

KIRKLEES COUNCIL
PLANNING SERVICE
LIST OF PLANNING APPLICATIONS TO BE DECIDED BY
PLANNING SUB-COMMITTEE (HEAVY WOLLEN AREA)

13-Oct-2016

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND PAPERS

**There is a file for each planning application containing
application form, plans and background papers.**

Simon Taylor – 01484 221000

**NOTE: For clarification the page numbering referred to
shall be those set out in the contents page**

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

PLANNING POLICY

The statutory development plan comprises:

The Unitary Development Plan (UDP). These reports will refer only to those policies of the UDP 'saved' under the direction of the Secretary of State beyond September 2007.

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 Local Plan will provide the evidence base for all new and retained allocations including POL. The Local Plan process will assess whether sites should be allocated for development or protected from development including whether there are exceptional circumstances to return POL sites back to Green Belt. The Local Plan process is underway and the public consultation on the draft local plan took place between 9th November 2015 and 1st February 2016.

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. At this point in time, the draft local plan policies and proposals are not considered to be at a sufficiently advanced stage to carry weight in decision making for individual planning applications. The Local Planning Authority must therefore rely on existing policies (saved) in the UDP, national planning policy and guidance.

National Policy/ Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, the Planning Practice Guidance Suite (PPGS) 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 203 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.

Content

Application No: 2015/91005.....	8
Type of application: 62 - FULL APPLICATION	
Proposal: Change of use from warehouse to a mixed use comprising warehouse, food processing, cash and carry and specialist retail foodstore and formation of car park	
Location: Wellington Mills, 7, Purlwell Lane, Batley, WF17 5BH	
Ward: Batley East Ward	
Applicant: Y Mulla	
Agent: Robert Halstead Chartered Surveyor	
Target Date: 15-Sep-2016	
Recommendation: RF1 - REFUSAL	
Application No: 2015/92627.....	25
Type of application: 62 - FULL APPLICATION	
Proposal: Erection of place of worship and educational centre (within a conservation area)	
Location: Land at the corner of Nowell Street & West Park Street, Dewsbury	
Ward: Dewsbury West Ward	
Applicant: A Vania	
Agent: Hasan Dadibhai, KUFIC	
Target Date: 21-Oct-2015	
Recommendation: RF1 - REFUSAL	
Application No: 2016/91767.....	42
Type of application: 62 - FULL APPLICATION	
Proposal: Erection of 2 dwellings	
Location: The Nook, 43, Forge Lane, Liversedge, WF15 7DX	
Ward: Heckmondwike Ward	
Applicant: H Cook	
Agent: J A Oldroyd & Sons Ltd	
Target Date: 31-Aug-2016	
Recommendation: FC - CONDITIONAL FULL PERMISSION	

Application No: 2015/91005

Type of application: 62 - FULL APPLICATION

Proposal: Change of use from warehouse to a mixed use comprising warehouse, food processing, cash and carry and specialist retail foodstore and formation of car park

Location: Wellington Mills, 7, Purlwell Lane, Batley, WF17 5BH

Grid Ref: 424023.0 423994.0

Ward: Batley East Ward

Applicant: Y Mulla

Agent: Robert Halstead Chartered Surveyor

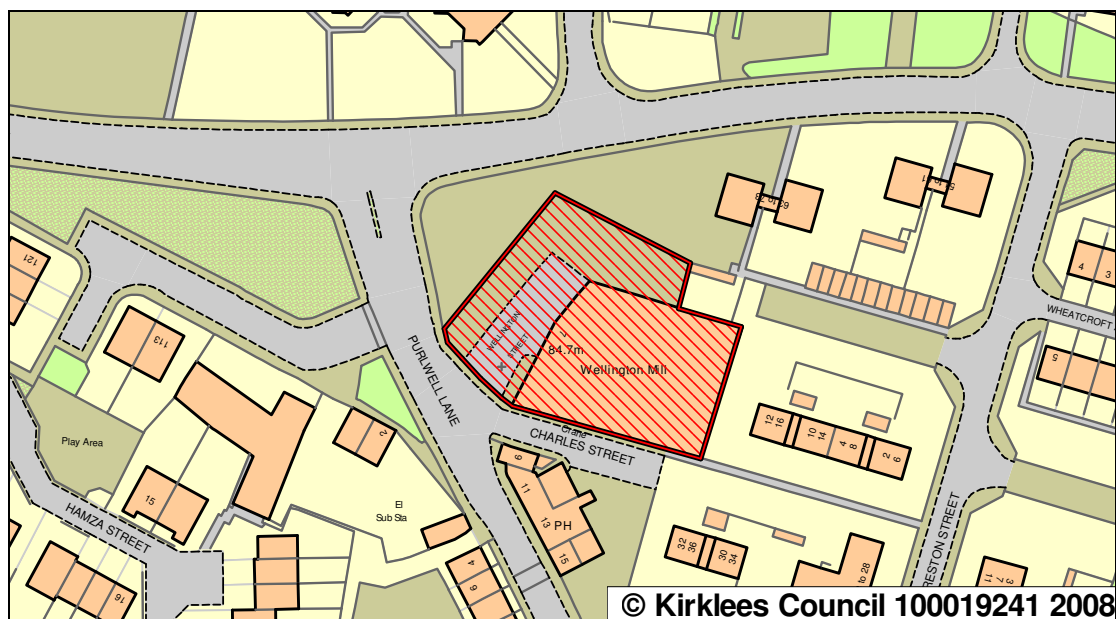
Target Date: 15-Sep-2016

Recommendation: RF1 - REFUSAL

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

The principle of the change of use of the warehouse building to a mixed use comprising warehouse, food processing, cash and carry and specialist retail food store is considered, on balance, to be acceptable in principle. The applicant has failed to demonstrate however, that adequate servicing and off-street parking facilities can be provided to serve the intensified use, and without such facilities there would be a detrimental impact on highway safety and the amenity of local residents. To approve the application would be contrary to Policies T10 and D2 of the Kirklees Unitary Development Plan which stipulates that new development should not prejudice highway safety or amenity.

RECOMMENDATION: Refusal of the planning application and recommend enforcement action is taken to remove the unauthorised uses on the site.

2. INFORMATION

The application is brought to Heavy Woollen Planning Sub-Committee due to the significant number of representations that have been received. This is in accordance with the Council's Scheme of Delegation.

The application was deferred from the previous Heavy Woollen Planning Sub-Committee meeting, held on 1 September 2016, in order to provide the applicants an opportunity to further develop a Transport and Servicing Management Plan to be considered by the Sub-Committee, and to allow an opportunity for residents to meet with the applicant to discuss the concerns raised.

A meeting attended by local residents, Ward Councillors, the Applicant, Planning Agent, and Planning and Highway officers took place on 19th September at Wellington Court, Batley. The outcome of the meeting was that no resolution was reached between residents and the applicant regarding the parking and servicing arrangements. This is discussed in detail in the Highway Safety Section of this report below.

The applicant submitted a revised car park and servicing management plan including a revised car parking layout plan on the 4th October immediately prior to the publication of this report. This latest revision does make some positive moves to overcome the issues raised by Officers and the Committee about highway safety and residential amenity. At this time the proposals are being considered by officers. The revised details will be publicised and the outcome of this publicity and negotiations with the applicant will be brought to committee in the update report. The information within the report is based upon the information available to officers prior to the 4th October revision.

3. SITE DESCRIPTION / PROPOSAL

Site Description:

The application site comprises a warehouse building occupied by Mullaco Foods. The principal use of the building is as a warehouse for the storage and distribution of convenience goods, together with a cash and carry operation for the supply of Asian food to schools, restaurants, caterers, hot food takeaways and other eating establishments. In addition there are other uses operating within the building which include a food processing unit for the cutting and de-boning of halal meat, and a retail food store which retails specialist Asian food to the general public. To the west of the mill is a parking area secured by 2m high security fencing. The surrounding area is of mixed use with residential properties to the south and east and retail properties to the west. The site is unallocated on the Unitary Development Plan Proposals Map.

Proposal:

The application seeks retrospective planning permission for the change of use of the warehouse building to a mixed use comprising warehouse, food processing, cash and carry and specialist retail food store. The application form states the proposed opening hours are unknown.

Permission is also sought for the formation of an extension to the existing car park to the north of the site to provide 28 parking spaces including 1 disabled space, and 12 bike stands. It is proposed the car park would be surfaced in bitmac and secured by a palisade fence.

4. BACKGROUND AND HISTORY

2015/90211 – Change of use from warehouse to mixed use comprising warehouse, food processing, cash and carry and specialist retail food store – Withdrawn

2013/90907 – Erection of 2m high security fence and gates – Conditional Full Permission

2010/92229 – Certificate of lawfulness for a proposed use of part of building as a wholesale cash and carry warehouse – Granted

2004/91879 – Change of use to extend wholesale business and to include retail sales area and erection of new entrance – Withdrawn

96/91759 – Change of use of part of ground floor from wholesale to retail use, formation of associated car park and closure of highway – Refused

95/90867 – Change of use of redundant warehouse to retail outlet with associated car parking - Refused

5. PLANNING POLICY

The site is unallocated on the Unitary Development Plan Proposals Map.

Unitary Development Plan:

D2 – Unallocated Land
S1 – Town Centres/Local Centres shopping
T10 – Highway safety
EP4 – Noise sensitive development
NE9 – Retention of mature trees

National Planning Policy Framework:

Chapter 1 – Building a strong, competitive economy
Chapter 2 – Ensuring the vitality of town centres
Chapter 11 – Conserving and Enhancing the Natural Environment

6. CONSULTATIONS

The following is a brief summary of Consultee advice (more details are contained in the assessment section of the report, where appropriate).

K.C Highway Development Management – Object

K.C Environmental Services – No objections

K.C Policy – No objections

7. REPRESENTATIONS

167 objections and a petition with 24 printed names have been received. This includes a number of photographs and videos which show deliveries to the site being made by large articulated vehicles, at early times in the morning, and the use of forklift trucks on the highway.

The main concerns raised are as follows:

Highway Safety Concerns

- The proposed parking area would not be sufficient for the proposed operations. Customers currently park on-street and on third party land, obstructing access for residents.
- Concern about unsafe deliveries which include fork lift trucks unloading in the highway and lorries reversing out into the wrong lane causing tailbacks and obstructions on Purlwell Lane.
- Forklift trucks run on the road, concern about the safety of pedestrians and children.
- Parking on Purlwell lane is not safe, concern there has been a number of road traffic accidents

- Concern pallets are left on the footpath obstructing passage for pedestrians and vehicles.
- Delivery vehicles park dangerously on footpaths.
- Parking facilities are inadequate for staff and customers which who park on in surrounding streets.
- Concern the traffic management plan is not being followed.
- There were severe traffic problems during Qurbani

Residential Amenity Concerns

- Use of the loading bay affects the amenity of neighbouring residents through loss of privacy.
- Vehicles obstruct the front doors of neighbouring properties.
- Flood lights are on during the night
- Concern about noise pollution from delivery vehicles reversing into Charles Street and from the freezers.
- Concern the development is disturbing the peace of the elderly retired people living at Wellington Court Shelter Homes

Other Concerns

- The proposed retail and mixed use is not appropriate in a built up residential area.
- Concern about the cumulative impact of the proposal with Blakeridge Mills for a petrol station, a supermarket and 181 apartments which will create 150 jobs and it has more than 300 car parking spaces.
- The Council have set a precedent since 1990 in refusing retail activity.
- There is a strong opposition to the disposal of public space which will not solve highway and parking issues.
- Local businesses are suffering from the lack of parking for customers and staff
- Concern about vehicle damage due to slates falling off the roof of Mullaco
- Mullaco trespass on third party land
- There are advertisements on the building for a business: Tasneen Hijab and Makeup

8. ASSESSMENT

Main issues

The main issues for consideration are:-

- Background
- General Principle
- Sequential Test Assessment
- Retail Impact
- Conclusion on retail assessment
- Impact on highway safety
- Impact on visual amenity

- Impact on residential amenity
- Enforcement
- Representations not covered in the main assessment
- Conclusion

Background:

Mullaco is predominately a wholesale operation that sells to schools, caterers and restaurants. Wellington Mills has been used as a warehouse for Mullaco for over 25 years, with approximately 1,060sq m of storage space on the ground floor. The business also has a retail outlet at 35 Oxford Street, Mount Pleasant, approximately 500m to the south of Wellington Mills. Mullaco have more recently introduced a meat cutting plant where halal meat is boned, cut and packaged for sale and a retail shop. The business has now expanded into the upper floor of the building which was previously occupied by Premier Beds.

General Principle:

The site has no specific allocation on the Unitary Development Plan Proposals Map. Policy D2 of the Unitary Development Plan (UDP) states “planning permission for the development (including change of use) of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment.

The mixed use development comprises the following uses:

Ground Floor

- Meat cutting, boning and preparation area
- Butchers area
- Wholesale cash and carry/retail sales area
- Food packaging area

First Floor

- Warehouse area
- Offices and administrative area

Chapter 1 of the National Planning Policy Framework states that significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. The site however, is located approximately 200m from the edge of Batley Town Centre.

Paragraph 24 of the NPPF states Local Planning Authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date local plan. They should require applications for main town centre uses to be located in

town centres, then in edge of centre locations and only if suitable sites are not available, should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and Local Planning Authorities should demonstrate flexibility on issues such as format and scale.

The applicant has provided a supporting retail statement prepared by Compass Planning. The applicants report note that most uses within Wellington Mills are considered appropriate in this location, however the Council consider that some products sold within the cash and carry fall outside of that category and constitute A1 retail activity. It is noted that the Cash and Carry operation at Wellington Mills has been regularised by the granting of a Certificate of Lawful Development.

Whilst Mullaco sell to companies direct from its warehouse and online to customers, it is common for trade customers to make purchases off the shelf in a shop type environment. The applicants report note that the majority of goods sold fall within a category that could be described as bulky goods for sale to trade. However, some goods are suitable for domestic purchases, particularly for large family's e.g. fizzy drinks and crisps, cooking oil sold in bulk, rice and pulses, and spices packaged on site. There are also product ranges that fall outside what could be considered to be bulky in nature, such as table sauces, smaller cuts of meat and pre-packed fermented and cured meats. These can be purchased by trade, who may need to purchase a few smaller items for a single event but they are also suitable for the general public. Members of the public therefore use the store for convenience goods purchases.

The applicants report note the goods sold serve a specific Asian Market, which they state are not readily available from wholesale/cash and carry operations or most convenience goods stores. They note the only similar specialist Asian retailers are Mullaco at Mount Pleasant, Kolla Brothers on Warwick Road, and Dadipatel on Banks Street. They consider that the store at Mount Pleasant can no longer meet the demands of its customer base and there is a need for more retail floor space for specialist Asian foods to save people travelling further afield to purchase specialist Asian food products. They consider that as the storage, butchers, packaging and wholesale operations take place at Wellington Mills, there is a strong business case for additional sales to the public to take place at Wellington Mills. This however, is not sufficient to satisfy planning policy.

Sequential Test Assessment:

The operational requirements set the parameters when assessing the suitability, availability and viability of sequentially preferable sites. In business terms, the applicants report considers there are benefits in having all uses in one location. Whilst the retail element has to be considered in isolation they argue that it is not reasonable to disaggregate items that fall within non-bulky ranges as the business will not be able to meet to requirements of its trade

customers, nor will it be viable to set up a separate shop to sell these items. They note the number of product lines is low and provide quantity and value for money rather than a wide choice, such that the demand for less bulky items alone would be insufficient for a small shop. To demonstrate the necessary flexibility whilst applying the sequential test the applicants report has searched for available units with a range from 280 sq m to 480 sq m. The existing cash and carry area is 380 sq m (net).

In terms of search area, the applicants report note that a non-wholesale trade would be local as the range of goods sold are fairly limited, and the area of search that they have undertaken includes Batley Town Centre, the Local Centres of Mount Pleasant and Batley Road, and Neighbourhood Centres of Batley Carr, Healey, Lower Soothill, Lower Staincliffe and Staincliffe.

The applicants report refers to The Council's Shopping Centre Occupancy Survey 2014, although this was later updated in November 2015. This assessment therefore, refers to the conclusions of the report by Compass Planning, together with the updated Council's Shopping Centre Occupancy Survey 2015.

Their conclusions of the sequential test are that there no vacant units between 280 – 480 sq m in or around Batley Town Centre or the Local or Neighbourhood Centres. The largest vacant unit is 197 sq m at 82 Commercial Street in Batley Town Centre.

There are a number of vacant units in and around Alfred's Way, including 82 Commercial Street that could be combined to provide sufficient floorspace however Compass Planning note that there are issues preventing them being suitable or viable.

The applicants report note that if 82 Commercial Street were combined with the 4 adjacent units on Alfred's Way the combined floorspace would be 372 sq m (net). Compass Planning note that whilst this would be large enough, the footprint of the units would be 'L' shaped which would prevent ease of display of products and wide isles for customers to manoeuvre shopping trolleys. The conversion would also incur costs and make relocation unviable. Additionally, the floor levels of each unit are at different heights such that a stepped floor area would be inevitable making it very difficult for shoppers with shopping trolleys, as well as not meeting accessibility standards. There is a lack of immediate parking which is a prerequisite as trade customers need to be able to move their purchases easily from store to a van or car, usually in a trolley. There is no immediate parking, with the nearest available being Tesco's car park. The change in levels from the store to the car park would be difficult to overcome and controlling a full trolley difficult, especially down the slope in Alfred's way. This would make the location unattractive for customers and it is concluded the units in Alfred's Way are unsuitable and unviable.

The applicants report notes the same arguments exclude the units on the other side of Alfred's Way which have a combined floorspace of 357 sq m (net). The units would combine to make an irregular shaped unit, the floor

plates are on different levels, there would be large conversion costs and there is no immediate car parking for customers. The applicants report therefore considers these units are unsuitable and unviable.

In looking at the assessment by Compass Planning, together with the updated Council's Shopping Centre Occupancy Survey 2015, it is concluded that at the present time there are no sequentially preferable premises that are suitable, available, and viable for the proposed retail development. The proposed development is 200m from the edge of Batley Town centre, and the applicants report consider there are significant opportunities for linked trips whilst people are visiting Batley Town Centre, which is one of the objectives of the application of the sequential test. It is considered that the applicant has met the requirements of the sequential test.

Retail Impact:

The retail floor space of the proposed development falls well below the threshold of 2,500 sq m above which the NPPF states that an impact assessment is required. However it is useful to understand the impact of the proposed retail development on Batley town centre.

The proposed development caters for the sale of Asian food, groceries, fresh produce, fresh halal meat and poultry, and Mullaco sell Asian brands from India, Pakistan and the Middle East. The applicants report note's therefore that any trade diverted to the development would come from specific stores selling a similar range of goods and products. There go on to say that there are very few shops in the area specialising in the sale of such products, the main ones being Kolla Brothers on Warwick Road and Dadipatel in Mount Pleasant. There are additional smaller shops in Mount Pleasant. They note these shops show they are struggling to cope with demand as they have expanded where possible but operate in tight restricted units.

The proposed development has been trading for several months, and the applicants report notes there has been no discernible impact on existing stores, and that due to the range of shops and services in Batley town centre there will be no impact on Batley town centre.

Conclusion of the retail assessment:

In applying the sequential test, no alternative premises have been identified that are in sequentially preferable locations, and which would be suitable, available, and viable for the retail element of the proposed development. Furthermore, there is some difficulty is disaggregating the bulky and non-bulky items, with the later deemed insufficient to make a stand-alone shop for the sale of these items financially viable. In terms of trade diversion, due to the nature of the goods sold, it is considered that it would be unlikely that there would be a significant impact on the vitality and viability of Batley town centre. In conclusion therefore, whilst the NPPF requires applications for main town centre uses to be located in town centres, it is difficult to substantiate an objection in this particular case.

If the planning application was to be considered acceptable in all other regards, it is considered appropriate that the retail activity be limited to the area currently used for the wholesale cash and carry operation, which shall not exceed 380 sq m and that not more than 30% of floor space shall display goods that are not bulky in nature.

Impact on highway safety:

Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. To accommodate the proposed expansion, permission is sought for the formation of an extension to the existing car park to the north of the site to provide 28 parking spaces including 1 disabled space, and 12 bike stands. The existing dropped crossing access from Charles Street would be retained. The application is supported by a Transport Assessment and Addendum by HY Consulting.

A significant number of concerns have been raised in the representations about the impact on highway safety, in particular with regard to car parking capacity and safe delivery of goods. Evidence has been provided via photographs and videos which show deliveries to the site being made by large articulated vehicles, and the use of forklift trucks on the highway. The impacts of this on the amenity of local residents are also expressed, and include the disruption arising from customers and delivery vehicles parking indiscriminately on the road, obstructing the free flow of traffic and blocking access for residents, together with the risks to residents walking and driving within the vicinity of the site.

The application was deferred from the previous meeting to provide the applicants an opportunity to further develop a Transport and Servicing Management Plan and to allow an opportunity for residents to meet with the applicant.

A meeting attended by local residents, ward Councillors, the applicant, planning agent, and planning and highway officers took place on 19th September at Wellington Court, Batley. The planning agent made an offer to restrict the movement of goods between the end of the car park and the loading hatch to between the hours of 10am to 2pm which would be subject to further details in a revised Car Park and Servicing Management Plan. The outcome of the meeting however, was that no resolution was reached between residents and the applicant regarding the parking and servicing arrangements. Officers do not consider that the restriction of deliveries between 10am-2pm is sufficient to overcome the concerns over amenity and highway safety. The applicant has now submitted a proposal which would remove on street servicing and forklift truck activity but issues with this proposal still remain. An update to committee will be brought on the negotiations with the applicant on this proposal.

Car Parking

The area of the warehouse is 2124sqm, which includes 380sqm of cash and carry / retail sales, 522sqm of food preparation, office and ancillary areas, and 1222sqm of retained storage and distribution. UDP Standards for the proposed use classes require a total of 27 spaces for customers and staff. The existing parking arrangement on site currently do not provide sufficient space to accommodate 27 car parking spaces, there is estimated to be about 14 spaces currently laid out on site. The amount of car parking required to meet the UDP requirement relies on the applicant acquiring land in third party ownership to expand the car parking area. If the applicant could use the additional land required to provide the parking area then the plan supplied by the applicant showing 28 spaces provided would be acceptable from a parking requirement. This is subject however, to it being available for parking at all times and not being blocked by delivery vehicles, or used as external storage (goods /pallets) which in the event the land was available to extend the hard standing area could be controlled by planning condition. As the Use of the building has already commenced, for a planning condition to be used to ensure the extra parking area is provided a degree of certainty that the third party land can be acquired is necessary in meeting the tests of a planning condition.

Servicing

Servicing and deliveries currently take place via the car park and the loading bay at the side of the building of Charles Street. The applicants advise that 40% of deliveries are made by Mercedes Sprinter size vans, with the remainder using 7.5T or 12T rigid vehicles. Larger vehicles amount to about two vehicles per week and average loading / unloading takes between 10 to 30 minutes.

Residents have provided evidence of service deliveries being unloaded on-street, with fork lift trucks are used to transport goods into the premises. Wooden pallets and other materials have also been observed to be stored within the car park.

The applicant was asked to provide a detailed car park and servicing management plan to include measures to ensure that deliveries are undertaken off the highway (fork lifts are not allowed to load or unload on the highway) details of the size of delivery vehicles, and confirmation that the car park will be available for use by customers.

The applicant has provided a brief document setting out a number of intentions. It is proposed that there would be a total of 28 car parking spaces, with 4 designated for staff, and a disabled parking space. It is the applicants intention to that no storage of materials / pallets will be allowed within the car park, and for goods delivered by HGV to be stored at Global Storage and Logistics in Soothill Lane, Batley and collected by Mullaco in their own van, with the size of vehicles being used to collect and transport goods being limited to a 3.5 to 7.5T goods vehicle. It goes on to say that the delivery area

in the car park would be marked out using yellow hatching, although some deliveries may need to take place on Charles Street and that signs will be erected in the car park to advise customers of use of the fork lift truck. A letter has also been submitted from Global Storage & Logistics Ltd to confirm Mullaco have storage facilities at their premises.

However, whilst these stated intentions are credible, there is insufficient information as to how the car park will be efficiently managed for customer and staff parking, and for deliveries and safe access. It also requires on the applicant acquiring third party land. The Car Park Management Plan is required to be a stand-alone document which clearly sets out how it would be operated, and against which enforcement action could be clearly taken. There are no details of how reversing movements of delivery vehicles would be safely managed within the customer parking area, or details of how fork lift trucks will operate in the car park area and how they will be managed. Furthermore, there are no details of the suitability of the alternative depot for managing vehicle deliveries from Mullaco, and how delivery drivers will be informed of the second depot and that there are no turning facilities within the parking area for HGV vehicles. A maximum of four spaces for staff parking are proposed but there are no details of how Mullaco will promote none car trips to reduce staff parking. There are also no proposed waiting restrictions for customer car parking.

The applicant has failed to demonstrate that adequate servicing and off-street parking facilities can be provided to serve the intensified use. In light of the compelling evidence supplied by local residents showing the current servicing arrangements which are causing disruption to the amenity of the surrounding area it is necessary to ensure that the applicant's permanent servicing solutions are robust and deliverable. Without a proper solution, there would be an unacceptable impact on the amenity of local residents as presently experienced, and on the basis of the inadequate car park management plan submitted, amenity issues could not be adequately mitigated against by imposing conditions.

To approve the application would be contrary to Policy T10 and D2 of the Unitary Development Plan which stipulates that new development should not prejudice highway safety and to not affect amenity.

Impact on visual amenity:

The external alterations include the provision of an expanded car parking area on land to the north of the existing car park. This is an area of grassed land with mature trees. It is proposed the car park would be laid out and surfaced with bitmac and secured with a palisade fence.

The proposal would result in the loss of landscaped land surrounding the building, however it is considered that this would not have a detrimental impact on visual amenity as a reasonable portion of the grassed / landscaped area would be retained. The mature trees would be unaffected by the proposal.

Impact on residential amenity:

The surrounding area is of mixed use, with the nearest neighbouring properties being located off Charles Street and Purlwell Lane to the south, Preston Street to the east and properties off Wellington Street to the north. A number of concerns have been raised in the representations received regarding residential amenity as précised above.

The impact on these surrounding residents arises from the change of use introducing a retail use into the premises which results in an increase in an intensification of the use of the premises. The aspect that would be most likely to impact on nearby residents would be increased vehicle movements to and from the premises causing noise disturbance. This would most likely affect the residents of neighbouring properties off Charles Street and Purlwell Lane to the south whose properties are located within close proximity to the entrance to the car park, and the existing loading bay. Environmental Services have advised that they consider that the current activity is unlikely to give rise to significant adverse effects on these occupiers, particularly during the day time if suitable parking provision and servicing is provided on site. However the use of the site was to continue throughout the night-time then the potential to cause noise disturbance to nearby residents would increase. It is considered that as the current use of the site is causing harm to the amenity of residents and the applicant has not produced satisfactory car parking management proposals to overcome the concerns about impacts on the surrounding residents that it is reasonable to recommend refusal of the application on this material planning consideration.

It would be possible to overcome noise disturbance concerns by the imposition of conditions that restrict the hours of use relating the activities that have the potential to cause noise disturbance. Potential hours of use conditions would restrict the premises to not be open to customers outside the hours of 08:00 to 21:00 Monday to Saturday and 10:00 to 18:00 Sundays, and that there is no deliveries to or dispatches from the premises and no external fork lift truck movements outside the hours of 08:00 to 20:00 Monday to Saturdays, with no deliveries or external fork lift truck movements on Sundays or Bank Holidays. Subject to conditions residential amenity issues could be addressed. However in light of the lack of certainty or detail around the proposed car park management plan which is necessary to mitigate the retail use of the site which presently cannot be adequately addressed through planning conditions, the current operations of the site are causing harm to the amenity of neighbouring residents which is contrary to Policy D2 of the adopted UDP.

Enforcement:

The authorised use of the site is as a warehouse and distribution centre, and a cash and carry. It is advised that in the absence of sufficient information as to how the proposed car park will be efficiently managed for customer and staff parking, and for deliveries and safe access, that enforcement action is taken to remove the retail use to the general public in the interests of highway and public safety. Members should note that should enforcement action be successful in removing the unauthorised elements that the site could operate lawfully as a warehouse and distribution centre, and a cash and carry which has no planning conditions or restrictions outside of the lawful use.

Representations:

167 objections and a petition with 24 printed names have been received. In so far as they have not been addressed above:

Use of the loading bay affects the amenity of neighbouring residents through loss of privacy.

Response: The loading door is located off Charles Street directly opposite neighbouring properties with windows which look onto the site. This is an established warehouse building which has operated for over 25 years. The loading area therefore is lawful but it is acknowledged there are no current planning conditions restricting its use which is causing harm to residents.

Vehicles obstruct the front doors of neighbouring properties.

Response: There is insufficient information as to how the car park will be efficiently managed for deliveries and safe access or for customer and staff parking. The issue of the impact on amenity from the current operations of the site will be the subject of enforcement action.

Flood lights are on during the night

Response: The issue of the impact on amenity from the current operations of the site will be the subject of enforcement action but this would only relate to the retail use of the site. Planning Enforcement will investigate the concerns about flood lighting

Concern about noise pollution from delivery vehicles reversing into Charles Street and from the freezers

Response: The issue of noise pollution from deliveries could be controlled by operating hours suggested. However as this application is recommended for refusal Planning Enforcement will investigate where in the premises the freezers are located and whether they are subject to planning control.

Concern the development is disturbing the peace of the elderly retired people living at Wellington Court Shelter Homes

Response: If the application was considered to be acceptable, delivery times and opening hours would be restricted so as not to have a detrimental impact on the amenity of residents at Wellington Court. However as this application is recommended for refusal the retail element will be likely the subject of enforcement action.

The proposed retail and mixed use is not appropriate in a built up residential area.

Response: The use of the premises is acceptable in sequential testing terms but the impacts on the amenity of the surrounding neighbours will be reviewed by planning enforcement to determine what elements are subject to planning control. It is considered that it would be possible subject to conditions about opening times and delivery times to overcome these concerns if the car park management plan could be agreed.

Concern about the cumulative impact of the proposal with Blakeridge Mills for a petrol station, a supermarket and 181 apartments which will create 150 jobs and it has more than 300 car parking spaces.

Response: The acceptability of the development in this location has been assessed in respect of a retail impact and impact on highway safety.

The Council have set a precedent since 1990 in refusing retail activity.

Response: Each application is assessed on its own merits.

There is a strong opposition to the disposal of public space which will not solve highway and parking issues.

Response: The proposal would result in the loss of landscaped land surrounding the building, however it is considered that this would not have a detrimental impact on visual amenity as a reasonable portion of the grassed / landscaped area would be retained.

Local businesses are suffering from the lack of parking for customers and staff

Response: This has been addressed in the request for additional car parking surveys as presented in the addendum to the Transport Statement. The proposal would need to ensure there were 27 parking spaces available for use at all times.

Concern about vehicle damage due to slates falling off the roof of Mullaco

Response: This is a not a matter which is material to this assessment of this application.

Muallo trespass on third party land

Response: This matter concerns the deliveries being undertaken. There is insufficient information to demonstrate that safe deliveries can be undertaken safely.

There are advertisements on the building for a business: Tasneen Hijab and Makeup

Response: It is the recommendation of officers that if Members resolve to refuse planning permission, enforcement action is taken to remove the unauthorised uses on the site. This will be investigated as part of this action.

Conclusion:

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

Notwithstanding the information submitted by the applicant on the 4th October it is considered that the development proposals do not accord with the development plan as the applicant has failed to demonstrate that adequate servicing and off-street parking facilities can be provided to serve the intensified use. It is considered that the adverse impacts of granting permission would have an unacceptable impact on the amenity of local residents and this would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

9. RECOMMENDATION:

Refusal

1. The proposal has failed to demonstrate that adequate servicing and off-street parking facilities can be provided to serve the intensified use. There is insufficient information as to how the car park will be efficiently managed for customer and staff parking, operational requirements, deliveries and safe access. Without this information, the proposal would have an unacceptable impact on the amenity of local residents arising from disruption from customers and delivery vehicles parking indiscriminately on the road, obstructing the free and safe flow of traffic and blocking access for residents, together with the risks to residents walking and driving within the vicinity of the site. Furthermore, on the basis of the submitted car park management plan, these issues could not be adequately mitigated against by imposing conditions. To approve the application would be contrary to Policies T10 and D2 of the Kirklees Unitary Development Plan which stipulates that new development should not prejudice highway safety or residential amenity.

This recommendation is based on the following plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan			09.04.15
Ground Floor Layout	'Scheme as proposed'		09.04.15
Proposed Car Park Extension	'Scheme as proposed'		27.10.15
Proposed car Park Layout			18.08.16
Transport Assessment	15110 / October 2015		21.12.15
Transport Assessment Addendum	15110/December 2015		12.01.16
Letter from Mullaco re Delivery Vehicles			12.01.16
Swept Path Analysis			27.10.15
Retail Statement			09.04.15
Letter from Global Consulting			21.07.16
Car Park / Servicing Management Plan			18.08.16

Application No: 2015/92627

Type of application: 62 - FULL APPLICATION

Proposal: *Erection of place of worship and educational centre (within a conservation area)*

Location: *Land at the corner of Nowell Street & West Park Street, Dewsbury*

Grid Ref: 423786.0 422251.0

Ward: *Dewsbury West Ward*

Applicant: *A Vania*

Agent: *Hasan Dadibhai, KUFIC*

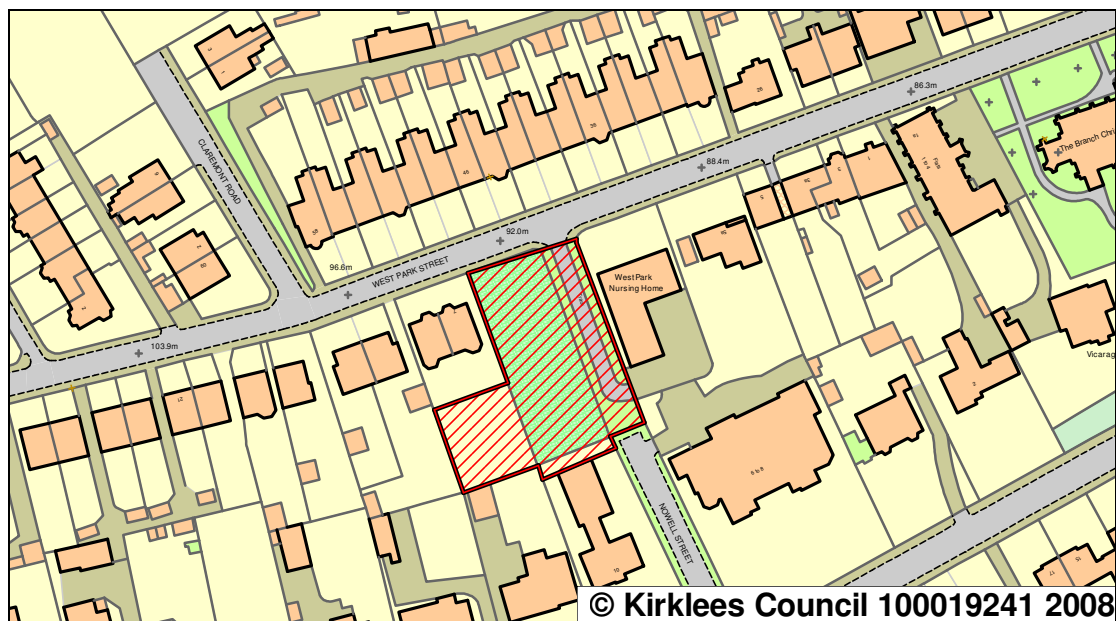
Target Date: *21-Oct-2015*

Recommendation: *RF1 - REFUSAL*

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

The proposed development would, in the opinion of officers, introduce a building that would be out of scale, character, and design with the street scene and Victorian character of the area, failing to preserve the character of the Conservation Area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal would therefore be contrary to Policies BE5, BE1 and BE2 of the Kirklees Unitary Development Plan, as well as the aims of chapters 7 and 12 of the National Planning Policy Framework.

The erection of a large building in close proximity to existing private amenity space would result in an overshadowing and overbearing impact which would be to the detriment of neighbouring occupants, contrary to Policy BE1 of the Kirklees Unitary Development Plan.

The proposed development would result in an intensification of use of the site. The proposed level of parking (24 spaces) for the capacity of visitors and staff at any one time is considered to be insufficient. The lack of provision for parking would result in an increase of on-street parking further exacerbating existing problems where on street parking is already oversubscribed to the detriment of highway safety and efficiency, contrary to Policies BE1, T10 and T19 of the Kirklees Unitary Development Plan.

RECOMMENDATION: REFUSAL

2. INFORMATION

This application has been brought to the Heavy Woollen Planning Sub-Committee for determination in accordance with the Council's Scheme of Delegation due to the significant level of representations received, both in support and in objection to the proposals.

3. SITE DESCRIPTION / PROPOSAL

Site description:

The application site is located on the corner of Nowell Street and West Park Street. The application site and land to the east is relatively level. West Park Street rises more steeply from east to west from the application site such that the site is around 2 metres lower than the adjacent nos.7-9 West Park Street. Nowell Street is an unmade/unadopted road linking West Park Street and Oxford Road. There is a point closure midway between the two sections of the street.

The site comprises of an "L" shaped piece of land which lies to the rear of nos. 7 and 9 West Park Street and extending alongside Nowell Street. Part of the land was garden previously forming part of the curtilage of the aforementioned dwellings. The site extends to the rear of no.10 Oxford Street which is currently used as a Mosque.

There is a single mature tree that is subject to a Tree Preservation Order (TPO) located along the eastern boundary. The remaining area of the site is very much unkempt in appearance.

The site lies within the Northfields Conservation Area. The surrounding area is characterised by a mixture of large houses which are a combination of terraced and semi-detached properties. There is a relatively modern block of flats to the east, existing two storey flat roofed mosque to the south, and large Victorian properties to the north and west.

Proposal:

The application seeks full planning permission for the erection of a place of worship and educational centre. The building proposed would be located to the rear of the site, and to the rear of the existing mosque. The new building would be subdivided into a three storey madrassa located at the rear of nos. 7 and 9 West Park Street and a three storey mosque to be located adjacent to the existing mosque.

The madrassa would measure 10.24 metres by 16.7 metres and would have a pitched roof at a maximum height of 9.3 metres. The lower ground floor of this building would be constructed below ground level, forming a basement, and would therefore not be visible.

The mosque would be three storeys and would be square in terms of footprint, measuring 15 metres x 15 metres, with a chamfered corner. Its height to the ridge of the roof would be 12.3 metres.

The two buildings would be linked by a glazed atrium which has been designed with a flat roof and would be subservient to the two main buildings, measuring 9 metres.

Access is shown as coming off West Park Street via an existing track that would be upgraded. Car parking for 24 vehicles would be provided within the site and located on the area to the front of the proposed building, adjacent no. 7 West Park Road.

The protected tree located within the site is proposed to be retained, with additional tree planting shown along the eastern boundary.

4. BACKGROUND AND HISTORY

2011/92932 – Erection of single dwelling and garage – Approved in 2014

2008/93703 - Erection of 10 apartments and studios – Withdrawn

2007/91345 - Erection of 10 no. flats with basement garaging – Refused on grounds of visual amenity, impact on Conservation Area, impact on residential amenity, highway safety and insufficient information in respect to protection of trees on site.

2005/93484 - Erection of 4 no. dwellings – Refused on the grounds of highway safety, impact on protected trees, impact on Conservation Area and overlooking of adjacent property.

2001/90608 - Renewal of previous unimplemented permission for erection of 10 no. flats with basement garaging – Approved

1995/90733 - Erection of 10 no. flats with basement garaging – Approved

1993/04301 - Erection of 4 no. town houses – Refused

5. PLANNING POLICY

The application site is located within the Northfields Conservation Area.

Development Plan:

BE1 – Design principles

BE2 – Quality of design

BE5 – Preservation/enhancement of conservation areas

BE6 – Infill sites

BE11 – Materials

BE12 – Space about buildings

T10 – Highway safety

T19 – Parking standards

NE9 – Retention of mature trees

EP4 – Noise sensitive development

National Policies and Guidance:

Chapter 7 – Requiring good design

Chapter 8 – Promoting healthy communities

Chapter 11 – Conserving and enhancing the natural environment

Chapter 12 – Conserving and enhancing the historic environment

6. CONSULTATIONS

Below is a summary of the consultation responses received; where appropriate these are expanded upon in the assessment section of this report:

K.C. Highways Development Management – Object due to inadequate parking provision.

K.C. Environmental Services – No objections subject to conditions.

K.C. Conservation and Design – Object to the proposal as it is not in keeping with the character of the Conservation Area.

K.C. Arboricultural Officer – An arboricultural method statement is required predetermination.

K.C. Ecologist – An ecological survey and assessment is required predetermination.

7. REPRESENTATIONS

9 individual letters of **support** have been received and a petition with 100 signatures.

32 individual letters of **objection** have been received and a petition with 49 signatures.

The planning issues raised are summarised below and addressed in the report where relevant.

The application is supported for the following reasons:

- The community has outgrown the existing facility and the new facility will provide adequate space and dedicated classrooms in an upgraded environment.
- The existing facilities are poor.
- The road/car park is not adequate.
- Currently no separate women's WC and prayer area.
- Landscaping of the area will be an improvement.
- The new building is sympathetic to the conservation area.
- Improved parking facilities.
- Existing site is an eyesore.

The objections are as follows:

Heritage & Amenity:

- The development is within a Conservation Area and takes no account of the building vernacular.
- The proposed development will adversely affect the street scene from Oxford Road and West Park Street.
- The development neither enhances nor preserves the Conservation Area.
- Contrary to the NPPF as it does not sustain or enhance or make a positive contribution to the local character.
- It does not enhance or reveal the significance of surrounding buildings.
- The development is out of style, scale and character with existing Victorian buildings.

- Contrary to the notion of preserving the green space and trees (now removed) which contributed to the original Conservation Area, proposed as a car park and has been garden grabbing which the Government is keen to curtail.
- There is a large combined bulk to the two connected buildings.
- The roof lines of buildings on Oxford Road and West Park Street step down responding the changes in land levels.
- The mosque façade and minaret are too high.
- Conflicting styles include asymmetric roof gable, windows and minaret.
- The design and scale of the mosque is out of scale and conflicts with the buildings in the Conservation Area.
- The minaret will be out of keeping.
- The site has been subjected to fly tipping and has become unsightly.

Highways:

- The proposals represent a serious highway concern.
- Previous road usage/safety assessments have set a precedent on this street due to the restrictive nature of the West Park Street and Nowell Street junction.
- The road usage and parking problems on West Park Street have worsened.
- Congestion/the proposed site use would aggravate the present situation further.
- 24 car parking spaces are not sufficient for the intended uses.
- The proposal relates to the removal of all the existing parking spaces.
- The area is a car park and not currently vacant.
- Gritting cannot take place in the area as the vehicles cannot get access.

Other:

- There are covenants on the land which would not allow the development.
- Opening hours are specified as unknown however the agent has provided information that suggests that hours are known. In addition the applicants should be aware when the classroom will be used.
- Bats and owls have been resident in the mature trees in the area the development would impact on these.
- There are plenty of existing mosques that can be used.
- The area was formerly a habitat for wildlife until it was spoilt by the present and preceding owners. All trees have been removed and TPO trees have not been replaced.

8. ASSESSMENT

Main issues

The main issues for consideration are:-

- General Principle
- Visual amenity and heritage considerations
- Residential amenity
- Highway issues
- Other matters, including Ecology & Trees
- Representations not covered in the main assessment
- Conclusion

General principle:

The National Planning Policy Framework (NPPF) identifies places of worship as community facilities and states that planning decisions should “plan positively for the provision and use of community facilities to enhance the sustainability of communities and residential environments”.

Policy C1 of the Unitary Development Plan (UDP) states that community facilities should be provided in accessible locations which will usually be in, or adjacent to, town and local centres.

In this instance, whilst not located within a town or local centre, the site is within an established area of residential development within a diverse community. Proposals to provide a facility separate from existing centres should be considered in relation to the needs of the community it is intended to serve. Such proposals will, however, need to be capable of accommodation without giving rise to problems of disturbance for occupiers of adjacent premises or prejudicing highway safety.

It is recognised that the development would serve a part of the community in which it is located however there are others who would be detrimentally affected by the development as a result of loss of visual amenity and impact on the Conservation Area in which they live, as well as highway safety issues.

Whilst the provision of a community facility in a sustainable location accords with the overarching aims of the NPPF, this should not be to the detriment of heritage, visual and residential amenity, or highway safety.

Visual amenity and heritage considerations:

The site is within the Northfields Conservation Area which was designated in 1978. The Conservation Area does not have the benefit of an up to date appraisal but one exists from the date of designation. The Conservation Area is a residential suburb of Dewsbury built in the latter half of the 19th century and completed, in the main, around 1890.

The character comes from the layout of the streets, the unity of styles and building materials; the styles are of typical two storey buildings of large Victorian villas constructed of stone. The roof space of some of the buildings leads them to be three storeys in height with use made of traditional dormers.

It is accepted that the land to the east of nos. 7-9 West Park Street is untidy and does little to enhance the character of the Conservation Area and could benefit from development. To the south of the site is a two storey flat roofed building that equally makes no contribution, which would be adapted to provide a sports hall. Both these areas are considered to be negative factors to the Conservation Area and would benefit from some form of enhancement. It is between these two areas that the three storey mosque with attached two storey madrassa is proposed.

The madrassa is relatively low scale and so designed to be subservient to the area and as such would be fairly well hidden by the much larger Victorian villas nearby by. The mosque however would be very dominant not only in terms of the height but the style, particularly the northern elevation. It is appreciated that the architectural style would be determined by its use, but this would be at odds with the overall character of the Conservation Area and as such is considered to be unacceptable by officers.

The Planning Statement submitted with the application indicates that a great deal of consideration has been given by the architect to try and blend this building into the character of the Conservation Area. To a degree, this has been achieved, but it is not considered by officers, appropriate that a building of this scale would sit in this location. It would be more usual for a lower building that would be subservient to those around, to be located in such a position.

Taking into account paragraph 138 of the NPPF, an assessment of the development on the character of the Conservation Area should be completed and this should demonstrate whether the harm is outweighed by any public benefit. The application has been assessed against paragraphs 133 or 134 of the NPPF, where paragraph 133 relates to substantial harm and paragraph 134 is less than substantial harm. Paragraph 134 states that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use." In order to allow for full consideration of the proposals the agent has submitted a Heritage Impact Assessment. This report is considered acceptable under the requirements of the NPPF insofar as it allows the LPA to consider the impact of the proposal on the significance of the Conservation Area and enable the public benefits to be balanced as required under Paragraph 134 of the NPPF.

The Heritage Impact Assessment suggests that the proposed minarets would not be out of keeping with existing development as they would be located directly opposite the existing octagonal towers of the Victorian Terrace. It

goes on to recognise there have been a number of applications that have been refused for reasons such as residential/visual amenity, impact on the Conservation Area, on protected trees and highway safety. The agent argues that in the circumstances of the scheme, which would be set back from adjacent properties and thus maintain the vacant plot to the front and avoid impacting on the remaining protected tree, it would be the optimum viable option for redevelopment of the site. Officers would not disagree with this position.

The statement goes on to argue that the proposed development would provide significant public benefit without harming the setting of the Conservation Area. In this instance it is recognised that the public benefit deliverable would be providing increased accommodation for the Muslim community. The statement provided, in support of the application, sets out the need for increased accommodation as follows:

“The application site is located in Dewsbury West Ward, with a population of 20,620. The proportion of people who identify as Muslim is 47% (9,739) (Census 2011). The ward currently has nine mosques; the total capacity for these collectively is 4,395. However, only five of these mosques have provision for women. Established in 2011, Masjid Talha Trust has been providing prayer facilities and Islamic education to the community for the large part of a decade. It primarily serves the residents of Oxford Road, West Park Street, Northfield Road, Infirmary Road, and Chadwick Crescent. Having adapted the former Mormon Church annex at 10 Oxford Road, the Trust now successfully runs 5 evening classes and a place of congregation for over 100 congregants. However, the current premises were no longer able to accommodate its requirements. Aside from limited space, the classrooms run from a makeshift subdivided hall. This is overcrowded and provides an acoustic environment which is not suitable for learning and inefficient to heat. Alongside this, the internal spaces have deteriorated and suffer from roof leaks and damp, and in immediate need of renovation in order to continue. While the existing property provides a gross floor area of 600sqm, it does not have any parking provision and has large rooms with very high ceilings, not suited to teaching. Classrooms are too noisy. There is also a distinct lack of sanitary provision with 1 Accessible WC serving the entire property. The office is too small and inadequate for administrative purposes, and doubles up as a library. The building is inefficient and costly to heat. There is no lift to serve students with disabilities in the education block. The general condition of the building is deteriorating and in need of enhancement.”

The agent goes on to argue that the under provision in the immediate locality results in worshippers having to travel to other centres thereby contributing to matters of highway safety in other locations. The development proposals recognise and provides for the needs of both male and female worshippers.

To summarise, whilst it is recognised that the scale and design of the development is as a result of the requirements of the Muslim community as outlined, it is not considered, by officers, that the benefits are sufficient to outweigh the harm caused. The development proposals are not considered to

be in-keeping with the Victorian character of the area. The proposal would introduce a development that would be out of scale and character with street scene and as such fails to preserve the character of the conservation area as required under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposals would be contrary to Policies BE5, BE1, and BE2 of the Kirklees Unitary Development Plan as well as chapters 7 and 12 of the National Planning Policy Framework

Residential Amenity:

The application site is located within an established residential area, located in close proximity to existing dwellings. The location and scale of the development would result in a poor relationship with nearby residential properties, particularly the garden space of no. 11 West Park Street. The madrassa building would be located approximately 1.5 metres from the boundary and would have a ridge height of 9 metres. It is considered by officers that this relationship would be overbearing for the occupants of the neighbouring dwelling, resulting in detriment to the use of their amenity space. In addition, the proposed gable end would include a number of windows that serve corridors which would overlook the private amenity space, leading to a loss of privacy. It is possible that the owners do not object to the development but any development should provide space about buildings when in close proximity to existing residential spaces.

Distances from the mosque to existing habitable accommodation on Nowell Street fall short of the 21 metres normally recommended, however it is considered that due to the acute angle and juxtaposition of the development proposed this would not result in a loss of privacy to any surrounding occupants.

The application form does not include any details of hours of operation but it is understood that the buildings would be used in to the evenings. In view of the use and proximity to existing residential development, Environmental Services have been consulted. They raise no objections to the development but recommend conditions regarding land contamination and time restrictions on call to prayer. It is therefore considered that there would not be any loss of amenity due to matters arising from noise and as such the development is considered to be in accordance with Policy EP4 of the UDP as well as chapter 11 of the NPPF.

To summarise, whilst it is considered by officers that the amenity of surrounding occupants from matters arising from noise could be mitigated through the use of appropriate conditions, there is significant concern in regard to the overbearing impact that would result because of the scale and position of the proposed madrassa in relation to nearby unrelated dwellings, particularly no.11 West Park Street. The proposal is therefore considered contrary to the aims of Policy BE1 of the UDP in relation to residential amenity.

Highway issues:

The application site is situated in an established residential area of Dewsbury, on the corner of Nowell Street and West Park Street.

Nowell Street is an un-made/un-adopted road linking West Park Street and Oxford Road. There is a point closure mid-way between West Park Street and Oxford Street preventing through vehicular traffic allowing only a pedestrian link between the two sections of the street. West Park Street and Oxford Road are both part of the adopted highway. Other than double yellow lines around the junction of West Park Street and Halifax Road, there are no on streets parking restrictions on West Park Road.

Parking is restricted on Oxford Road by permit parking zones and double yellow lines around the junction of Halifax Road and along the northern side of the carriageway.

High levels of on street parking on both sides of the carriageway does occur on West Park Road and can result in access difficulties for large vehicles such as gritters. Visibility from Nowell Street onto West Park Street and Oxford Road is restricted by the height of adjacent boundary walls and hedges.

In terms of accidents, 6 injury accidents have been recorded within the vicinity of the site (in the last 5 years), 2 of which involved pedestrians crossing between parked cars.

The application proposes the erection of a mosque and madrassa. It is noted that the existing building will be used as a sports hall. A 24 space car park is proposed with direct access from Nowell Street. As part of the proposed works, Nowell Street would be upgraded.

Detailed floor plans of the mosque have been submitted which has enabled an assessment as to potential capacity in terms of visitors/worshippers at any one time. A total of 349 prayer spaces have been counted over 3 floors. The use of the prayer hall would be throughout each day and evenings, the busiest time being Friday afternoons.

The madrassa would consist of 5 classrooms, library, office and sanitary space and is intended to provide evening classes. The sports hall is intended to be ancillary.

In terms of traffic generation, neither the residential location of visitors, nor their mode of transport can be controlled through planning legislation. But it is acknowledged some would be local to the site and would use a mix of transport modes, including walking. It is considered that visitors living outside of the area and in transit would likely arrive by car in the main.

Following the UDP Parking Standards for guidance, set out in Policy T19 of the UDP, it recommends the following parking standards for the following uses.

Use Class D1 a) – Education

- Visitor: 1 space per classroom or 30 students Staff: 1 space per 3 staff
- Cycle: 1 space per 20 students

Use Class D1 c) – Place of Worship

- Visitor: 1 space per 5 seats or per 25 sq.m Staff: 1 space per 3 staff
- Cycle: 1 space per 20 students

In this instance, officers consider 1 space per 5 seats ratio to be appropriate.

Based on the information provided and again following the recommendations set out in the UDP, in total, approximately 75 visitor spaces, 2 staff spaces, and 20 cycle spaces should be provided.

From a highway perspective, the proposed development would result in an intensification of use of the site. The proposed level of parking (24 spaces) for the possible capacity of visitors and staff at any one time is considered to be insufficient and result in a significant shortfall, which would result in an increase in on street parking, exacerbating existing problems where on street parking is already oversubscribed, to the detriment of highway safety and efficiency, contrary to Policies BE1, T10 and T19 of the UDP.

To summarise, for the reasons set out above, the proposals are considered unacceptable from a highway safety perspective and would be contrary to relevant UDP policies.

Other matters:

The application was referred to the Council's Arboricultural Officer and Biodiversity Officer, both of which recommend that reports are submitted. The requirements have been discussed with the agent and in light of the recommendation they have not been forthcoming. It is not likely that the finding of either report would prevent development taking place but more a matter of providing information to ensure appropriate mitigation and enhancement opportunities are sought. As such, it is considered pragmatic by officers to request such reports should Members vote to approve the application.

Representations:

Support:

The community has outgrown the existing facility and the new facility will provide adequate space and dedicated classrooms in an upgraded environment.

Response: It is accepted that demands for a new/replacement madrassa and mosque are high but this is not justification to allow a development that is fundamentally unacceptable in terms of planning policy.

The existing facilities are poor.

Response: It is accepted that there are benefits in terms of a new/replacement madrassa and mosque but this is not justification to allow a development that is fundamentally unacceptable in terms of planning policy.

The road/car park is not adequate.

Response: It is recognised that there are inadequacies with the existing site. The erection of a new facility with lack of parking provision would also lead to congestion and parking on the streets surrounding the site to the detriment of highway safety.

Currently no separate women's WC and prayer area.

Response: It is accepted that there are benefits in terms of a new/replacement Madressa and Mosque but this is not justification to allow a development that is fundamentally unacceptable in terms of planning policy.

Landscaping of the area will be an improvement.

Response: It is probable that improvements to landscaping can be achieved through the development; however, there are significant concerns regarding the impact the proposals will have on the character of the area, residential amenity, and highway safety.

The new building is sympathetic to the Conservation Area.

Response: The proposals have been assessed by officers in K.C. Conservation & Design and it is not considered that the scale, location and design are appropriate and would cause harm to the Conservation Area thereby failing to comply with Section 72 of the Planning (listed Buildings and Conservation Areas) Act 1990 and paragraphs 138 and 134 of the NPPF.

Improved parking facilities.

Response: The application may provide improved parking and access facilities which may appear to be an improvement when compared to the existing situation on site however the development would significantly increase the opportunity for use of the site without the provision of adequate parking facilities contrary to Policies T10 and T19 of the UDP.

Existing site is an eyesore.

Response: The site has been left in a very untidy state and detracts from the wider area. This is not justification for allowing a development that is not acceptable in principle.

Objections:

Heritage & Amenity:

- The development is within a Conservation Area and takes no account of the building vernacular.
- The proposed development will adversely affect the street scene from Oxford Road and West Park Street.

- The development neither enhances nor preserves the Conservation Area.
- Contrary to the NPPF as it does not sustain or enhance or make a positive contribution to the local character.
- It does not enhance or reveal the significance of surrounding buildings.
- The development is out of style, scale and character with existing Victorian buildings.
- There is a large combined bulk to the two connected buildings.
- The roof lines of buildings on Oxford Road and West Park Street step down responding the changes in land levels.
- The mosque façade and minaret are too high.
- Conflicting styles include asymmetric roof gable, windows and minaret.
- The design and scale of the mosque is out of scale and conflicts with the buildings in the Conservation Area.
- The minaret will be out of keeping.

Response to the points above: The proposals have been assessed by officers in Conservation & Design and it is not considered that the scale, location and design are appropriate and would cause harm to the Conservation Area thereby failing to comply with Section 72 of the Planning (listed Buildings and Conservation Areas) Act 1990 and paragraphs 138 and 134 of the NPPF.

Highways:

- The proposals represent a serious highway concern.
- Previous road usage/safety assessments have set a precedent on this street due to the restrictive nature of the West Park Street and Nowell Street junction.
- The road usage and parking problems on West Park Street have worsened.
- Congestion/the proposed site use would aggravate the present situation further.
- 24 car parking spaces are not sufficient for the intended uses.
- The proposal relates to the removal of all the existing parking spaces.
- The area is a car park and not currently vacant.
- Gritting cannot take place in the area as the vehicles can't get access.

Response to the points above: The proposals have been assessed by Kirklees Highways Development Management. There are significant concerns regarding the development and lack of parking provision contrary to Policies T10 and T19 of the Kirklees Unitary Development Plan.

Other:

- There are covenants on the land which would not allow the development.

Response: Covenants are not considered material to the determination of the planning application. They are a private legal matter.

- Opening hours are specified as unknown however the agent has provided information that suggests that hours are known. In addition the applicants should be aware when the classroom will be used.

Response: There are no details regarding the hours of operation of the site. K.C. Environmental Services have been consulted regarding the proposals and have raised no objections subject to conditions relating to unexpected land contamination and controls regarding call to prayer. They are satisfied that the development would not result in any harm to residential amenity providing conditions are imposed.

- Bats and owls have been resident in the mature trees in the area the development would impact on these.

Response: Both an Ecological and Arboricultural survey has been requested to inform recommendations for landscaping and mitigation. It is not considered that the conclusions of the reports would prevent development of the site. As such the agent has requested that the reports be produced should Members recommend approval. Taking into account the costs involved in production of the reports, in addition to the likely conclusions of each, it is considered reasonable by officers that these are provided should the decision be taken to approve the application.

- There are plenty of existing mosques that can be used.

Response: The agent has demonstrated that there is the need/demand for an additional facility in the area.

- The area was formerly a habitat for wildlife until it was spoilt by the present and preceding owners. All trees have been removed and TPO trees have not been replaced.

Response: Both an Ecological and Arboricultural survey has been requested to inform recommendations for landscaping and mitigation. It is not considered that the conclusions of the reports would prevent development of the site. As such the agent has requested that the reports be produced should Members recommend approval. Taking into account the costs involved in production of the reports, in addition to the likely conclusions of each, it is considered reasonable by officers that these are provided should the decision be taken to approve the application.

- The site has been subjected to fly tipping and has become unsightly.

Response: It is acknowledged that the site is unkempt and that redevelopment would improve the amenity of the area however this should be an appropriate development in terms of scale and design.

To summarise in relation to representations:

It is clear that there are members of the community that the development would benefit but equally there are a number who consider the proposals to be detrimental. Therefore affording weight to public benefit is not considered to be a simple process. It is considered that the harm caused by the scale and location of development, in addition to matters of highway safety, would

not be in the interests of the community it would serve and would not comply with relevant UDP Policies or the aims of the National Planning Policy Framework.

Conclusion:

To conclude, having carefully assessed the proposals, the development is considered unacceptable by officers in terms of the impact on the visual amenity and character of the Conservation Area, residential amenity, and highway safety.

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.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

9. RECOMMENDATION

REFUSE

1. The proposed development would introduce a building that would be out of scale, character, and design with the street scene and Victorian character of the area, failing to preserve the character of the conservation area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal would therefore be contrary to Policies BE5, BE1 and BE2 of the Kirklees Unitary Development Plan, as well as the aims of chapters 7 and 12 of the National Planning Policy Framework.

2. The proposed development, by virtue of its scale and proximity to existing private amenity space, particularly no.11 West Park Street, would result in an overshadowing and overbearing impact, to the detriment of the residential amenity of the neighbouring occupants. To approve the proposals would be contrary to Policy BE1 of the Kirklees Unitary Development Plan.

3. The proposed development would result in an intensification of use of the site. The proposed level of parking (24 spaces) for the capacity of visitors and staff at any one time is considered to be insufficient. The lack of provision for parking would result in an increase of on street parking further exacerbating existing problems where on street parking is already oversubscribed to the detriment of highway safety and efficiency, contrary to policies BE1, T10 and T19 of the Kirklees Unitary Development Plan.

This recommendation is based on the following plans and specifications:-

Plan Type	Reference	Version	Date Received
Planning Statement			27 th August 2015
Location Plan	15001-P-01		27 th August 2015
Site Plan	15001-P-02		27 th August 2015
Proposed East Elevation (sectional)	15001-P-02		27 th August 2015
Proposed West Elevation	15001-P-02		27 th August 2015
Proposed North Elevation	15001-P-03		27 th August 2015
Proposed South Elevation	15001-P-03		27 th August 2015
Proposed East Elevation	15001-P-03		27 th August 2015
Mosque Demographics			29 th September 2015
Heritage Statement			22 nd June 2016

Application No: 2016/91767

Type of application: 62 - FULL APPLICATION

Proposal: *Erection of 2 dwellings*

Location: *The Nook, 43, Forge Lane, Liversedge, WF15 7DX*

Grid Ref: 420812.0 423081.0

Ward: *Heckmondwike Ward*

Applicant: *H Cook*

Agent: *J A Oldroyd & Sons Ltd*

Target Date: *31-Aug-2016*

Recommendation: *FC - CONDITIONAL FULL PERMISSION*

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

The erection of two dwellings within the site is considered to meet policy guidelines and in spite of objections, the benefit of locating development in this sustainable location would outweigh the loss of the Greenfield site in terms of visual and ecological impacts. Furthermore, the proposals are not considered to result in any highway safety implications. The proposal is considered, by officers, to be in accordance with the aims of the relevant Kirklees Unitary Development Plan policies and the National Planning Policy Framework.

RECOMMENDATION: CONDITIONAL FULL PERMISSION

2. INFORMATION

This application has been brought to the Heavy Woollen Planning Sub-Committee for determination in accordance with the Council's Scheme of Delegation at the request of Ward Councillor Kendrick for the following reason:

"I am writing to request that this application should come to the committee and that a site visit be made. My reasons for this are that Forge Lane is a very narrow lane and I believe that an application in the past was refused because Forge Lane did not meet a minimum width. The Refuse lorry and other large vehicles have to reverse out of the lane on to Norristhorpe Lane. A resident has already complained that someone has been and cut the back of his hedge away – it is suggested that this was done in an attempt to 'widen' the road.

I am also concerned that two public rights of way cross at the end of Forge Lane where this development is proposed."

The Chair of the Sub Committee has confirmed that Councillor Kendrick's reason for making this request is valid having regard to the Councillors' Protocol for Planning Sub Committees.

3. SITE DESCRIPTION / PROPOSAL

Site Description

The application site is an area of private residential garden located to the side and rear of a large bungalow known as The Nook and a detached garage. The area of land is set down from Forge Lane which provides access to the existing property and site. The site is bound by properties located along Cornmill Lane to the north, an open area of land to the east, a bungalow to the west, and a detached dwelling to the south. The area is residential in character containing a mixture of house types. A number of trees have recently been removed however there are a mixture of trees and shrubbery remaining to the periphery/boundary of the site.

Proposal

The proposed development is for the erection of two detached properties with associated parking, turning, and garden areas.

Plot 1 is proposed to be a large detached dormer bungalow with integral garage located between the existing dwelling and the existing rear boundary. It would have a large footprint measuring 13.6 by 13.8 metres and a maximum ridge height of 7.1 metres.

Plot 2 is proposed to be a significantly smaller property located between number 42 Forge Lane and The Nook. It would have a footprint measuring 9.0 metres by 9.20 metres. It would have a maximum ridge height of 5.8 metres and would include dormers to the rear elevation which would face into the site. Dormers are also proposed to the front elevation. Each property would have an area of private amenity space and would be enclosed by a 2.0 metre high timber fence.

The materials proposed are stone and brick with the use of blue slate for the roofs.

4. BACKGROUND AND HISTORY

2016/90841 – Residential development - Withdrawn

94/90596 – Erection of detached dwelling – Conditional full permission

5. PLANNING POLICY

The application is unallocated on the Kirklees Unitary Development Plan proposals map.

Development Plan:

- D2 – Unallocated Land
- BE1 – Design principles
- BE2 – Quality of design
- BE12 – Space about buildings
- T10 – Highway safety
- T16 – Pedestrian routes
- T19 – Car parking standards
- H1 – Meeting the housing needs of the district
- G6 – Land contamination
- NE9 – Retention of mature trees

National Planning Policy Framework:

- Chapter 6 - Delivering a wide choice of high quality homes
- Chapter 7 - Requiring good design

- Chapter 8 - Promoting healthy communities
- Chapter 11 - Conserving and enhancing the natural environment

6. CONSULTATIONS

The following is a brief summary of the consultation responses received. Where necessary, these consultations are reported in more detail in the assessment below:

K.C. Arboricultural Officer – No objections.

K.C. Environmental Services – No objections subject to condition regarding land contamination.

K.C. Highways Development Management – No objections subject to conditions.

7. REPRESENTATIONS

10 letters of objection have been received relating to the amended plans. The main planning issues raised are summarised as follows –

- Overlooking
- Visual impact
- Overshadowing
- Noise
- Loss of wildlife
- Loss of trees
- Drainage
- Poor access
- Increase in traffic
- Size of the bungalow
- Lack of Parking
- Conflict with pedestrians (frequently used by school children)
- Construction vehicles may block other accesses
- Refuse collection would cause further risk
- Sewerage

8. ASSESSMENT

Main issues

The main issues for consideration are:-

- General Principle
- Impact on visual amenity
- Residential amenity considerations
- Highway issues

- Other matters, including sustainable transport, Ecology & Trees, and Coal Mining Legacy
- Representations not covered in the main assessment
- Conclusion

General principle:

The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”.

Paragraph 14 of the NPPF introduces a presumption in favour of sustainable development. For decision taking, unless material considerations indicate otherwise, this means:

- *‘approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *Specific policies in this Framework indicate development should be restricted.’*

Footnote 9 lists examples where specific policies within the Framework indicate that development should be restricted. The examples include land designated as Green Belt and Local Green Space. The application site does not fall into either of these categories.

The NPPF sets out at paragraph 49 that ‘housing applications should be considered in the context of the presumption in favour of sustainable development.’ Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. At present, the Council is unable to demonstrate a five-year supply of housing land and therefore the provision of new housing to meet the shortfall is a material consideration that weighs in favour of the development proposed.

Whilst the NPPF encourages the use of brownfield land for development, it also makes clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply. The site comprises of land that is greenfield (previously undeveloped). As such, consideration needs to be given to any harm which would result from the loss of this open land.

To summarise, the specific impacts of the development, for example the visual and ecological impacts, are addressed later in this assessment but, in principle, it is considered by officers that there is no overriding reason why development on this land would be inappropriate subject to consideration of the UDP policies listed above.

Impact on visual amenity:

The application site is an area of garden within the curtilage of The Nook. The land appears underused and has been cleared of trees/shrubbery resulting in a more unkempt appearance. The area of land to the side and rear of the existing dwelling is of a size that can accommodate the development proposed whilst maintaining adequate space. The revised details show a large dormer bungalow located to the rear of The Nook and a smaller dwelling situated between no. 42 Forge Lane and the The Nook.

Paragraph 58 of the NPPF states that planning decisions should ensure that developments respond to local character and history and reflects the identity of local surroundings and materials. In addition UDP Policies BE1, BE2 and BE11 are considerations in relation to design, materials and layout. The NPPF echoes these policies and states that "design which fails to take the opportunities available for improving the character and quality of an area should not be accepted."

It is the opinion of officers that the land has limited contribution to the visual amenity of the area and that its loss would not detrimentally impact on the character. It is therefore considered that the benefit of development would outweigh its loss as a greenfield site.

In this instance, the development has been designed taking into account the space available in addition to the topography of the site and established character of the area. It is considered that the erection of the two dwellings proposed would be of an appropriate amount and scale and would not represent overdevelopment of the site. As The Nook is set back and down from the existing highway it is considered that the positioning of the dwellings would not be out of keeping within the environment.

The nature of existing residential development that surrounds the site is mixed in character. The properties located along Forge Lane are two storey red brick with large bay windows, no. 42 is located at the access to the site and appears two storey with accommodation at lower ground floor and both The Nook (within the application site) and no. 44 adjacent to the site are bungalows. There is therefore no single style or design of property taking precedent in the area. The two properties have been sympathetically designed and would not, in the view of officers, detract from the character or appearance of the area.

To summarise, the development proposed is considered by officers to be acceptable from a visual amenity perspective and would be in accordance with Policies BE1, BE2, and D2 of the UDP as well as the aims of Chapter 7 of the NPPF.

Residential amenity considerations:

In assessing the impact of the development on occupants of both dwellings externally surrounding the site and the dwellings proposed within the site, Policy BE12 of the UDP is of relevance because this provides some guidelines in relation to appropriate space about buildings. Policies D2 and BE1 of the UDP are also applicable, relating to general design principles.

The application proposals have been significantly revised since the original submissions. The revised details now show a large dormer bungalow (Plot 1) located to the rear of The Nook which would be set in 5 metres from the boundary with the gardens to the properties on Cornmill Lane. A distance of 12.0 metres would be achieved to the rear boundary of the application site.

A much smaller dormer bungalow (plot 2) is proposed to the side of the access between the existing dwelling and no. 42 Forge Lane.

It is considered by officers that the scale of development is acceptable and the submitted sections demonstrate that the proposed buildings can be accommodated on site without resulting in any detriment to the occupants of adjacent properties through matters of overshadowing or overbearing. Both proposed properties would be set in from the boundaries and take into account the gradient of the land.

The proposed site layout indicates habitable room windows would be positioned to the front and rear of plot 1 and only to the front of plot 2. The layout of the development would allow the proposal to achieve adequate distances between habitable room windows and to surrounding dwellings and also within the site. The internal layout to Plot 2 has been revised to show non-habitable room windows in the roof space which is 14 metres from the windows of no. 42 Nook Lane, thereby avoiding any undue loss of privacy to either future or existing occupants.

It is also considered by officers that both proposed properties provide sufficient amenity space to adequately meet the needs of future occupiers of the units.

To summarise, the proposed development is considered, by officers, to be acceptable from a residential amenity perspective and would be in accordance with Policies D2, BE12 and BE1 of the UDP.

Highway issues:

The Nook is an adopted highway up to the entrance into the development site which connects to the broader highway network via Cornmill Lane. The access into the site is currently a driveway which falls away from Forge Lane. The application is supported by a Design and Access Statement.

The development proposals include the widening of the existing driveway to 4.5 metres and the creation of an internal turning head to service the development. Parking for the development would meet the Council's standards set out in Policy T19 of the UDP.

In terms of the impact on highway capacity, the size of the development raises no undue concerns as the local highway network could easily accommodate the predicted four additional vehicle movements in the morning peak hour.

To summarise, with the inclusion of appropriate conditions relating to the surfacing and widening of the access road and the provision of the turning head, the proposals would not materially add to any undue highway safety implications, complying with the aims of Policies T10 and T19 of the UDP.

Other matters:

Sustainable transport:

Sustainable transport Paragraph 35 of the National Planning Policy Guidance (NPPG) states that "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to...incorporate facilities for charging plug-in and other ultra-low emission vehicles." As such, this development should encourage the use of ultra-low emission vehicles such as electric vehicles. A condition is recommended in relation to the provision of facilities for charging plug-in electric vehicles.

Ecology & Trees:

The site currently consists of a former garden area. The existing land is of limited ecological interest. A number of trees have already been removed. There are no objections from the Council's Arboricultural Officer to the development and the proposals are considered by officers to be in accordance with Policy NE9 of the UDP. Furthermore, it is considered that there is no justification for retaining the land from an ecological perspective and the benefits of development for a dwelling outweighs any loss.

Coal Mining Legacy:

The Coal Authority recommends that the Local Planning Authority impose a planning condition should planning permission be granted for the proposed development requiring site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this is also recommended to be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

As such, subject to the inclusion of appropriate conditions, the proposal is also considered acceptable from a coal mining legacy perspective, and would comply with the aims of chapter 11 of the NPPF.

To summarise, all relevant material planning considerations have, in the view of officers, been addressed.

Representations:

Officers respond to the main concerns raised in the representations as follows:

- Overlooking

Response: Taking into account the location of development and the space that would be maintained around the dwellings proposed in addition to the positioning of windows, it is considered by officers that there would not be any overlooking of any adjacent private amenity space.

- Visual impact

Response: The revised scheme has been designed taking into account the gradient of the land and space within each plot. The scale is appropriate when considering existing development and the character of each property is considered by officers to be in keeping with the area, which comprises of a mix of house types. It is not considered that the development would detract from the visual amenity of the area and is in accordance with relevant policies and the NPPF.

- Overshadowing/ Size of the bungalow

Response: The height and scale of development has been significantly reduced since the original submission. It is considered by officers that the layout of the development, which maintains adequate space to boundaries, in addition to the height of the properties proposed and gradient of land, would not result in any detriment to adjoining occupants from overshadowing.

- Noise

Response: It is not considered by officers that the erection of two dwellings on the site would give rise to an increased level of noise and disturbance which would be harmful to residential amenity. The site is within an existing residential area and provides residential accommodation. A footnote is recommended to be included, should permission be granted, regarding the hours of construction.

- Loss of wildlife & Loss of trees

Response: The trees within the site are not protected and no objections have been raised from the Council's Arboricultural Officer. The area of land is garden which is not considered to be of a level of ecological value so as to justify refusal of the development. The benefits of developing the land for residential purposes are considered to outweigh the loss of the land.

- Drainage

Response: It is not considered that the development of two properties would give rise to any matters of drainage.

- Poor access, lack of parking, increase in traffic, conflict with pedestrians (frequently used by school children), construction vehicles may block other accesses, refuse collection would cause further risk

Response: The application has been assessed by KC Highways DM who raise no objections to the development proposed. Subject to conditions it is considered that the development would not contribute to any undue matters of highway safety and would be in accordance with Policies T10 and T19 of the UDP.

- Sewerage

Response: The application form states that the site would discharge to mains sewers that are available. As such there is no justification to refuse the application in relation to sewerage.

Conclusion:

The erection of two dwellings within the site is considered to meet policy guidelines and in spite of objections, the benefit of locating development in this sustainable location would outweigh the loss of the greenfield site in terms of visual and ecological impacts.

The proposal is considered to comply with current planning policies and it is the opinion of officers that there would be no significant adverse impact in terms of visual or residential. Furthermore there would be no issues with regard to highway or pedestrian safety. For the reasons detailed above, it is considered by officers that, subject to the imposition of appropriate conditions, the proposal is acceptable.

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. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

9. RECOMMENDATION

CONDITIONAL FULL PERMISSION

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. The development shall not be brought into use until the access, vehicle parking, and turning areas on the approved plans have been laid out, surfaced, and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) this shall be so retained, free of obstructions and available for the use specified on the submitted plans.
4. The development shall not be brought into use until the access road into the development has been widened to 4.5 metres as indicated on the approved plan. Thereafter, the widened access road shall be retained.
5. Notwithstanding the details shown on the submitted plans and information, a scheme detailing the boundary treatment for the entire site shall be submitted to and approved in writing by the Local Planning Authority before any boundary treatment is first erected. The boundary treatment shall then be erected in accordance with the approved details before the development is first brought into use and thereafter retained.
6. Prior to occupation of the dwelling, an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. Thereafter the electric vehicle recharging points so provided shall be retained.

7. 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 approved 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 approved 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.

8. Site investigation works shall be carried out in accordance with the Coal Mining Risk Assessment prepared by Michael D Joyce (Report 3617 dated March 2016) before development commences.

9. The Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority before development commences. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

10. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 9. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Coal Mining 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. 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.

This recommendation is based on the following plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Design & Access Statement			3 rd June 2016
Coal Mining Risk Assessment	Report Number 3617 Dated March 2016		3 rd June 2016
Location Plan	Blackwells 1:1250		3 rd June 2016
Site Layout	16/3/3		20 th September 2016
Plot 2 proposed	16/3	A	22 nd September 2016
Plot 1 proposed	16/3		8 th July 2016
Proposed Site sections	16/3		8 th July 2016
Site Section Information			5 th July 2016