applicant, following a refusal under planning application 2021/93948. The reason for refusal set out that the information submitted at the time failed to demonstrate how the proposed variations would conserve and enhance this part of Honley Conservation area whilst encouraging ecology and biodiversity interest within the site, and therefore failed to accord with Kirklees Local Plan policies LP24, LP30, LP32 and LP35 as well as policies in the Holme Valley Neighbourhood Development Plan and guidance in the National Planning Policy Framework.

Impact on amenity and biodiversity

- 10.7 The covering letter accompanying this application sets out the reason for the proposed variation to the previously approved soft landscaping on this embankment which is detailed in paragraph 3.2 above.

10.8 No technical information has been submitted to support the reasons for the proposed variation. The applicant also advises that the reinforced earth embankment:

“has a reinstatement cost of £400,000. When we examined the landscape drawing during advanced construction, we realised that the landscape scheme could not be implemented and the banking could not be redesigned structurally as it was already built”.

10.9 From a structural point of view, whilst the above statement is not supported by evidence to suggest that larger shrubs / tree planting could lead to potentially destabilising the embankment, this matter is not disputed given the gradient of the embankment which in some areas is quite steep and larger trees / shrubs could have the potential to collapse in extreme weather conditions which could contribute to the potential destabilising of the embankment as well as danger to the occupants of dwellings on this site.

10.10 With respect of the initial submitted scheme on this application, no response was provided by the applicant to officer’s request for clarity of works, as the proposals set out in the supporting covering letter accompanying this application contradicted the submitted revised plan.

10.11 As the embankment forms private garden areas to properties that back onto it within the application site, the applicant would require consent of each landowner to carry out any works to the embankment area. The applicant advises that whilst *“some residents want a wildflower mix, and would grant access, some others want to do their own thing it seems..... given the existing multiple ownerships that now exist it is not possible to undertake planting”.*

10.12 Evidence was sought from the applicant to establish which residents were approached and would permit access to their private land. In response the applicant advised that:

“The residents I have spoken to we’re not prepared to give me any letters for different reasons

A. was fear of them been used as public record at committee

B. causing animosity with their neighbour who has a difference of opinion

C. One got quite cross and told me I wasn’t allowed to share emails between us due to GDPR

D. One said once you know what is happening come and see me and then we can discuss the plan

I’ve told them my understanding is this is very important to get sorted and if this issue does not get resolved and passed Kirklees will take enforcement action against the development company but far worse is the fact that as they own the land on there titles Kirklees will put an enforcement notice on their title deeds which will mean they’re unable to sell their property.

When selling the houses and I hope I got this right I'd always told them and this was every house that was sold we couldn't implement the approved scheme as it was not compatible with the banking retaining solution and would void the 120 year guarantee

But the banking was to be considered a buffer between the houses and the woodland and not an extension of the garden as a few wanted to use as terraced gardens also it's too steep to safely use or maintain"

- 10.13 Other than the above statements from the applicant, no substantial evidence has been provided by the applicant to substantiate that not all residents of the properties on the site would grant or indeed deny access.
- 10.14 Whilst the merits or otherwise of any revised landscape scheme needs to be assessed, consideration has to be given to how the scheme will be enforced or how it will be delivered, established or managed and maintained in private gardens, without all the residents agreeing to access for the next five years. This said officers are of the opinion that following the fulfilment of condition 5, after a period of five years, the embankment area due to its steep gradient would potentially result in being overgrown and include self-seeding to take place, and over time effectively resulting in a similar feature to that currently present on site.
- 10.15 The applicant states *"that the Tensar reinforced earth solution which has the required 120 year guarantee was approved under by Kirklees Highways Structures and was fine to be self seeded or a wildflower mix"*. Furthermore, the applicant also states in the additional statement received, that when the properties were sold each buyer was made aware of the incompatibility of the two separate designs and people were advised of the issue and told that the applicant would be submitting a formal application to incorporate a wildflower mix to the embankment area.
- 10.16 Kirklees Highway Structures approved the design and constructional details of the reinforced earth embankment under discharge of condition 11 application reference 2018/91138. However, this did not include agreement to the reinforced embankment to be self seeded nor planted with a wildlife mix. It is also acknowledged that a wildflower mix on the embankment, overtime would inevitably become self seeded and result in a similar feature to that currently existing on site.
- 10.17 The Council's Ecology and Landscape officers have also visited the site to establish the quality and value of the embankment in its current state. Their observations are that whilst the embankment is self-seeded, it has over time naturally established and appears to be dominated by willow, willowherb and buddleia, which is denser in some parts than others and provides some valuable wildlife habitat. This, when seen against the adjacent wildlife habitat network along the western boundary of the site, forms an important contribution not only to the wildlife habitat but also to the enhancing of this part of the Honley Conservation Area. Notwithstanding the issue of whether the embankment can be accessed due to private ownership rights, to carry out any works due to the

gradient of it, the clearance of the existing embankment is likely to result in harm to the diverse wildlife habitat it currently provides and as such would contradict with the aims and objectives of the Local Plan which seeks to safeguard, enhance and minimise impact on biodiversity.

10.18 In light of this, together with the realistic view and practicalities of adequately being able to manage and maintain any landscaping on the embankment (whether by the existing residents or developer, due to the gradient of the embankment and potential risk of destabilising the reinforced earth embankment, which could in effect void the 120 year guarantee), it is considered taking all of the above into account, that the embankment be retained in its current state.

10.19 This said, in this instance it was necessary to establish the base line value of the previously approved landscaping scheme, as shown on plan reference no. 0542-2 Rev B approved under condition 5 of planning consent 2016/93243, against the baseline value of the naturally vegetated embankment in its current form. The shortfall, if any would then be sought (in monetary value) from the applicant through a legal binding agreement to be utilised towards biodiversity enhancements and habitat creation where opportunities exist on Council owned land, to comply with the aims and objectives of the above listed Local Plan and HVNDP Policies.

10.20 Of most relevance in this instance is Local Plan Policy LP30, which states development proposals will be required to:

(i), result in no significant loss or harm to biodiversity in Kirklees through avoidance, adequate mitigation or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement;

(ii) minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist;

10.21 Local Plan Policy LP30 is supported by the Biodiversity Net Gain Technical Advice Note (TAN). This is a cabinet adopted document that is used to assess and determine applications. It backs up Policy LP30 by including recommendations of the Environment Act 2021 for developments to achieve a 10% net gain. Section 3.4.3 of the TAN details the following:

“In exceptional circumstances, where it can be demonstrated that on-site compensation methods have been exhausted, it will be necessary to secure Biodiversity Net Gain off-site. In these circumstances, applicants will need to demonstrate that sufficient offsite habitat creation or enhancement has been secured to achieve a minimum 10% Biodiversity Net Gain. Details of off-site compensation must also be demonstrated in a measurable way, following the same methodology as for onsite creation and enhancement”

- 10.22 Using the Metric (DEFRA Metric 4.0), whilst unable to obtain a comprehensive species list, the Council's Biodiversity Officer focussing on the embankment area was able to get a good assessment from the public footpath to the rear. The Council's Biodiversity Officer assessment is that the embankment area providing approximately 1.04 habitat units, is currently dominated by willow, willowherb and buddleia, with little species variation and creates a habitat that can be classified as mixed scrub in poor condition, a medium distinctiveness habitat that does provide some suitability for biodiversity. In contrast the previously approved scheme would have delivered 2.08 habitat units and had a species mix consistent with a woodland mix, which can be classified as other broadleaved woodland in moderate condition. This is down to the species mix that would have comprised trees, scrub and ground flora indicative of a mature woodland.
- 10.23 Given the above, the habitats in their current form on the embankment are at a shortfall of 50% biodiversity units of the approved landscaping plans and therefore, to accord with Local Plan Policy LP30 a financial payment to the Council, for use to enhance biodiversity on council managed land, will be required. The shortfall has been calculated by the Council's Biodiversity Officer, (based on £20,000 per habitat unit (figure taken from 2019 DEFRA Impact Assessment) + 15% admin fee (figure taken from Kirklees Biodiversity Net Gain Technical Advice Note)), a total of approximately £23,920 will be sought from the applicant. Officer's recommendation is reflective of this and on the basis the applicant is agreeable to the off-site contributions, would comply with Local Plan Policy LP30 and the aims of Policy 13 of the HVNDP.
- 10.24 In the additional statement received in July 2023, the applicant has offered "a contribution of £10,000 towards either Meltham Greenway or a biodiversity scheme in Honley or the playground to benefit the wider area". As this does not cover the full shortfall set out in the above paragraph, formal agreement is sought and awaited from the applicant for the full amount of the shortfall. An update on this matter will be reported to the Members in the committee update or on the date of committee.
- 10.25 In summary, subject the applicant being amenable to the above, there is potential for habitat creation at the Council's recreation ground on Meltham Road, Honley, approximately 480m south-west of the application site or additional tree planting at either Honley People's Park or land off Jagger Lane, Honley, both of which are in close proximity to the centre of Honley. The financial contribution to be secured, as set out above can be utilised to include additional tree planting at this recreation ground, to accord with Local Plan Policy LP30 and Policy 13 of the HVNDP.

Planning obligations (*Deed of Variation to the original S106 Agreement*)

- 10.26 A Section 106 legal agreement forms part of the original permission which requires the maintenance and repair as necessary of the watercourse to ensure the free flowing of water and for inspections to be carried out annually to maintain in good repair. If Members are minded to approve the application, a deed of variation to the original legal agreement would be required, to secure the obligations in line with the original legal agreement as well as the obligation to secure the off-site contributions, discussed in the preceding paragraphs upon completion of the Obligation.

Representations

- 10.27 The reasoned conclusion has taken into account the representations received, together with the potential impact on the structural integrity of the reinforced embankment which forms private gardens areas, safety of residents, enforceability and the practicality of safely carrying out the maintenance and management of this area, given the identified constraints and gradient of the reinforced embankment.

Other Matters: (Conditions)

- 10.28 The previously approved permission is extant and development has been constructed in all other respect with the details approved in accordance with 2016/93243 original permission and subsequent discharge of condition applications. It is therefore not necessary to re-impose condition no. 1 requiring the proposals to be carried out within three years of the expiry of the previous permission. Furthermore, those conditions for which variation has not been sought as part of this application and were originally imposed by planning permission approval 2016/93243 would be reproduced on the notice to provide a complete record of all conditions, regardless of whether some may have already been discharged. Where the details pursuant to the conditions in accordance with reference 2016/93243 have already been submitted for discharge and approved by the Local Planning Authority, there is no change to the details required by that condition, a further discharge of condition application pursuant to this application reference will not be necessary. This matter will be addressed by the imposition of a footnote on the decision notice.

11.0 Conclusion

- 11.1 The original intention of the condition (5) for landscape was to improve the habitat and wildlife and conserve and enhance the conservation area through the implementation of the approved landscape planting on the embankment, which although forms garden areas in private ownership was not envisaged for such purposes, due to its steepness. Furthermore, to ensure the structural integrity of the reinforced embankment was not compromised by future residents of the site, permitted development rights were withdrawn for development falling within Part 1 Classes A, B, C, D, E & F and Part 2 Class A or B of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) under condition 19 of the 2016 permission.

- 11.2 It is considered there would be very little merit to remove the self-seeded and naturally established vegetation which has now established over a number of years, to replace the banking with grass seeding which will potentially re-establish with similar native vegetation in time and given the complexities of the steepness and risks associated with accessing the banking for any long term maintenance and management, it will be difficult to remove growth of pioneer species/natural succession. Consequently, haven taken a balanced approach of all the material considerations, the recommendation before Members is to grant the variations proposed and seek the off-site biodiversity net gain to be secured within the same Ward, compensating for the recognised shortfall and to comply with the above listed Local Plan and HVNDP policies.
- 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.
- 11.4 In this case, the 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 it is therefore recommended for approval.

12.0 CONDITIONS (Full wording of conditions including any amendments/ additions to be delegated to the Head of Planning and Development). The list of conditions below are transposed from the 2016 application, as explained within paragraph 10.28 (above)

1. **Deleted**
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. The dwellings hereby approved shall be faced in 'natural coursed walling stone' and 'Sandtoft Cassius Antique Slate' in accordance with the details (ref: 16/D15) received on 27/09/2017. The development shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.
4. Notwithstanding the submitted information details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority before development commences on the superstructure of any dwelling hereby approved. The development shall be completed strictly in accordance with the details so approved prior to any of the dwellings being occupied and maintained as such thereafter.
5. **Deleted**
6. Prior to the occupation of the hereby approved dwellings, the approved vehicle parking areas shall be surfaced and drained in accordance with the Department for Communities and Local Government and Environment Agency's "Guidance on the permeable surfacing of front gardens" as amended or any successor guidance and made operational. The surfacing material must be of a type which does not carry debris onto the highway. Thereafter the parking areas shall be so retained, free of obstructions, and available for the use specified on the approved plans.

7. Before development commences on the superstructure of any dwelling hereby approved, a detailed scheme for the provision of a road widening including the provision of a new 2 metre wide footway to be provided as shown on drawing no. 16/D15/03 Rev F entitled 'site layout' and all associated works shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, signing, surface finishes together with an independent Safety Audit covering all aspects of the work. The development shall be completed in accordance with all the approved details before any part of the development is first brought into use.
8. Prior to construction commencing a schedule of the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include
 - the point of access for construction traffic,
 - Construction (Including site preparation) traffic, timing and routing to and from the site,
 - Parking arrangement for site/construction staff,
 - Wheel washing on site and street cleaning arrangement,
 - Construction/build schedule and
 - Details of how dust and emissions during the construction will be controlled/minimised.The approved scheme/details shall be adhered to during and throughout the construction phase, until completion of the approved development.
9. The bin storage/collection areas as shown on drawing no. 16/D15/03 Rev F entitled 'site layout' shall be provided prior to the first occupation of the dwellings and shall be retained thereafter free of obstructions and available for storage/collection of bins only.
10. Notwithstanding the provisions of section 55(2)(a)(i) of the Town and Country Planning Act 1990 (or any re-enactment with or without modification) all integral garages on all plots shall be used for the garaging of motor vehicles and no other purposes.
11. Before development commences on the superstructure of any dwelling hereby approved, the design and construction details of all temporary and permanent highway retaining structures including any modifications to the existing retaining walls and to the embankment along the western boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement, all necessary ground investigations on which design assumptions are based, method statements for both temporary and permanent works and removal of any bulk excavations, a full slope stability analysis together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access. The development shall be completed in accordance with the approved details before any of the dwellings are occupied and retained as such thereafter.
12. No piped discharge of surface water from the site shall take place until works to provide a satisfactory outfall, other than the local public sewerage, for surface water have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.

13. Before development commences on the superstructure of any dwelling hereby approved a scheme detailing finalised foul, surface water and land drainage (including private drainage layout, trash screen design, interface between diverted watercourse and existing infrastructure) shall be submitted to and approved in writing by the Local Planning Authority. The detailed design shall be in accordance with Site Layout 16/D15/03 Rev F, Flood Plan with Trash Screen Blockage 10991-01C and Bland and Swift addendum to FRA dated 11/09/2017. None of the dwellings hereby approved shall be occupied until the drainage scheme so approved has been provided on the site to serve the development or each agreed phase of the development to which the dwellings relate and thereafter be retained in accordance with the approved details.
14. The hereby approved dwellings shall only be occupied on completion of the maintenance and management plan for the approved on-site ordinary watercourse and all its associated ancillary structures which shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the maintenance and management of the approved watercourse including all associated ancillary structures shall be adhered to in accordance with the approved plan/schedule.
15. Remediation of the site shall be carried out and completed in accordance with the Phase I Geo-environmental Investigation report hereby approved. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
16. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.
17. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the Local Planning Authority, works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

18. An electric vehicle recharging point shall be installed within the garage serving each dwelling during the construction phase and before occupation of the dwelling or in a location accessible from the dedicated parking area to each dwelling. The cable and circuitry ratings for the charging points shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.
19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification) no development falling within Part 1 Classes A, B, C, D, E or F or Part 2 Class A or B of Schedule 2 of the above Order shall be carried out within the red line boundary of the application site shown on the approved plans at any time.

FOOTNOTE:

Conditions 3-4 and 6-19 (i.e. those conditions for which variation has not been sought as part of this application) were originally imposed by planning permission approval 2016/93243. They are reproduced on this notice to provide you with a complete record of all conditions, regardless of whether some may have already been discharged. Where the details pursuant to the above conditions in accordance with reference 2016/93243 already been submitted for discharge and approved by the Local Planning Authority and there is no change to the details required by that condition, a further discharge of condition application pursuant to this application reference will not be necessary.

FOOTNOTE:

It is important to note that as a hydrocarbon resistant gas membrane is to be installed, a higher standard of validation will be required. In reference to condition no. 16 the following information shall be provided in the validation report: • Specification of products used • Letter from RGS declaring products installed in all necessary plots to manufacturers specification • Photos of installation process

FOOTNOTE:

It is brought to the Applicants' notice that the Highway Development, Investment & Regeneration, Civic Centre 1, Market Street, Huddersfield (01484 221000 or 'Highways.Section38@kirklees.gov.uk') must be contacted to discuss road adoption arrangements under Section 38 of the Highways Act 1980.

FOOTNOTE:

It is the applicant's responsibility to find out whether the work approved by this planning permission requires written approval from the Highways Structures section for works near or abutting highway and any retaining structures. Contact Highways Structures Section on Tel No. 01484-221000 who can advise further on this matter.

FOOTNOTE:

The public footpath no. HOL/186/10 beyond the western boundary shall not, at any time prior to, during or after building works, be unofficially obstructed or closed without the prior written consent of the Council as Highway Authority.

FOOTNOTE:

Vegetation clearance should be undertaken outside of the bird breeding season, March to August inclusive. If any clearance work is to be carried out within this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.

FOOTNOTE:

All contamination reports shall be prepared in accordance with CLR11, PPS23 and the Council's Advice for Development documents or any subsequent revisions of those documents.

FOOTNOTE:

Please note that the granting of planning permission does not overrule private legal rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works as construction and maintenance or parking of vehicles may involve access to land outside your ownership or subject to private rights of way.

FOOTNOTE:

The responsibility for securing a safe development rests with the developer and/or landowner. It is advised where a site could be affected by land stability issues this be taken into account and dealt with appropriately by the developer and/or landowner.

FOOTNOTE:

To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours Mondays to Fridays 08.00 and 13.00hours, Saturdays With no working Sundays or Public Holidays In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Background Papers:

Application and history files. See assessment above.

Website link to be inserted here:

[Planning application details | Kirklees Council](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f93823>

Link to application reference 2018/91138 - Discharge conditions 4 (boundary treatments), 7 (highways), 8 (construction traffic), 11 (retaining wall), 13 (drainage), 14 (watercourse) on previous permission 2016/93243 for erection of 17 dwellings – details satisfactory.

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<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f91138+>

Link to application reference 2021/91689 - Variation condition 2 and 5 on previous permission 2016/93243 for erection of 17 dwellings (within a Conservation Area)

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<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91689+>

Certificate of Ownership – Certificate A signed by Agent.

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 19-Oct-2023

Subject: Planning Application 2023/91462 Erection of single storey side extension and enlarged porch with associated external alterations 17, Maplin Avenue, Salendine Nook, Huddersfield, HD3 3GP

APPLICANT

W Khalil

DATE VALID

24-May-2023

TARGET DATE

19-Jul-2023

EXTENSION EXPIRY DATE

14-Sep-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: Lindley Ward

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed extension, by virtue of its siting on a prominent corner plot, proximity to the side boundary, scale and design, would result in a dominant and unsympathetic addition to the host dwelling. It would be a visually cramped and overprominent form of development within the streetscene. The proposal would therefore cause detrimental harm to the visual amenities of the locality, contrary to Policies LP2 and LP24 a) and c) of the Kirklees Local Plan, Key Design Principles 1 and 2 of the Council's adopted House Extensions and Alterations SPD and policies contained within Chapter 12 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 The application is brought to Planning Sub Committee at the request of Ward Councillors Cahal Burke and Councillor Anthony Smith who has provided the following reason:

"We would like this referring to the sub-committee please as we feel the corner plot will accommodate the development without being cramped. Given this is a single-story extension, the use of sympathetic materials and presence/maintenance of an existing boundary wall and tall mature hedges around the boundary, we do not believe this would create a prominent visual intrusion."

1.2 The Chair of Huddersfield Sub-Committee has accepted the reason for making this request, having regard for the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

2.1 The application site relates to 17 Maplin Avenue, an extended two-storey detached dwellinghouse on a prominent corner plot location adjacent Maplin Drive. It sits within a steeply sloping area with land falling from northeast to southwest, is partially bounded by low stone walls, some hedging (in parts), horizontal timber fencing and mortar block wall to the rear atop the low stone walls within its elevated land.

2.2 The property has already been substantially extended with limited rear amenity space remaining but more generous open land to the front and side. To the rear, viewed from Maplin Drive, the property is on elevated ground to the highway appearing as a prominent building on the corner plot. The existing single-storey rear extension has a chamfered corner aiding in some openness/separation distance to the boundary. There is a driveway and hard surfacing leading up to an integrated garage (internally ~5.5m deep by ~2.3m wide) and single storey front porch which are forward of the main body of the property. It is constructed of coursed stone to the frontage and concrete tile, with white render to the rear and buff brick to the side as a secondary material.

2.3 The site is situated within a wider residential area, with detached properties similarly constructed with material palette and architectural style. The site is unallocated on the Kirklees Local Plan.

3.0 PROPOSAL:

- 3.1 It is proposed to erect a single-storey side extension flush with the existing front elevation of the garage. This would project 3.4m from the side, be 5.9m deep with a small rear projection extending 1.5m from the side x 1.3m deep. It would have a gable end pitch roof to both elements with a height of eaves 2.3m from ground level; the ground level to the side of the property is sloping.
- 3.2 The side extension would be faced in stone at front and brick to the side and rear. They would be roofed in tiles to match the host. There would be a bay window feature at the front projecting forward of the original host property. There would also be a window in the rear elevation.
- 3.3 This extension would serve as an additional living room with shower room.
- 3.4 The existing garage would be partially converted into a storeroom at rear with the front of the garage divided and to be integrated with the existing porch to form a larger porch. This would remove an existing W.C to the porch. The front elevation of the extended porch would be faced in stone with a new main front door with sidelights and two narrow windows. This would retain a flat roof design.
- 3.5 To the host, an existing window to the first floor of the side elevation would be reduced in height to accommodate the side extension.
- 3.6 Off street parking would be retained on the driveway to the front of the dwellinghouse.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

At the application site:

- 4.1 2022/91031 – Erection of single storey front and side extensions. Refused on 2nd November 2022.
- Officer Note:** The present application to be determined is 0.5m narrower in width than the previous application but otherwise of the same design.
- 4.2 91/01047 – Erection of first floor and single storey extensions. Approved on 30th April 1991. This pertained to a first-floor side extension and a large single-storey rear extension which has been built out.

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

- 5.1 Following refusal of the previous application 2022/91031, the applicant contacted Planning Officers to discuss potential alternate arrangements. Officers advised that it may be possible to have a smaller side extension which is set back from the main body of the primary elevation following guidelines in the House Extensions and Alterations SPD (page 28). This could include existing space within the garage to form a large living area. Alternatively, conversion of the integral garage to living accommodation does not require planning permission in this instance and may achieve the extra room desired.

5.2 Officers requested additional information to be submitted to determine whether alternate arrangements were feasible to meet the specific needs of the applicants. Submission of information supplied found that some internal alterations to provide the accommodation could be feasible, specifically to meet the needs of the applicants. Such arrangements would overcome the visual concerns regarding the submitted scheme. Officers requested a justification for the proposal from the agent on how the scheme would meet the needs of the applicant, when there appears to be alternatives available. No additional information had been received at the time that the report was prepared for publication.

6.0 PLANNING POLICY:

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

The site is unallocated on the Kirklees Local Plan. The site is in a locality where there is a known presence of bats and which is identified by the Coal Authority as being potentially unstable land due to former mining activity.

6.2 Kirklees Local Plan (2019):

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP21** – Highway safety
- **LP22** – Parking
- **LP24** – Design
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP53** – Contaminated and unstable land

6.3 Supplementary Planning Guidance / Documents:

- House Extensions and Alterations SPD
- Highways Design Guide SPD

6.4 National Planning Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 5th September 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 9** – Promoting sustainable transport
- **Chapter 12** – Achieving well-designed places

- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters which expired on 30th June 2023. No representations were received.
- 7.2 The description of development as advertised described the porch as being enhanced, for clarity this is recommended to state 'enlarged' and the description updated to state this. It is considered the description as advertised adequately alerted the public to the nature of the development and further advertisement of the proposal following the update to the description was not necessary in this case.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None necessary

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
- 10.2 Policy LP1 of the Kirklees Local Plan goes on further to state that: *"The Council will always work proactively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area"*.
- 10.3 Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that "good design should be at the core of all proposals in the district".

- 10.4 The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations.

Visual amenity and urban design issues

- 10.5 Policies LP1, LP2 and LP24 of the Kirklees Local Plan are all relevant, as these policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development within the area and is visually attractive. With reference to extensions, Policy LP24(c) of the Kirklees Local Plan states these should be 'subservient to the original building' and 'in keeping with the existing building in terms of scale, materials and details.'
- 10.6 These aims are also reinforced within Chapter 12 of the NPPF (Achieving well-designed plans) where paragraph 126 provides an overarching consideration of design stating that: *"the creation of high-quality buildings and places are 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."* Paragraph 130 of the NPPF states that planning decisions should ensure developments are sympathetic to local character. including the surrounding built environment.
- 10.7 With regard to the House Extensions and Alterations SPD, Key Design Principles 1 and 2 are relevant which state:
- Principle 1 – 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."*
 - Principle 2 – 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 detail."*
- 10.8 Section 5 of the House Extensions and Alterations SPD also provides guidance for specific types of extensions and alterations which will be referred to in this assessment.

Single-storey side extension

- 10.9 Section 5.3 of the House Extensions and Alterations SPD relates to side extensions, with paragraph 5.15 of this SPD stating that: *"Side extensions should be located and designed to minimise the impact on the local character of the area. The design should reflect the design of the original building in terms of roof style, pitch materials and detailing."*
- 10.10 Paragraph 5.17 of the SPD goes onto state that: *"Single storey side extensions should:*
- *not extend more than two thirds of the width of the original house;*
 - *not exceed a height of 4 metres; and*
 - *be set back at least 500mm from the original building line to allow for a visual break.*

10.11 In addition, the proposal would be forward of the main body of the host and as such Section 5.2 of the House Extensions and Alterations SPD relates to front extensions and it states the following:

“Front extensions are highly prominent in the street scene and can erode the character of the area if they are not carefully designed. Large extensions (single and two-storey) and conservatories on the front of an existing house are likely to appear particularly intrusive and will not normally be acceptable. Single storey extensions on the front of a house and two-storey or first floor front extensions are usually unacceptable due to the impact on the character of the area and visual amenity and will not normally be permitted unless:

- *The house is set well back from the pavement or is well screened; and*
- *The extension is small, subservient to the original building, well designed and would not harm the character of the original house or the area; and*
- *The materials and design match the existing features of the original house; and*
- *The extension would not unreasonably affect the neighbouring properties.”*

10.12 In this case, the single-storey side extension would comply with all but the last design parameter of paragraph 5.17 of the SPD; it would not be set back 0.5m from the original building line. Due to the front elevation being aligned with the porch, cumulatively the design would appear with the existing modified porch extension to form a large, dominant, front projection to the property. This is accentuated by the property being forward of the building line along Maplin Avenue and on higher land in relation to Maplin Drive. It would be partially screened by the hedging to the front and side but would be visible at the rear, viewed on rising land and sited very close to the highway boundary, especially the one shared with the side and rear boundary of the site. This dominant design of the proposal and prominence of the site would be further emphasised by its proximity to the edge of the site, cumulative mass of extensions, which would also result in an overall development that would appear cramped on the site.

10.13 The proposed pitch roof design would add an incongruous roof design in relation to the host's own cross gable roof design and the existing flat roof of the porch and failing to be a sympathetic or well-designed addition with its increased bulk and massing to the original host complicating the design. The bay window would be forward of the principal front elevation, as large as the existing original bay window of the host. This would further dominate the host dwelling's original design sited forward of the building line.

10.14 While the materials are to match the host, the proposed dominant bulk and massing forward of the host within the corner plot and so excessively close to the boundary, would still appear as an unsympathetic addition within the front and side amenity space.

10.15 Paragraph 5.23 of the SPD provides additional guidance in relation to 'corner plots'. This states that: 'On corner plots, side extensions should be considered as being both side and front extensions and as such will relate to both street frontages. Therefore, both elevations should be designed as street frontages. On corner plots, side extensions should contribute to the local character by:

- *facing in both directions to create two frontages, each with windows overlooking the street;*

- *being set back from the existing building line on both streets; and*
- *following the boundary treatment along both streets, in relation to its position, height and materials.'*

- 10.16 The proposal would not have two frontages incorporated within its design, nor be set back from the existing building line on Maplin Avenue and Maplin Drive with the side extension sited closely to the boundary. This would be in part screened by the existing boundary hedging to the side however the single-storey side extension would still appear as a prominent feature from Maplin Drive; being on an elevated position and would close the gap to boundary reducing the sense of openness. The existing green hedge would not adequately aid in screening the dominating effect of the proposal and it is considered that the design would be unsympathetic to the existing dwelling and the streetscene.
- 10.17 Whilst the scheme could be amended to include windows alongside the side elevation to create an active frontage without much impact on the residential amenity of the neighbours, this would not sufficiently address the adverse impacts of its bulk and massing of its built form so close to its boundary to Maplin Drive within an exposed corner plot.
- 10.18 With regard to Key Design Principle 1 of the SPD, extensions should be in keeping with the character and design of the area and streetscene. The proposal would have matching materials harmonising with the area's established palette of materials. Considering the locality, two-storey detached properties appear to have a consistent size and scale, subsequent first floor side extensions had created a more built-up appearance close to the flank property for some properties. However, this has been mitigated by the topography and varying positions from the carriageway breaking up the bulk and massing. A significantly smaller single-storey side extension could appear of low impact with the front garden. This has been communicated to the agent – to set back from the main body of the host and reduce width to achieve a more sympathetic extension. However, the submitted scheme would introduce a prominent side extension that would not be subservient being forward of the host and creating an extended host building's footprint that would be out of scale and appearing unsympathetic to the host property and wider locality.
- 10.19 Considering Key Design Principle 2, the proposal would add a side/front extension to the previously extended original building and being sited forward of the host's front elevation, would be considered a dominant addition to the host. Cumulatively the proposed scale of development would fail to be in keeping with the host in terms of its scale and roof design.
- 10.20 It is therefore considered that the proposed extension, by virtue of its siting on a prominent corner plot, its proximity to the side boundary, its scale and its complicated form, would result in a dominant and unsympathetic addition to the front of the host dwelling, would result in a cramped form of development on the site and would constitute a prominent visual intrusion within the streetscene. The proposal would therefore cause detrimental harm to the visual amenities of the locality, contrary to Policy LP24 (a and c) of the Kirklees Local Plan, Key Design Principles 1 and 2 of the Council's adopted House Extensions and Alterations SPD and Government guidance contained within Chapters 12 of the National Planning Policy Framework.

Residential Amenity

10.21 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.”

10.22 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.

10.23 The House Extensions and Alterations SPD sets out a number of design principles which will need to be considered when assessing a proposal’s impact on residential amenity. These include:

- Key Design Principle 3 - that *“extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants, and neighbours.”*
- Key Design Principle 4 - that *“extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light, and outlook.”*
- Key Design Principle 5 - that *“extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property.”*
- Key Design Principle 6 - that *“extensions and alterations should not unduly reduce the outlook from a neighbouring property.”*
- Key Design Principle 7 - that *“extensions and alterations should ensure an appropriately sized and useable area of private outdoor space is retained. Normally at least half the garden area should be retained as part of the proposals.”*

10.24 The impact of the development on each of the surrounding properties most likely to be impacted by the proposal will be assessed in turn.

19 Maplin Avenue

10.25 The proposed single-storey side extension would be largely screened by the bulk and massing of the host and sufficiently sited at some distance to the southwest of the neighbour avoiding any concerns regarding overlooking, overshadowing and overbearing or loss of privacy and outlook. The alterations to the porch would not increase bulk and massing to the existing porch. There would be an improvement in the existing relationship between neighbours regarding loss of privacy and overlooking as the existing porch’s side elevation would now be windowless.

No’s 1, 3, 5, 7 and 9 Maplin Drive

10.26 There would be very restricted oblique views from the rear window to No. 9 aided by the difference in ground levels between the two. Due to its single storey design, position northeast of the properties, blank side elevation and green screening, there would be no detrimental overlooking, overshadowing and overbearing to these properties on Maplin Drive.

No's. 12 and 14 Maplin Avenue

- 10.27 The proposal would be on elevated ground northwest of the properties, screened in part by the green hedging and would have its bay window separated by 26m at minimum to the front elevation of the properties which are angled away from the proposal. It is considered that the proposal would be sited such that it would not have a significant impact upon these properties in terms of overlooking, overshadowing and overbearing.

Future Occupiers

- 10.28 With reference to Principle 7 of the House Extension and Alterations SPD,

“Extensions and alterations should ensure an appropriately sized and useable area of private outdoor space is retained. Normally at least half the garden area should be retained as part of the proposals.”

And:

“Normally, front gardens will not be considered adequate useable private amenity space due to the lack of overall privacy for occupants.”

- 10.29 It is acknowledged that this proposal relates to a property with very limited rear amenity space and a large front and side amenity space screened in part by the green hedging. As a consequence of the proposal, the front and side amenity space at the site would decrease in size with no additional detrimental impacts on the remaining useable private amenity space. Thus, on balance, the remaining external amenity space provision is considered acceptable in this instance. The ensuing extension would provide a further lounge area and a shower room for residents.
- 10.30 In summary, the proposal would have an acceptable impact on residential amenity and would be compliant with Policy LP24b of the Kirklees Local Plan and policies within Chapter 12 of the NPPF in respect of residential amenity, as well as Key Design Principles 3-7 of the Council’s adopted House Extensions and Alterations SPD.

Highway issues

- 10.31 Key Design Principle 15 of the House Extensions and Alterations SPD states that: *“Extensions and alterations should maintain appropriate access and off-street ‘in curtilage’ parking.”*
- 10.32 The existing integral garage would be converted into a storage space and porch. In this instance, no compensatory parking has been provided, nor has it been identified on a plan. It is considered that the garage’s internal dimensions would not fully meet the requirements of modern vehicular parking standards set out the Highways Design Guide SPD. The Kirklees Highways Design Guide SPD and the House Extensions and Alterations SPD set out that a 3-bedroom dwelling should be served by 2 off-street parking spaces. Part of the front amenity space is given over to driveway, which is of an area sufficient to provide off street parking for two vehicles with turning space.

10.33 Therefore, having taken into account the above, it is considered an acceptable level of parking can be provided on site. It is considered that the proposal would accord with Policies LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the NPPF, Key Design Principle 15 of the House Extensions and Alterations SPD and the guidance within the Council's Highways Design Guide SPD.

Other Matters

Climate change

10.34 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. A Climate Change Statement was supplied.

10.35 Key Design Principles 8-11 of the House Extensions and Alterations SPD relate to planning for climate change. Of note:

- Key Design Principle 8 (Energy Efficiency) states: *"Extensions and alterations should, where practicable, maximise energy efficiency."*
- Key Design Principle 9 (Construction Materials) states: *"Extensions and alterations should seek to use innovative construction materials and techniques, including reclaimed and recycled materials where possible."*
- Key Design Principle 10 (Renewable Energy) states: *"Extensions and alterations should consider the use of renewable energy."*
- Key Design Principle 11 (Water Retention) states: *"Extensions and alterations should consider designing water retention into the proposals."*

10.36 In this case, due to the nature of the proposal, it is not considered reasonable to require the applicant to put forward any specific resilience measures. However, it has been noted that the extensions would be partly finished in stonework, which is a high-quality natural material. The extensions would also aid passive solar gain and would be constructed to modern specifications to ensure thermal efficiency. This would be in accordance with the aims of Chapter 14 of the NPPF, as well as Key Design Principles 14 and 15 of the House Extensions and Alterations SPD.

Biodiversity

10.37 Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species, and to identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

10.38 Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity. Policy LP30 outlines that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist. Further to this, Key Design Principle 12 of the House Extensions and Alterations SPD states that: *“Extensions and alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity.”*

10.39 In this instance, the proposal would be within a bat alert area although it would not disturb the existing two-storey eaves of the property. Careful attention has been paid to look for evidence of bat roost potential during the site visit and the roof appears well sealed around the eaves and roof area. This would be therefore considered unlikely to support roosting bats. Due to the small scale of the proposed development, it would not be necessary in this instance to require improvements in biodiversity to comply with the aforementioned policies should it be approved.

Waste storage and collection

10.40 Key Design Principle 16 of the SPD states that extensions and alterations should maintain appropriate storage arrangements for waste. It is considered that the existing arrangements would not significantly alter as a result of the proposal.

Highway Structures

10.41 The proposed bulk and massing could impose additional loading on the adjoining private retaining wall abutting Maplin Drive and therefore Policy LP53 of the Kirklees Local Plan is relevant. Further details were requested by the Highway Structures Team consultation response to assess impact under the previously application 2022/91031 in relation to the retaining wall adjacent to both Maplin Drive and Maplin Avenue. Officers did not seek the additional information as it was concluded that the proposal was not acceptable in terms of its visual impact. Should Members be minded to approve this application, this could be conditioned – with a pre-commencement condition - to control the risks to a public highway prior to the commencement of the construction.

Land Stability

10.42 The application site falls within an area at high risk of ground movement as a result of past mining activities as determined by the Coal Authority. Whilst falling within a high-risk area the Coal Authority identify the development type as that which does not need submission of a Coal Mining Risk Assessment. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority’s standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with policy LP53 and paragraphs 174 and 183 of the National Planning Policy Framework.

Representations

- 10.43 No Representations were received in relation to this proposal.
- 10.44 Cllrs Burke and Smith requested this item to be considered by Committee for the following reason:

“We would like this referring to the sub-committee please as we feel the corner plot will accommodate the development without being cramped. Given this is a single-story extension, the use of sympathetic materials and presence/maintenance of an existing boundary wall and tall mature hedges around the boundary, we do not believe this would create a prominent visual intrusion.”

- 10.45 Officers have set out their evaluation of the scheme taking into account the points raised by Ward Councillors, see paragraphs 10.5-10.20.

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 materials considerations. In this instance, the development does not accord with Policy LP24 a) and c) of the Kirklees Local Plan, Key Design Principles 1 and 2 of the Council’s adopted House Extensions and Alterations SPD and Government guidance contained within Chapters 12 of the National Planning Policy Framework. The application of policies in the NPPF that protect visual amenity are of particular importance and provide a clear reason for refusing the development proposed.
- 11.3 The proposal is therefore considered to be contrary to policy LP2 which seeks to ensure all development proposals 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.

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%2F91462)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2F91462>

Certificate of Ownership – Certificate A signed

Previous application:

2022/91031 – Erection of single storey front and side extensions. Refused on 2nd November 2022 -

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2F91031+)

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