
Report of the Head of Development Management

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 18-May-2017

Subject: Planning Application 2016/93522 Erection of two dwellings (within a Conservation Area) 42-44, Low Town, Kirkburton, Huddersfield, HD8 0SB

APPLICANT

L Hawkyard

DATE VALID

19-Oct-2016

TARGET DATE

14-Dec-2016

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Kirkburton

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 The application is referred to the Heavy Woollen Planning Sub-Committee due to the significant number of representation received. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application site forms part of the garden area associated with nos.42-44 Low Town, Kirkburton.

2.2 The host dwelling is a two storey stone built cottage. A drystone boundary wall is located along the frontage of the site with Low Town and the garden area is tiered, taking into account the topography of the area.

2.3 There is a substantial conifer hedge located along the rear (western) boundary of the site, which provides screening from the properties along Riley Park, which are at a higher land level than the application site.

2.4 There is a mixture of house types within the immediate vicinity of the site although along Low Town itself, the buildings are predominantly of natural stone construction.

3.0 PROPOSAL:

3.1 The proposal is for the erection of two dwellings within the Kirkburton Conservation Area.

- 3.2 The dwellings would form a pair of semi-detached dwellings, being three stories to the front and two storey to the rear because of the topography of the land.
- 3.3 Parking spaces would be provided to the front of each of the dwellings. The parking spaces would be surfaced in a permeable surface. Stone setts would be included to differentiate between the highway of Low Town and the driveways.
- 3.4 The proposal also includes the erection of a detached garage and store which would serve the existing dwelling.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 None

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 During the course of the application amended plans were received which secured the following:-

- reduced the ridge height of one of the plots;
- amended the fenestration detail of the plots;
- provided details of the hard landscaping and boundary treatment to the front of the site;
- site section details submitted to demonstrate the relationship with the existing dwelling(s) to the rear of the site, located along Riley Park.
- A further amendment has been requested setting the detached garage back from the boundary with Low Town by approximately 2.0m in order to ensure adequate sight lines would be provided. This amended plan is currently awaited and will be reported to members in the update.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007). The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is located within the designated Kirkburton Conservation Area.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **BE1** – Design principles
BE2 – Quality of design
BE5 – Preservation/enhancement of conservation areas.
BE12 – Space about buildings
NE9 – Retention of mature trees
T10 – Highway safety
NE9 – Retention of mature trees

Supplementary Planning Guidance / Documents:

- 6.3 None

National Planning Guidance:

- 6.4 **Chapter 6** – Delivering a wide choice of high quality homes
Chapter 7 – Requiring good design
Chapter 10 – Meeting the challenge of climate change, flooding and coastal change
Chapter 11 – Conserving and enhancing the natural environment
Chapter 12 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 As a result of the initial publicity on the scheme, 20 representations were received. A summary of the issues raised are as follows:-

- Development would be out of scale
- ‘Garden grabbing’
- Ridge height in relation to neighbouring properties not shown, think it should be no higher than those either side
- Over-development of the site and would appear as a cramped form of development
- All other three storey developments along Low Town are set within larger plots
- Height, scale, and massing would result in visually imposing building, out of character with the surrounding area
- Proposed garage should be set back at least 2m
- Overlooking of neighbouring properties – proposed dwellings would overlook the majority of the garden of no.23 as well as habitable rooms. The distances would also be below those set out in guidance
- Negative impact on wildlife – loss of trees/shrubs and due to the limited landscaping proposed, would not be replaced

- Four extra cars using Low Town – create access and safety issues (which already exist). Also no pavements and so, extra cars would create pedestrian safety issues. Not sufficient parking provision either
- Flooding concerns – a stream runs under Low Town
- Inconsistency in determination of planning applications
- Noise and disturbance – plot 2 has a balcony directly opposite the main outdoor space and windows of no.23
- Bats present in the vicinity
- Strain on local schools, doctors surgery.

7.2 Kirkburton Parish Council was consulted on the application and strongly objects to the proposals for the following reasons:

- Highways Grounds: It is a difficult road, largely without any pavements and forms the rear access to the Parish Church. The road is also used extensively by pedestrians, whose safety would be compromised by this development.
- There is nowhere for vehicles to turnaround, so they would be forced to reverse, which would further add to highways safety problems.
- Insufficient parking provision.
- This development is inappropriate in a Conservation Area.
- It is a high density development in an area of low density development, so the proposed new development would be out of character with the local area.
- There would be a lack of privacy, as parts of the new houses would directly overlook the existing properties.
- Drainage: the culvert already overflows regularly at times of heavy rainfall and also water drains off the field. The foundations of the new properties would block the culvert and make the situation worse.
- The area is rural and benefits from nesting birds and bats, which would be adversely affected by the removal of mature trees.

7.3 The amended plans have been re-advertised. As a result, two of the original objectors have repeated comments which have previously been listed above. Should any further representations be received, they shall be reported to members in the update.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C. Highway Development Management – Sight lines from the access onto Low Town would be substandard however there are numerous other similar accesses along this section of Low Town and there have been no reported injury accidents. Each dwelling would also have two off-street parking spaces. The proposals are therefore considered acceptable from a highways perspective subject to conditions and subject to an amended plan setting the detached garage 2.0m back from Low Town.

8.2 Non-statutory:

K.C. Conservation & Design – Following receipt of amended plans, the reduction in the height of one of the plots is considered to reduce harm to the conservation area and is considered acceptable. Conditions relating to window details and the use of natural stone facing material are recommended.

K.C. Arboricultural officer – No objection regarding trees. Would be good to secure some decent planting around the proposals as some mitigation for the tree removal that has already been given consent in June 2016.

K.C. Strategic Drainage – There are no watercourses running directly through the site. No objections are raised and no conditions suggested in respect to drainage/flood risk.

9.0 MAIN ISSUES

- Principle of development
- Urban Design & Conservation issues
- Residential amenity
- Housing issues
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The application site is located within the Kirkburton Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. This is mirrored in Policy BE5 of the UDP together with guidance in Chapter 12 of the NPPF. The purpose of a conservation area designation is not to stifle development, but is to ensure that the historic significance of the area is taken into account.
- 10.2 In this instance, the proposal involves the erection of two dwellings on land that currently forms part of the garden area associated with no.42-44 Low Town. Following consultation with the Council's Conservation & Design team, officers are not against the development of this garden area for residential purposes. The form of development along this stretch of Low Town is relatively dense and does not follow a particular layout. As such, officers are of the opinion that the principle of residential development is acceptable and would accord with the aims of policy BE5 of the UDP and chapter 12 of the NPPF.

- 10.3 Furthermore, the site is located within a sustainable location, within close proximity to the local centre of Kirkburton with its facilities and good public transport links.

Urban Design & Conservation issues

- 10.4 During the course of the application, discussions have taken place regarding the design of the dwellings. Amended plans have been submitted which have provided some variation in the ridge height of the two plots. The ridge height of plot 1 would be set below that of no.42-44 Low Town, as demonstrated on the submitted section drawing.
- 10.5 It is acknowledged that the dwellings would be set over three floors, incorporating an integral garage at ground floor level, with the main habitable rooms on the first and second floors. Due to the topography of the land and the variation of house types in the vicinity, it is the view of officers that the design (including fenestration detail) of the dwellings proposed would not be detrimental to character of the area, complying with policies BE1, BE2, and BE5 of the UDP as well as chapters 7 and 12 of the NPPF.
- 10.6 With regard to the fenestration detail, the integral garages at ground floor level would be recessed and therefore, would not appear overly prominent within the street scene. The window openings would vary in their dimensions, with plot 2 incorporating a larger extent of glazing at first floor level. Rooflights and Juliet style balconies are also proposed. These design details are considered to result in a contemporary house type, which, subject to the use of appropriate materials, are considered by officers to be acceptable in this context.
- 10.7 In order to ensure that appropriate materials are used for the construction of the dwellings, it is recommended that conditions are imposed setting out that the facing material shall be natural stone. This is due to the predominant facing material in the area being natural stone. With regard to the roofing material, a natural slate is recommended to be conditioned. The inclusion of such conditions would comply with policies BE1, BE2, BE5, and BE11 of the UDP as well as chapters 7 and 12 of the NPPF.
- 10.8 Due to the position of the dwellings, which would be set out within the site, during the course of the application, discussions took place regarding the extent of hard-landscaping to the front of the proposed dwellings. To address this initial concern, stone setts have been proposed along the frontage of the site with some areas of soft landscaping also included. The main driveway areas would also be surfaced in a permeable surface. It is the view of officers that, with the inclusion of the above features, the parking areas to the front of the proposed dwellings would not appear overly dominant and would conserve the setting of the conservation area, in accordance with policies BE1, BE2, and BE5 of the UDP and chapters 7 and 12 of the NPPF.

- 10.9 With regard to the detached double garage, this would be located to the front of the site and would appear relatively prominent. However, the location of the garage, when taking into account the position of development along Low Town, which does include development built very close to the back of the roadway, would not, in the view of officers, appear out of keeping. It should be noted however, that an amended plan has been requested in order to address HDM comments which would set the garage back by approximately 2.0m from Low Town. The garage would be of a timber construction which would, in the view of officers, soften its impact within the street scene.
- 10.10 In all, the proposal is considered acceptable from a visual amenity and conservation perspective, complying with the aims of policies BE1, BE2, BE5, and BE11 of the UDP as well as chapters 7 and 12 of the NPPF.

Residential Amenity

- 10.11 Policy BE12 of the UDP sets out suggested distances to achieve between existing and proposed residential developments. The policy does however state that distances less than those set out "*will be acceptable if it can be shown that, by reason of permanent screening, changes in level, or innovative design, no detriment would be caused to existing or future occupiers of the dwellings or any adjacent premises or potential development land which may be affected*".
- 10.12 In this instance, to the rear of the site, there is a significant change in land level, with the dwellings on Riley Park set at a higher level than those on Low Town. In order to understand this relationship, site sections have been submitted during the course of the application. The sections demonstrate that there would be no direct relationship between the proposed dwellings and those located on Riley Park.
- 10.13 With regard to the existing dwellings on the opposite side of Low Town (to the east), these dwellings are at a similar land level to the application site. No.25 Low Town is located directly opposite the application site. It includes windows in its gable, facing towards the application site, at both ground floor and first floor level.
- 10.14 With regard to the window at ground floor level, there would not be a direct relationship because the proposed dwellings would incorporate integral garages at ground floor level. Furthermore, this window is already very visible from general pedestrians using Low Town. With regard to the first floor windows, a distance of approximately 12m would be achieved. In this instance, officers are of the opinion that the proposals would not result in an undue loss of residential amenity because of the slight angled orientation of no.25 with the highway (thus the properties would not directly face one another), along with the window at first floor level in plot 1 which would have the most direct relationship, would serve the kitchen area. With regard to the window at second floor level in plot 1, this would not directly face the window in the gable of no.25.

- 10.15 No.23 Low Town is also located to the east of the application site however this is set in excess of 21m back from the application site. Officers are therefore of the opinion that the proposed development would not adversely impact upon the amenity of these occupants.
- 10.16 With regard to the host dwelling, no.42-44 Low Town, the gable elevation would face the application site, and there are openings in this elevation at both ground and first floor level. A distance of 7m would be retained with the gable of plot 1.
- 10.17 With regard to the ground floor window, there is an existing, rather substantial boundary wall which would screen this existing window from the gable of plot 1. Officers are therefore satisfied that there would be no greater impact upon the amenity of users of this room as a result of the proposed development. With regard to the window at first floor level, this appears to be a secondary window, with the main window serving that room being located to the front of the property. Provided that no openings are inserted in the southern gable elevation of plot 1, which can be conditioned, officers are satisfied that there would be no detrimental impact caused to the residential amenity of existing or future occupants.
- 10.18 In relation to the dwellings to the west, located along Riley Park, these dwellings are located at a significantly higher level than the application site. In order to demonstrate the relationship with these existing dwellings, a section drawing was submitted during the course of the application. The section drawings demonstrate that the ridge height of the plots would be no higher than the existing boundary treatment to the properties on Riley Park. In light of this, officers are satisfied that there would be no undue impact caused to the residential amenity of these occupants either.
- 10.19 No.40 Low Town, located to the north, is set further back from the highway of Low Town and as such, officers are satisfied that there would be no direct relationship with this property.
- 10.20 There are no other properties that are considered to have a direct relationship with the proposed dwellings.
- 10.21 For the reasons set out above, officers are satisfied that the proposed development, with the inclusion of appropriate conditions removing permitted development rights for the insertion of new openings, would not result in any significant undue impact to the residential amenity of surrounding occupants. As such, the proposal is considered to comply with the aims of policies BE1, BE2, and BE12 of the UDP.

Highway issues

- 10.22 The site is located along Low Town which is an adopted highway with a 30 mph speed limit with an observed estimated speed of 15-20 mph and street lighting along its length. The highway has an average width of 5.7m along the site frontage.

- 10.23 The sight lines from the proposed access onto Low Town are considered substandard however officers are of the opinion that because there are a number of similar accesses along this section of Low Town and there have been no reported injury accidents, the proposed access points to serve the two dwellings would not materially add to any undue highway safety implications, complying with policy T10 of the UDP. However, an amended plan has been requested which would set the detached garage back by approximately 2.0m from Low Town in order to improve the sight lines.
- 10.24 With regard to the internal layout, each dwelling incorporates an integral garage. Whilst it should be acknowledged that the internal measurements for both garages would be below the recommended minimum size of a single garage, the driveway serving each dwelling would be of a sufficient width to accommodate two off-street parking spaces. The parking provision is therefore considered sufficient to serve the development, which is in a sustainable location, and would accord with policy T19 of the UDP.

Drainage issues

- 10.25 In light of some of the concerns raised in the representations, advice was sought from the Council's Strategic Drainage officer. It has been confirmed that there is a watercourse that follows the line of Low Town in part, however, it enters the site between nos.23 and 25 Low Town and then goes north, along the route of Low Town (therefore, away from the application site). The Council's Drainage officer has confirmed no objection to the proposals and does not consider any specific drainage conditions are necessary. The proposal is therefore considered to comply with the aims of chapter 10 of the NPPF.

Representations

- 10.26 Officers respond to the issues raised by the objectors as follows:-

1. Development would be out of scale
Response: Amended plans were submitted during the course of the application which has reduced the ridge height. Furthermore, the section drawings indicate that the proposed dwellings would, in the view of officers, have an acceptable relationship with surrounding properties, which does vary in scale.
2. 'Garden grabbing'
Response: The principle of development has been assessed and is considered, by officers, to be acceptable in principle.
3. Ridge height in relation to neighbouring properties not shown, think it should be no higher than those either side
Response: It is the view of officers that the proposed ridge height would be appropriate in this context, for the reasons set out in the main assessment.

4. Over-development of the site and would appear as a cramped form of development
Response: It is the view of officers that the two dwellings would retain a reasonable amount of amenity space. Furthermore, due to the layout of the surrounding area, the dwellings would not appear out of keeping.
5. All other three storey developments along Low Town are set within larger plots
Response: Noted.
6. Height, scale, and massing would result in visually imposing building, out of character with the surrounding area
Response: As previously set out, there is a variety of building types and scales within the vicinity. It is therefore the view of officers that the proposed dwellings would not appear out of character with the area.
7. Proposed garage should be set back at least 2m
Response: As set out in the main assessment, there are a number of buildings along Low Town that are within close proximity to the highway. It is therefore the view of officers that the position of the proposed garage would not appear out of place. However, it should be noted that, following comments from HDM, an amended plan has been requested which would set the garage back by 2.0m from Low Town in order to achieve appropriate sight lines.
8. Overlooking of neighbouring properties – proposed dwellings would overlook the majority of the garden of no.23 as well as habitable rooms. The distances would also be below those set out in guidance
Response: The garden area of no.23 is located between the front of the house and Low Town. This area is therefore visible from the highway. Officers are therefore of the view that the proposed dwellings would not intensify the existing relationship.
9. Negative impact on wildlife – loss of trees/shrubs and due to the limited landscaping proposed, would not be replaced
Response: There has been no objection raised by the Council's Arboricultural officer. Some small areas of landscaping are proposed as part of the development. In addition, bat and bird box provision are recommended in order to comply with the aims of chapter 11 of the NPPF.
10. Four extra cars using Low Town – create access and safety issues (which already exist). Also no pavements and so, extra cars would create pedestrian safety issues. Not sufficient parking provision either
Response: Consultation has been carried out with the Council's Highways Development Management team who raise no objection to the proposals from a highway safety perspective. This has been assessed above.
11. Flooding concerns – a stream runs under Low Town
Response: This has been assessed in the report above.

12. Inconsistency in determination of planning applications

Response: Each application is considered on its own merit in relation to all relevant material planning considerations.

13. Noise and disturbance – plot 2 has a balcony directly opposite the main outdoor space and windows of no.23

Response: This has been addressed above.

14. Bats present in the vicinity

Response: Noted. A condition is recommended relating bat box provision.

15. Strain on local schools, doctors surgery.

Response: Due to the small scale of the development it falls significantly below the threshold for requesting an education contribution. The strain on the doctors surgery is not a material planning consideration.

10.27 With regard to the Kirkburton Parish Council comments, officers respond as follows:-

1. Highways Grounds: It is a difficult road, largely without any pavements and forms the rear access to the Parish Church. The road is also used extensively by pedestrians, whose safety would be compromised by this development.

Response: A full assessment has been made in regard to highway safety.

2. There is nowhere for vehicles to turnaround, so they would be forced to reverse, which would further add to highways safety problems.

Response: See comments above.

3. Insufficient parking provision.

Response: See comments above.

4. This development is inappropriate in a Conservation Area.

Response: The Council's Conservation & Design officer has reviewed the amended proposals and considers the proposals acceptable from a heritage perspective.

5. It is a high density development in an area of low density development, so the proposed new development would be out of character with the local area.

Response: As previously set out, the area is diverse in layout and appearance. The proposed development is therefore, in the view of officers, not considered to be out of keeping.

6. There would be a lack of privacy, as parts of the new houses would directly overlook the existing properties.

Response: This has been fully assessed in the residential amenity section above.

7. Drainage: the culvert already overflows regularly at times of heavy rainfall and also water drains off the field. The foundations of the new properties would block the culvert and make the situation worse.

Response: This has been assessed in the drainage section above.

8. The area is rural and benefits from nesting birds and bats, which would be adversely affected by the removal of mature trees.

Response: This has been addressed above.

Other Matters

- 10.28 There are no other matters considered relevant to the determination of this application.

11.0 CONCLUSION

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

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

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

1. Standard time limit for implementation of the development (3 years).
2. Development to be carried out in accordance with the plans.
3. Facing material to be natural stone.
4. Roofing material to be natural slate.
5. Boundary treatment in accordance with the submitted details.
6. Hard and soft landscaping in accordance with the submitted details.
7. Full details of the window frames to be submitted for approval.
8. Surfacing of the driveways to be permeable.
9. Remove permitted development for new openings in the southern gable elevation of plot 1.
10. Provision of bat boxes.
11. Provision of bird nesting opportunities.

Background Papers:

Application and history files:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93522>

Certificate of Ownership – Certificate A signed and dated 16 September 2016.