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**Report of the Head of Strategic Investment****HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 22-Jun-2017****Subject: Planning Application 2016/90477 Alterations to convert outbuilding to holiday accommodation adj 1, Wheat Close, Holmbridge, Holmfirth, HD9 2QL****APPLICANT**

D Trueman

**DATE VALID**

11-Jan-2017

**TARGET DATE**

08-Mar-2017

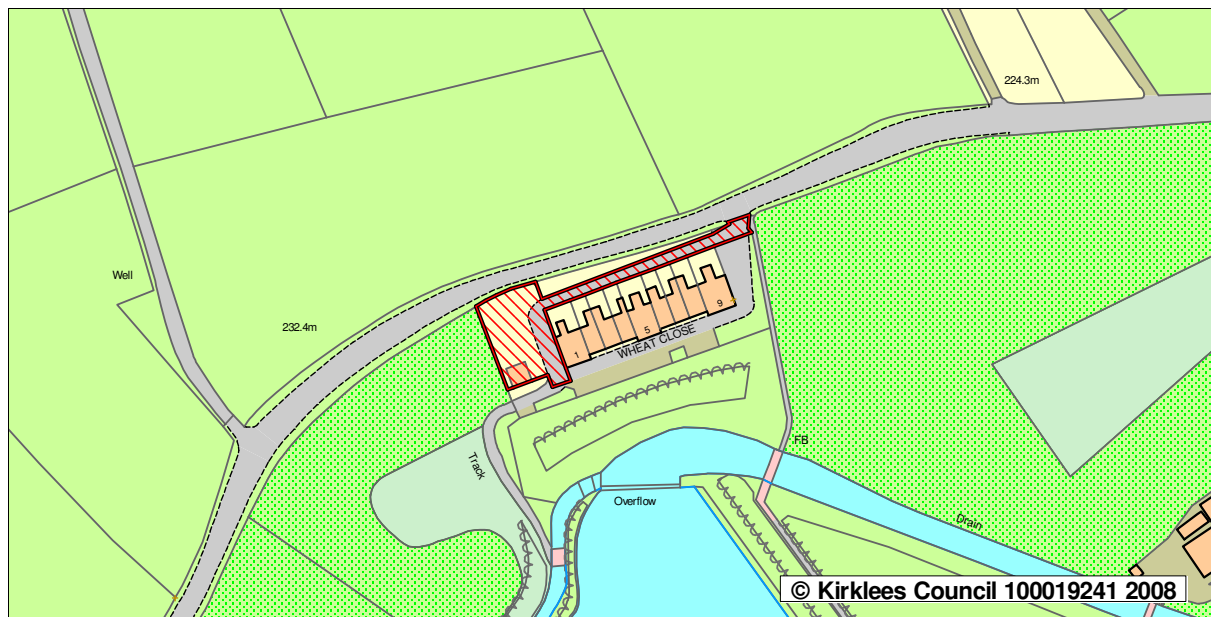
**EXTENSION EXPIRY DATE**

27-Apr-2017

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

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

**LOCATION PLAN**

**Map not to scale – for identification purposes only**

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**Electoral Wards Affected: Holme Valley South**

No

Ward Members consulted

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and subject to the Section 106 Obligation (unilateral undertaking) to be lodged by the applicants to:

- 1) The property will not be used as a holiday let in the months of November, December and January;
- 2) The occupancy of the outbuilding as a holiday let will be limited to a maximum of 28 days at a time to individual residents with a requirement to have a minimum of 14 days no return between bookings; and
- 3) A register of occupation will be maintained by the owner which can be requested by the local planning authority at any given time upon reasonable notice.

**1.0 INTRODUCTION:**

1.1 The application reference no. 2016/90477 was first reported to the Huddersfield Sub-Committee on the 30<sup>th</sup> June 2016 under the Delegation Agreement at the request of Councillor Donald Firth for the following reasons:-

- Change of use from garage to living accommodation no planning permission
- Using it as Holiday accommodation
- Lack of parking already parking at a premium, plus sight lines into Woodhead Rd very poor
- Site visit required and committee decision
- Another retrospective plan

1.2 At that meeting members resolved to approve the application in line with the officer recommendation stated below:-

*"To grant full planning permission subject to delegation of authority to Officers to:*

- 1. Secure a section 106 obligation (Unilateral Undertaking) to limit the use and periods of occupation of the building;*
- 2. Impose all necessary and reasonable conditions; and*

3. *Subject to there being no material change in circumstances, issue the decision”.*

- 1.3 Following the meeting on 30<sup>th</sup> of June, complaints were made by a local resident and ward councillors that information relevant to the determination of the application was not included in the committee report and that the discussion at the meeting did not clearly identify the enforcement planning history. Officers considered that these issues warranted returning this application to the sub-committee to ensure that the decision made by the sub-committee is robust and based upon knowledge of all relevant planning matters. Due to the complaints made, the application was also reviewed by the then Director of Place. Whilst it was initially scheduled to be reported to sub-committee on 4<sup>th</sup> August 2016 it was deferred at the request of officers, to allow the review, concluding that the application should be reported back to planning committee, to be completed.
- 1.4 The application was then reported back to committee on 27<sup>th</sup> October 2016 for Members to reconsider the application taking into account the enforcement history of the site and a more detailed account of a letter of neighbour representation which was not fully summarised within the original report (this includes a number of photographs submitted with the representation) and other letters of neighbour representations received since the sub-committee meeting on 30<sup>th</sup> June.
- 1.5 At that meeting of 27<sup>th</sup> October 2016 Cllr Sims presented an extract from a Land Registry document stating that an incorrect certificate of ownership had been submitted with the application. Given this the application was once again deferred to allow this matter to be further investigated. The agent was asked to verify whether a correct ownership certificate had been completed with the application. In response it was stated that notice had not been served on all those that were owners of any part of the land to which the application relates at the time the application was submitted. As such the application was, at that time, declared invalid.
- 1.6 On 1<sup>st</sup> December 2016 a revised ‘certificate B’ was submitted to accompany application no. 2016/90477. This served notice on the occupiers of 2-9 Wheat Close as owners of part of the application site at the date certificate B was completed. An amended set of plans was submitted on 11<sup>th</sup> January 2017 and the application re-publicised by neighbour notification letter on 23<sup>rd</sup> January 2017, site notice posted on 30<sup>th</sup> January 2017 and press notice in the Huddersfield Examiner on 10<sup>th</sup> February 2017. The Parish Council were given 21-days to comment on the application and KC Highways formally consulted on the application.
- 1.7 The application reported to sub-committee on 30<sup>th</sup> June and 27<sup>th</sup> October 2016 was declared invalid as it had been submitted with an incorrect certificate of ownership. Consequently this means there can be no valid ‘resolution’ related to the application as submitted at that time. Therefore the report below is a revised report and recommendation for members to consider. This is based on the revised ownership certificate received on 1<sup>st</sup>

December 2016 and the plans received on 11<sup>th</sup> January 2017. This however includes all representations originally received together with those received since the 'new' application no. 2016/90477 was validated and publicised.

- 1.8 Officers have discussed this matter with the chair of sub-committee and it has also been agreed that a further site visit will be undertaken.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site measures approximately 0.05 hectares and currently comprises a single storey detached outbuilding constructed in stone with a gable roof finished in grey slate. It features a timber store and dog pen to the front (east) elevation. The building is located to the south of the application site and to the north is some timber decking and sheds.
- 2.2 The site is currently in use in association with the dwelling at no. 1 Wheat Close. It is surrounded by a small woodland to the west, open undeveloped fields to the north, a row of nine terraced properties to the east and Brownhill Reservoir to the south. Properties on Wheat Close, along with the outbuilding, share a common access point from Woodhead Road. Access to the outbuilding from Woodhead Road is shown via a private drive running to the rear of properties along Wheat Close and to the west of no. 1 Wheat Close. A public footpath (Hol/88/10) runs off Woodhead Road from the access point to the far east of the site. It is separated from the site by the existing terraced dwellings and access road.
- 2.3 The surrounding area is of rural character and it is allocated as Green Belt land within the UDP. To the south east of the site, in front of nos. 1-8 Wheat Close, engineering operations have been undertaken to form areas of hardsurfacing, utilised as parking areas, and some extended garden areas.

## **3.0 PROPOSAL:**

- 3.1 The application seeks planning permission for alterations to convert the existing outbuilding into holiday accommodation.
- 3.2 The proposal would involve the removal of the existing store and dog pen to the front of the building and the conversion of the resultant outbuilding into a 1-bed holiday accommodation. No additional extensions are proposed to the building and the only external alterations would be the addition of new windows and doors. The unit would contain a single bedroom, living space, kitchen and shower room. It would provide internal floor space of approximately 28.9 square metres. Externally there would be a new window formed in the west elevation (to serve the bedroom), alterations to form a pedestrian door and window in the east elevation (kitchen), a large fixed window and existing door converted into a second window the south elevation. A new flue to serve a stove would project above the south west corner of the roof.

- 3.3 Access to the holiday accommodation would utilise the common access point off Woodhead Road, and one parking space would be provided to serve the accommodation in front of the building.

#### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 2000/92801 - outline application for the erection of 1 detached dwelling on this site was refused on the following grounds:-

1. The site lies within an area which has received approval as Green Belt within which it is intended that new development be severely restricted. The proposal would be unrelated to any existing settlement and extend an existing isolated group of dwellings and injuriously affect the rural character of this area of high landscape value and would therefore be contrary to the provisions of Policies D8 and NE8 of the adopted Kirklees Unitary Development Plan, such development is neither appropriate to the Green Belt nor are there any special reasons why it should be permitted in this case.
2. The formation of a new vehicular access, together with the associated removal of stone walling, formation of adequate visibility splays and loss of existing landscaping would be detrimental to the appearance and openness of the Green Belt and an Area of High Landscape Value and would therefore be contrary to the provisions of Policies D8 and NE8 of the adopted Kirklees Unitary Development Plan.
3. The site lies in an isolated rural location outside walking distance of a regular bus service and the proposal is therefore considered unsustainable taking into account the advice contained in PPG13 Transport Para 3.2 relating to the avoidance of sporadic housing development in the countryside.

- 4.2 2012/91536 – erection of single storey extension and double ‘underground’ garage with garden terrace above was refused on the following grounds:

1. The engineering operations required to accommodate the underground garage, do not take account of the topography of the site or the adjacent land/area and would detract from the natural environment and visual amenity of the area. Furthermore the proposed underground garage, due to its size, scale and siting would adversely affect the openness of the Green Belt. As such the proposed development would be contrary to the National Planning Policy Framework and Policy BE2 of the Unitary Development Plan.

#### **4.3 Enforcement History**

- 4.4 In October 2001, a complaint was logged to planning enforcement for this site regarding the alleged erection of a garage and change of use of land to garden, both elements which are subject to this application. The complaint was investigated and closed with no further action taken on the matter for the following reasons:-

1. During that time, it appeared that the land in question may have been used for residential purposes for a period of more than 10 years preceding 2001; as such, permitted development rights would apply; and
  2. Given the established residential use of the land, planning permission was not required for the construction of the detached double garage as it complied with the guidelines for permitted development set out in the Town and Country Planning (General Development) Order 1995 (as amended) at that time.
- 4.5 The investigation concluded that there was no breach of planning control subject to the height of the garage not exceeding 4 metres in height. On this basis it was considered to be 'permitted development'. As such, there were no grounds for enforcement action to be taken during the time the enforcement issue was raised to the Local Planning Authority.
- 4.6 The complainant was informed in writing on 06 November 2001 that the investigation was being closed and the reasons for this (stated above).
- 4.7 It is noted that this view differs from that set out in the 30<sup>th</sup> June Committee Report on the original application and reported to members which considered the building in question would probably not be considered a curtilage building but was immune from Enforcement action by reason of time. Members are advised that the earlier assessment from 2001, that the construction of the building under Permitted Development Rights was lawful, should be used as the starting point in the determination of the application.
- 4.8 In 2009, a noise complaint was logged to Environmental Services which included a query with regards to the lawfulness of the garage building. The complainant stated that the building had been fitted out as a bar, pool room and dog shelter. It was stated that the structure did not have planning permission. This query was forwarded on to Planning Enforcement and no action was taken as the building did not require planning permission and it remained ancillary in terms of use to the host property at no. 1 Wheat Close. In addition Ward Members have previously stated that further complaints have been raised to planning enforcement with regards to the lawfulness of the building and its use. The Clerk to the Parish Council was asked to contact Planning regarding the garage and its use in March 2016. In April 2017 a noise complaint was logged to Environmental Services regarding a party in the garden. Environmental Services did not visit, so this is deemed an 'unsubstantiated complaint' but when they rang the complainant later the same evening the noise had gone. This complaint did not involve and was not forwarded to Planning.
- 4.9 As a response to these issues it is important to make reference to The Town and Country Planning General Permitted Development Order (England) 2015 (as amended). This allows, in Schedule 2, Part 1, Class E for the provision and alteration of any building for a purpose 'incidental' to the enjoyment of the dwellinghouse.

- 4.10 In this case it is alleged that the building is occupied by the son of the occupiers of the host property – 1 Wheat Close . In these circumstances the judgment in *Uttlesford District Council v Secretary of State for the Environment and White [1991]* is relevant. This case and later case law has established that planning permission is not required to convert a garage in a residential curtilage to an annexe capable of independent accommodation, provided both it and the existing dwelling remain in the same planning unit. As there has been no information submitted alluding to the use of the building as a separate planning unit, the occupation of the garage in this manner would not require planning permission.
- 4.11 For clarity Section 171b of the Town and Country Planning Act 1990 (as amended) states that where there has been a breach of planning control consisting in the carrying out without planning permission of building operations, no enforcement action can be taken after the end of the period of four years beginning with the date on which the operations were substantially completed. In the case of any other breach of planning control, which in this case would be the material change of use of land, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- 4.12 In this case the garage was completed around the end of 2001 and the enforcement officer who investigated the complaint in 2001 considered that the ‘garden’ area associated with no. 1 Wheat Close may have already been used for residential purposes for 10 years and the building comprised permitted development at the time. On this basis, the building operations were considered to be carried out under Permitted Development Rights and any material change of use of land to create the garden area would have been immune from enforcement action. The use as of the garage as an annex incidental to the principal dwelling would also not require planning permission.
- 4.13 Objections have been submitted which questions why this land is considered to be within the curtilage of no. 1 Wheat Close. This was first assessed when the Enforcement Officer considered the complaint regarding the erection of the garage in 2001. At that time it was considered that the land formed one parcel with the host property at no. 1. It was evident that it had been used as garden for the preceding 10 years. The Land Registry plan provided by the applicant since this time also shows that no.1 Wheat Close, its yard, access to the north, access running to the west and garden area to the west of the host dwelling are all within one land registry parcel. This indicates the functional use, past and present, as curtilage as an integrated unit of land. ‘Garden’ use is not synonymous with ‘curtilage’. Curtilage is a legal term describing the relationship of land to a building; it is not a use of land for planning purposes. It is accepted that the size of curtilage can change over the years. Based on the facts of the case in 2001 although the garage area is separated by a track this isn’t an unusual situation and would not lead to the ‘garden’ area being excluded from the ‘curtilage’ of the associated dwelling. The access isn’t public or adopted so there is no functional split between the dwelling and its garden to the west. This area is considered to be intimately associated with the host dwelling and serving the purpose of the dwelling within it in some reasonably necessary or useful manner.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 It was originally proposed that the existing store and dog pen structure to the front of the building be replaced by an extension to facilitate the conversion. However, amended plans were sought to remove the proposed extension so that the proposal would not result in greater impact on the openness of the green belt in comparison to existing development on site. (plan refs now Tru.15/06d and 07d).
- 5.2 The siting of the parking space was modified during the course of the application to address concerns raised by K.C. Highways Development Management that its previous location would obstruct an access track to the adjacent reservoir, south west of the site, and beyond. In addition this land has now been omitted from the red line application site plan (proposed topo/site plan ref Tru.15/08c and location plan Tru.15/01b).
- 5.3 The size of the building would not offer a good standard of amenity for future occupants were it to be permanently occupied as a residential dwelling, however is considered acceptable for temporary occupancy as a holiday let. In addition, the use of the building for permanent residence could lead to pressure for it to be extended which would adversely affect the openness of the green belt. Thus it is considered necessary to secure a legal obligation, in the form of a Unilateral Undertaking, to limit the occupation to holiday accommodation. The applicant submitted a draft section 106 obligation by way of unilateral undertaking on 26<sup>th</sup> October 2016, amended 7<sup>th</sup> June 2017, to covenant with the council that:
- a) The property will not be used as a holiday let in the months of November, December and January;
  - b) the occupancy of the outbuilding as a holiday let will be limited to a maximum of 28 days at a time to individual residents with a requirement to have a minimum of 14 days no return between bookings; and
  - a) A register of occupation will be maintained by the owner which can be requested by the local planning authority at any given time upon reasonable notice.
- 5.3 As set out in paragraphs 1.5-1.7, an incorrect ownership certificate was completed with the original submission. This was amended on 1<sup>st</sup> December 2016 and an amended suite of plans submitted on 11<sup>th</sup> January 2017.
- 5.4 Further amended plans ref Tru.15/06d and 07d to delete a door in the southern elevation of the building and to replace this with a window were received 7<sup>th</sup> June 2017.



## **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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> 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.

### **6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:**

BE1: Design Principles  
BE2: Quality of Design  
EP6: Development and Noise  
D12A: Re-use of Buildings in the Green Belt  
T10: Highway Safety

### **6.3 Kirklees Publication Draft Local Plan: Submitted for examination April 2017**

The site is designated Green Belt in the local plan.

The site is also part of a much larger designation as a Local Wildlife Site 'Yateholme Reservoirs and Plantation'.

Policies:

PLP10 Supporting the rural economy  
PLP21 Highway safety and access  
PLP24 Design  
PLP32 Landscape  
PLP 30 Biodiversity and Geodiversity  
PLP 52 Protection and improvement of environmental quality  
PLP 60 Green Belt: the re-use and conversion of buildings

### **6.4 National Planning Guidance**

National Planning Policy Framework  
Core planning principles  
Part 1: Building a strong, competitive economy  
Part 3: Supporting a prosperous rural economy  
Part 6: Delivering a wide choice of quality homes  
Part 7: Requiring good design

Part 9: Protecting green belt land

Part 10: Meeting the challenge of climate change, flooding and coastal change

Part 11: Conserving and enhancing the natural environment.

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

7.1 The originally submitted application (including a front extension) was publicised by a press and a site notice and letters to neighbouring residents in March 2016; three letters of neighbour representations (one from the registered owner of nos. 2, 3 and 8 Wheat Close) were received raising, in summary, the following matters:-

- Proposal would spoil rural area
- Access would be via a shared drive and proposal may increase the cost of repairs of the drive
- Property already has four cars parking and only pay one ninth of the upkeep of the drive
- Proposal would increase traffic and noise and encourage trespassing

7.2 When amendments were made to the scheme, removing the front extension, the application was re-advertised by neighbour notification letter in April 2016 and two further letters of neighbour representation (one from the registered owner of nos. 2, 3 and 8 Wheat Close) were received. In addition on 19<sup>th</sup> September 2016 a further petition with 4 signatures (all residents of Wheat Close) was received raising, in summary, the following matters:-

- The application is on land that has already been refused several times before
- The garage was initially built without planning permission in the first instance and should never have been allowed
- Nothing substantial has changed to make this application any different to the application made in 2000 for a dwelling house
- Proposal would give rise to highway safety issues/add to already congested parking problems
- An application for a holiday let essentially is also for a "change of use" from a residential row (100%) to a commercial building and that this is inappropriate for this reason
- This is a private close with costs of repair falling to the residents of Wheat Close so access and parking issues directly affect residents.
- If all the parking spaces within the Close are taken, parking takes place on the A6024 Woodhead Road. If there are more visitors than more cars would be parked on the A6024 and the risk of accidents would be increased, and visibility from Wheat Close reduced.
- The parish council rejected the application and the council should do too
- Spoil enjoyment of our homes
- The garage is surrounded by land owned by Yorkshire water
- It is next to green belt and a row of quiet residential homes

- 7.3 In the report to sub-committee on 30<sup>th</sup> June one letter of neighbour representation was not fully summarised within the "Representations" section of the report. As such, when the application was reported back to Members on 27<sup>th</sup> October the representation was set out in more detail for members' information, as was a response to the further issues raised, the petition received on 19<sup>th</sup> September and queries raised by Jason McCartney MP. This section of that report, with the representations/queries set out in Italics with response to each point in turn is set out in full below:-

- 7.4 *There is a history going back to 2000 (reference 92801) when outline planning permission was refused for the building of a dwelling house. Both the Holme Valley Parish Council and Kirklees Council were in agreement.*

Response: The planning application history of the site has previously been acknowledged within the report submitted to members (please see section 4 of this report) However it is recognised that the Enforcement History of the site was not fully set out in the 30<sup>th</sup> June 2016 report.

- 7.5 *The small stretch of land to the side of no 1 had previously been an access road for Yorkshire Water's reservoir keeper. This was included in the sale to the current former Yorkshire Water owners of no1.*

Response: The location of the proposed parking area for the holiday let was amended to ensure that the development would not obstruct this access road (please see section 5 of this report).

- 7.6 *Over the years they made every effort to achieve their initial desire to have a home there for their adult son. After the refusal of the outline planning they built two garages on the plot, which quickly became a large well fitted interior when they removed the garage doors and installed a bar, and wood burning stove. In the last 5 years or so, they installed a toilet and shower. The son regularly stays in this annex. As he has been resident there for some years they then applied for a new " underground" double garage at the side of the existing pair of garages ( currently garden) in 2012 ref 91536 and this too was rejected. Separately two years ago the family applied for an extension at the side of their house for the kitchen, and no objections were made on this occasion from any of us in the row and this was granted.*

Response: It is recognised that the concerns of local residents and ward councillors as to the creation of a dwelling in this location has been tried previously but in this instance as the original outbuilding is lawful, and the internal fit out of the building is not within the control of the planning system, the assessment of the application has to be based upon this starting point. The planning history and enforcement history of the site has been considered; however, the application has been determined on its own merits and if it is approved measures would be taken via a legal obligation to ensure that the unit is not used a residential dwelling (please see paragraphs 10.34-35 of this report).

- 7.7 *All the residents in the row felt from the outset that another house at the end of the row was inappropriate in an already congested, privately owned close, where parking is at a premium, and where development so close to the Peak Park, and an area of High Landscape value, would not be in keeping or desirable. But to now want to convert the double garage into a holiday let seems even more unacceptable. There simply is nowhere for visitors to park that would not further inconvenience residents and their own visitors. But more important still is the idea that by stealth, the garages have become the dwelling house that was refused in 2000.*

Response: The matters relating to impact of the proposal on the character of the area, parking and highway safety has been assessed within the full report previously submitted to committee (please see section 10 of the current report). Given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed holiday let which has its own parking space would, even with it receiving visitors, be significant or cause demonstrable harm that would warrant a reason for refusal.

- 7.8 *I currently reside next door at 2 Wheat Close, and own 3 Wheat Close, where my mother lived until her death three years ago, and we jointly own no 8 Wheat Close. Marcus Kilpin at no 4 is also angered at this new application. As we are all responsible for paying a share of the Tarmac drive round the terrace, and would all experience the inconvenience of having more cars coming around the private row of properties all the residents should have been consulted by No 1 prior to the application being submitted. No such moves were made to discuss these plans with me or Mr Kilpin as the closest neighbours to the garages, as a matter of courtesy.*

Response: Pre-application consultations are not a requirement to validate planning applications and as such this is not a material planning consideration to the determination of this application. [The issue of formal notification of owners of land included in the application site has been addressed in paragraphs 1.5 and 1.6 of this report]. Given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

- 7.9 *I hope that the Committee is in agreement again, in wanting to stop this undesirable and impractical application that is done by stealth and without regard to previous decisions made and resident's concerns. I am attaching photos showing the congestion currently with residents' cars and the access road to the wooden gate that YW requires at all times, meaning this gravel drive should not be used for parking for any visitors. The photos also show how the garage doors have been removed, with Windows now installed at the left for the toilet and shower, in front of the Windows is a fishpond and to the right-hand side, where there was the other garage door, is a now a dog kennel.*

Response: The photographs will be shown to members for consideration.

7.10 The objector also raised further issues in their correspondence with Officers post 30<sup>th</sup> June sub-committee which is outlined below.

7.11 *Why the reasons cited in the refusal of the 2000 outline application for a detached dwelling would not still apply to the current application for the use of the building as a holiday let.*

Response: The 2000 outline application, which predated the construction of the garage/outbuilding, was for a new build dwelling in the Green Belt with a new vehicular access. The construction of new buildings in the Green Belt is deemed inappropriate development save for limited exceptions as set out in Chapter 9 of the NPPF. The construction of ancillary residential outbuildings is one such form of development that can be accepted in the Green Belt, as it can constitute 'permitted development' within Part 1 of the General Permitted Development Order 2015, and the 1995 Order this replaced. The re-use of an existing building of permanent and substantial construction in the Green Belt to alternative uses is also an acceptable form of development in the Green Belt. As the current application seeks to re-use an existing building and utilise the existing driveway, rather than construct a new access, the 2 main reasons cited in the 2000 reason for refusal would not still be relevant to the current application. The third reason for refusal relating to sustainability considerations (i.e. access to public transport and local amenity facilities) is still relevant but the nature of the holiday let would likely result in users visiting the facility by car and therefore having access to local amenities and services. The 30th June Committee Report included a proposed condition to require an electric vehicle charging point to be installed to off-set the impacts on the environment from the reliance by private car for occupiers of the holiday let.

7.12 *There is a long strip of land to the front of the whole row of houses in Wheat Close currently in use for parking is currently rented by the occupants of the terrace except 9 Wheat Close, under contract (contract signed in 2015) from Yorkshire. It allows two parking spaces for each house, or to extend the garden where there is only one parking space needed. However, under the terms of the contract Yorkshire Water can require them, with only three months' notice to demolish the walls, remove the backfill and vacant the land, at their own cost. This is to ensure that if they require access for works on the spillway or reservoir, they have not lost the right to bring heavy plant machinery on site. This was the case four years ago. Should YW require us to remove the wall and infill, several of the houses would lose their second car parking space and they, along with any visitors, would be forced to park on Woodhead Road, which is a 60mile an hour speed limit highway, and which has no pavement to either side of the road. A row of parked cars on the Woodhead Road would pose an immediate hazard to cars travelling at high speed, and would seriously restrict vision for residents seeking to enter the Woodhead Road. It would be an accident waiting to happen. If the holiday let is approved and in the future YW demands the demolition of our extra parking*

*and gardens, then congestion and hazards would be even worse than now for residents.*

Response: Officers do agree that such a scenario as described by the complainant would reduce the amount of available parking spaces serving the dwellings along Wheat Close and potentially give rise to highway safety issues. However, the existing outbuilding is not located within the strip of land identified [and did not provide any parking provision for the host property at no 1 Wheat Close at 27<sup>th</sup> October 2016. The removal of a hot tub now provides one parking space in front of the building]. As stated in the report submitted to committee on the 30<sup>th</sup> of June, the outbuilding has been domesticated and the hardstanding area to the front of building has been occupied by the timber store and dog pen along with a wooden hot tub [hot tub now removed]. It is only quite recently that a parking space has been reformed to the front of the building. In terms of the parking for the proposed holiday let, the application proposed to remove the wooden tub, timber store and dog pen to accommodate one parking space for the holiday let. This, as mentioned with the original report submitted to committee, is sufficient for the development proposed. As such, in the event of the scenario mentioned above, sufficient parking would be retained for the proposed development. Furthermore, as previously stated within this report given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

- 7.13. Jason McCartney MP (who was the Member of Parliament for the area at the time) was contacted by a resident and sought confirmation that correct procedures are being followed and was informed of the handling of the application as detailed earlier within this report. He sent the following text on behalf of the resident:

*" I am writing now with some urgency, as I understand Planning have completed their investigation re the application to convert a double garage at 1 Wheat close into a holiday let ( a house by any other name) Below is the decision the Councillors made in 2000 rejecting their earlier application for a house on that site. A house would " injuriously affect the rural character of this area of high landscape value". Clearly nothing has changed since then. All the reasons given for refusal in 2000, should apply now in 2016, so it beggars belief that Kirklees have to date, recommended approval. Also below is the decision notice refusing an application at 1 Wheat Close for a further double garage on that site ( meaning there would have been 4 garages for one house at this side of green belt) and again all those reasons should still apply now. Also I have informed Planning that the land to the front is already congested, and if we loose the rented strip of land from Yorkshire Water, we would be forced to park additional cars on the busy narrow Woodhead Road. There are so many good reasons to refuse this application, particularly to prevent a precedent being set ... In that if someone applies for a house on their land and it is refused, all they need do is build a double garage, then convert it later into a holiday let, QED. "*

As for the matters raised relating to the planning history of the site in terms of the 2000 application for a dwelling and the impact of the proposal on the character of the area, these have been addressed within the report previously submitted to committee and also within this report. The other application referred to was submitted in 2012 under application ref: 2012/91536 seeking planning permission for the erection of single storey extension and double 'underground' garage with garden terrace above in front of the dwelling at no. 1 Wheat Close. This was refused, (as set out in paragraph 4.2). The reason for this refusal cannot be applied to this application as it relates to the re-use of an existing building and would not comprise any engineering operations. The re-use of an existing building in the Green Belt to alternative uses can form an acceptable form of development in the Green Belt.

7.14 A petition with four signatures (residents of Wheat Close) was also received following the 30<sup>th</sup> of June committee raising objections to the application for the following reasons:-

7.15 *Proposal would add to our already congested parking problems*

Response: The matter relating to impact of the proposal parking and highway safety has been assessed within the full report previously submitted to committee and also within this report. It is considered that the development proposed is unlikely to affect the existing parking arrangements.

7.16 *Spoil enjoyment of our homes*

Response: The matters relating to impact of the proposal on residential amenity has been assessed within the full report (please see section 10 of report below).

7.17 *The garage should never have been allowed*

Response: The planning and enforcement history relating to the erection of the garage has been addressed within this report (please refer to section 4). When the garage was erected, it was considered, in accordance with planning regulations at the time, that it comprised development that did not require planning permission.

7.18 *The garage is surrounded by land owned by Yorkshire water*

Response: This is acknowledged but is not considered to prejudice the application.

7.19 *Site has planning refused for a house, nothing has changed since then to merit approval now*

Response: The planning history of this site was considered in the report previously submitted to committee along with this report (see paragraph 7.11 and section 10 of this report)

*7.20 Is it next to green belt and a row of quiet residential homes*

Response: The application has been considered against green belt policies, and impact of the development on the surrounding residential properties has also considered.

*7.21 The parish council rejected the application and the council should do too*

Response: The parish council originally objected on the basis that the proposal has insufficient parking. It is considered that adequate parking is provided for the development proposed and given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

The Parish Council also stated that garage was unsuitable for residential use or holiday accommodation. If this proposal is approved, measures would be taken via a legal obligation to ensure that the unit is not used a residential dwelling. As for its use as holiday accommodation as this would be for temporary periods officers consider the development to be suitable (please refer to full report for details). As for its residential use ancillary to the existing dwelling at no. 1 Wheat Close, this would not comprise development that requires planning permission.

The Parish Council have since provided further objections on the following matters:

(1) Contravenes the number of properties off one drive.

The impact of the development on highway safety, is addressed in section 10 'highway safety'.

(2) Contrary to NPPF for conversion in Green Belt.

See section 10 principle of development'. The development would accord with Green Belt policy for the re-use of a building.

7.22 Following the Sub-Committee meeting of 27<sup>th</sup> October, correspondence was received questioning the submitted certificate of ownership. Since that time a revised certificate of ownership has been submitted as referred to in paragraphs 1.5-1.7.

7.23 From 1<sup>st</sup> December 2016 to the time of writing this report a further 11 letters of representation objecting to the development, some with photographs, have been received. Seven of these objections are either directly from, or on behalf of, owners/occupants of property along Wheat Close.

The issues raised are summarised below:



#### 7.24 Green Belt

- in 2000 planning permission was refused for a dwelling as being contrary to Green Belt policy and therefore injurious. The garage later erected did not have permission, it is the Green Belt and should have been refused for the same reason as the dwelling.

*Response: see paras 7.11 and 7.6.*

- The garage is not within the curtilage of no. 1 as there is a communal driveway separating it from this dwelling. There is no policy to state that new build in the Green Belt is justified by land having been previously 'domesticated' 'The only thing there before the garage was a dog kennel so don't see how it is classified domesticated'.

*Response: see para 4.3*

- Material Change of use is inappropriate in the Green Belt, see the Fordent Ltd case in 2013 states it can be deemed inappropriate as not being within the list of exceptions to inappropriate development set out in paragraphs 89-90 of the NPPF.

*Response: This application seeks the re-use of an existing building which is 'appropriate' in the Green Belt as set out within para 89 of the NPPF. The Fordent Ltd case involved the change of use of land, not the re-use of a building.*

- No NPPF or UDP policies cite holiday lets as a special reason to grant planning permission for conversion of buildings in the Green Belt. There is no need for 1-bed holiday accommodation in the area.

*Response: see para 10.4 'principle of development'. 'Appropriate' development in the Green belt does not have to be justified by very special circumstances'.*

#### 7.25 Access and Parking (see paragraphs 10.24-10.31 for assessment of highway safety and parking issues save for those where a direct response is included in Italics below)

- Access onto the main road has poor visibility and an increase in traffic would be dangerous including to cyclists and walkers.
- Entrance to Wheat Close narrow and blockage would prevent emergency vehicles entering.
- Increase in numbers and speed of traffic within Wheat Close poses risk to residents, including elderly residents.
- Could be 18 residents cars here in future (9 dwellings) and there was originally no parking provision. Only now possible to park because of rented strip in front of houses, which YW could take back at 3 months' notice. If happened would further impact on parking, including carers' parking. There would then only be one parking space per dwelling This land is used by no. 1 Wheat Close and affects the application site as they also park on this land and could pose significant problems for

householders (photos of parking along the frontage of Wheat Close and around the outbuilding provided and will be shown at committee).

- Para 39 of the NPPF requires councils to take account of 'local car ownership levels'

*Response: this is only if setting local parking standard for residential and non-residential development in a local plan rather than the assessment of individual planning applications.*

- The red line boundary doesn't include all the land required for the informal/unofficial 'one-way system' vehicles use to access/egress Wheat Close and that without using this system access is difficult with the left turning from the rear to the front of the houses tight, but if going the opposite way 'almost impossible' if in a large vehicle. The rear lane is narrow.
- There is an unofficial one way system in the close, drive along back lane, park front and exit. No pavements and have to drive close to front doors to avoid parked cars. If aren't aware of adopted practices then causes chaos or speeding. Three less able, elderly residents at risk from drivers speeding or unaware of the road layout as there is no separate pedestrian zones and limited space between doors and the driveway.
- The holiday let has a parking space but visitors could drive past the parked cars of residents and in front of the owners front doors.
- Yateholme Angling Club wish to ensure that access to the north shore of the reservoir is not blocked (south of the application site). Ask that a planning condition is imposed to this effect

*Response: A planning condition would not meet the six-tests and the land in question is beyond the application site boundary.*

- NPPF para 69 is quoted which states that development 'should be safe and accessible, containing clear and legible pedestrian routes...' not met in this application.

*Response: The sentence goes on to state: "...and high quality public space, which encourage the active and continual use of public areas". Pedestrian routes are not being altered and the traffic and parking generated by the development is assessed in the Highway Issues section of the appraisal (paragraphs 10.24-10.31)*

## 7.26 Design/Visual amenity

- photo from across Brownhill Reservoir presented objecting to the impact of the building.

*Response: The site visit will include looking at the site across Brownhill Reservoir from Brownhill Lane.*

- Para 64 of the NPPF states that development should be refused if of poor design. Considers proposed scheme does not respond to the character, history or identity of its surroundings. In particular the scale and size of windows, doors and the timber cladding proposed bearing no relationship to the style and character of properties along Wheat Close. Wouldn't be visually attractive in the GB and when viewed from Brownhill Lane will have the appearance of an inappropriate single storey structure with no visual reference to the Waterboard houses and no element of quality, innovation or imagination in its design as mitigation.

*Response: The site visit will include looking at the site across Brownhill Reservoir from Brownhill Lane.*

- Any increase in the building will spoil the area and it is inappropriate, incongruous design

*Response: see paragraphs 10.10 to 10.12: Urban design and landscape issues.*

#### 7.27 Residential Amenity

- Potential disruption the development would cause to elderly residents (including access and parking)

*Response: see paragraphs 10.28-29*

#### 7.28 Enforcement issues

- Letter from the Chief Planning Officer and a Ministerial Statement to the House of Lords in 2015 highlighting that 'intentional unauthorised development' should be a material planning consideration where development has been undertaken in advance of obtaining planning permission. Considers this could cover the history of the double garage. Furthermore the statements in 2015 stated that 'effective enforcement is important as a means of maintaining public confidence in the planning system'. This is the expectation here and should also consider the 'long term intent of this application'.

- Concerns regarding the history of the building.

*Response: See Enforcement history in Section 4 and paragraph 7.6. This existing development is considered lawful and the current application does not seek retrospective planning permission. For these reasons the letter and statement are not material planning considerations in the assessment of this application.*

#### 7.29 Red line boundary of application site.

- Query ownership of strip of land forward of Wheat Close
- New submission has corrected the access to the field gate but holiday makers could not use the rear access for coming in and leaving the close because of the informal one-way system. Considers the boundary should include all access at the rear and front of the properties as there is only the width available for one car so can't go in opposite directions.

*Response: The red line boundary of the application site meets the mandatory requirements for planning applications as it includes access to the public highway and, as now amended, notice has been served on owners of the land. The application has been assessed on the basis of the submitted information and the assessment on highway safety considers access as shown, purely using the rear access of the site.*

- The strip of land owned by Yorkshire Water and used by 1 Wheat Close for parking should be shown as not belonging to no. 1 and amended in the current plans.

*Response: this land is not included in the red line application site boundary. It is not necessary to mark this land as not in the ownership of the property and the implications of the loss of this land, in terms of parking and highway safety, is fully assessed within the report.*

#### 7.30 Curtilage

There is a communal driveway separating the house at no. 1 and the garden and therefore the garage can't be deemed as being within the curtilage and should have had planning permission (court case Burdle quoted stating the land is 'physically and functionally separate' because of the driveway which separates the house from the areas in question) . Photo from the 1970s provided indicating there was an access road to the A6024 across the land. No. 1 used to be rented and the access to A6024 was in used until the wall was infilled. When sold by Yorkshire Water with no. 1 land was grassland and had no domestic use.

*Response: see paragraph 4.13*

#### 7.31 Non Material Planning Consideration

- Rights of access issues within the deeds of the properties of Wheat Close are a civil matter that cannot be assessed as part of the application.
- Reasoning as to why an objector is taking up objection to the scheme on behalf of other residents in the row. Sets out that has negotiated retention of peppercorn rent for Yorkshire Water parking strip; obtained compensation from Yorkshire Water for 3 years of disruption from spillway rebuilding; persuaded Yorkshire Water to install a characterful footway across the new spillway which added additional cost to the scheme but appropriate for the green belt; 30 years ago member of campaign committee to ensure the water treatment plant was partly underground and landscaped because area demanded a quality, environmentally sensitive scheme.

*Response: the points highlighted are commendable. The current application has, however, to be determined on its own merits taking into account material planning considerations.*

**Holme Valley Parish Council** – (latest comments) Object to the application on the following grounds

- (1) Contravenes the number of properties off one drive.
- (2) Contrary to NPPF for conversion in Green Belt.

*Response: see paragraph 7.21.*

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K.C. Highways Development Management - No objections subject to conditions on the amended scheme (with parking space sited to east of the building).

### **8.2 Non-statutory:**

**None**

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design/landscape issues
- Residential amenity
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The NPPF provides a presumption in favour of sustainable development and policies set out in the framework taken as a whole constitute the Government's view of what sustainable development means in practice.
- 10.2 In part 9, the NPPF identifies protecting green belt land as one of the elements which contribute towards sustainable development. It states that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open; as such, it regards the construction of new buildings and other forms of development in the green belt as inappropriate unless they fall within one of the categories set out in paragraph 89 or 90.

- 10.3 Paragraph 90 of the NPPF permits the re-use of buildings provided that the buildings are of permanent and substantial construction, subject to the development not prejudicing the openness of the green belt or the purposes of including land within it. Following a site inspection, the existing outbuilding appears to be in good condition and of substantial and permanent construction capable of conversion. The building is constructed in stone and designed with a slate gable roof. The alterations proposed would not prejudice its structural integrity and the elements which were not of substantial construction (timber store and dog pen) would not form part of this proposal. The development proposed would result in the reduction in scale of the existing building due to the proposed removal of the existing dog pen and store to the front elevation, reducing the impact on openness of the green belt when compared to the existing development on site. The site, excepting the shared access, has been in use in association with and as part of the curtilage of land serving the dwelling at no. 1 Wheat Close for a period of over ten years. The land to the north of the outbuilding comprises timber decking and sheds. Given the domesticated nature of the site, it is not considered that the proposed use, despite being commercial in nature, would result in greater impact upon the openness of the green belt. Given these considerations, it is opined that this proposal constitutes appropriate development within the green belt in accordance with paragraph 90 of the NPPF.
- 10.4 In a recent Court of Appeal judgement, *Lee Valley Regional Park Authority v Epping Forest DC* 22 April 2016, the Judge outlined that “development that is not, in principle, “inappropriate” in the Green Belt is...development “appropriate to the Green Belt”. The judge commented that, on a sensible contextual reading of paragraphs 79 to 92 of the National Planning Policy Framework, appropriate development is not regarded as inimical to the fundamental aims or purposes of green belt designation. On that basis, he noted, appropriate development does not have to be justified by very special circumstances. In light of this, it is considered that by reason of its appropriateness in line with Paragraph 90 of the NPPF, the development proposed is not contrary to the aims and function of the green belt.
- 10.5 The NPPF also encourages the planning system to support sustainable economic growth in general and in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This proposal would result in an income generating venture which, albeit on a minor scale, would contribute to the local economy. The venture would have limited impact on the character of the countryside given the domesticated nature of the existing site and the removal of the dog pen and store to the front would reduce the visual impact of building when considered from the wider open undeveloped land to the south of the site. The site is located in very close proximity to the Brownhill Reservoir thus can also support tourism in this location.

- 10.6 The proposal comprises development that is appropriate within the green belt and would encourage sustainable economic growth. Its location in the rural area means the proposal would support rural economy; however, the application site is relatively isolated from established residential areas and has no service provision. It is likely that the occupiers of the holiday accommodation would rely on the surrounding urban areas for provision of goods and services and therefore would be principally reliant on motor vehicles which would mean that the development would not contribute to mitigating climate change. Despite this given its very limited size the number of people and vehicles likely to use it would be low. Furthermore the structure is existing and the re-use of a substantially complete building is sustainable.
- 10.7 The introduction of the NPPF however does not change the statutory status of the development plan as the starting point for decision making. The application seeks planning permission for the change of use of an existing outbuilding within the green belt to a holiday accommodation. Policy D12A of the UDP states that when planning permission is granted for the re-use of buildings in the green belt conditions will be imposed removing permitted development rights from specified areas within the associated land holding where the erection of structures permitted under the general permitted development order would prejudice the openness and established character of the green belt.
- 10.8 The UDP, through Policy D12A, thus does not restrict the re-use of buildings provided that permitted development rights are removed where necessary and wherever possible to preserve the openness of the green belt. This application seeks change the use of an existing outbuilding into a holiday accommodation. Holiday accommodation is within the same use class C3 as residential dwellings. While a legal obligation can secure the use of the property as holiday accommodation which is not permanently occupied, it does not restrict permitted development rights afforded to building by virtue of its C3 use. As such, it is considered to be reasonable and necessary to restrict erection of further extensions or outbuildings on this site in order preserve the openness of the green belt and ensure that the development would not result in greater impact upon the openness of the green belt.
- 10.9 It is acknowledged that the proposal would give rise to unsustainable travel patterns for the resultant occupiers of the proposed holiday accommodation. However, subject to controlling occupation to this use, the proposal would result in the reuse of an existing building, the provision holiday accommodation, would promote economic growth and a prosperous rural economy on a small scale, and comprises development that is acceptable within the green belt and would not compromise the existing character of the countryside. On balance, the scheme comprises of development that is not contrary to the overarching intentions of the NPPF as a whole and the benefits to be had from this proposal and its appropriateness is considered to significantly and demonstrably outweigh the harm which would result from unsustainable travel patterns. Accordingly, subject to appropriately addressing other planning matters, this proposal is acceptable in principle.

### Urban Design/Landscape issues

- 10.10 Apart from removing the existing timber store and dog pen to the front of the existing building, the proposal would not result in any significant alterations to the building that would alter its existing character. The elements to be removed would improve the visual amenity of the building and reduce its scale and prominence within its countryside setting. The removal of the store/pen would involve the alteration of the east elevation to form a window with a section of stonework below and the pedestrian door into the building; the existing window on the east elevation with a section of timber cladding below would remain as existing. The size and appearance of these alterations would not be harmful to visual amenity.
- 10.11 The only alterations that would be clearly seen from the south (across the reservoir) would be the insertion of a large window in the southern elevation and a slim flue to serve the stove. Viewed in context with the terrace of properties along Wheat Close, these alterations would not appear overly prominent or incongruous. Many of the properties along Wheat Close have altered/replaced the windows and there is a variety of styles and colours evident. Some properties have also inserted rooflights which further add to the variety of window styles existing.
- 10.12 Given the above it is considered that this proposal would not harm the openness or character of the green belt, the rural character of the area or visual amenity. The proposal is considered to be compliant with Policies BE1 and BE2 of the Kirklees Unitary Development Plan and the guidance contained within Chapter 7 and 9 of the NPPF.

### Residential Amenity

- 10.13 Objections have been raised that the proposal is paramount to a new dwelling within the green belt. This matter has been carefully considered given that accepting the principle of holiday accommodation in this location would mean accepting a Class C3 (dwelling house) use. The level of accommodation provided is small but acceptable for holiday accommodation as it would not be permanent home of the occupants and they would occupy the unit for a short period of time. However, as permanent accommodation the unit would offer a poor standard of amenity to future occupiers.
- 10.14 The council does not have space standards for dwellings but in 2015 the government provided a document titled "Technical housing standards – nationally described space standard" which set out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy. It states that a one bedroomed property serving one person should at least have the floor space of at least 37 square metres and a one bedroomed property serving two persons should at least have the floor space of at least 50 square metres.



- 10.15 The proposed unit would have internal floor space of approximately 28.9 square metres. While space standards are purely guidance, they provide a good indication that the unit would not provide a good standard of amenity for permanent occupants. Part of the core planning principles outlined within the NPPF is the requirement for planning to always seek a good standard of amenity for all existing and future occupants of land and buildings. In addition, the use of the building for permanent residence could lead to pressure for the building to be extended which would affect the openness of the green belt. On this basis, the applicant (through the agent) has agreed to a legal agreement which will ensure that the building will stay in use solely as holiday accommodation and thus would not be used as a dwelling. The legal agreement would limit the periods of occupation for the building and excluding certain months of the year. The obligation would also require the applicant to maintain a register of occupation.
- 10.16 The nearest dwelling to the proposed holiday accommodation is the host property at no. 1 Wheat Close located approximately 10.5 metres to the east of the site. The proposed holiday accommodation would directly face a section of the side gable of this property which does not include any habitable room windows. The new east facing window on the holiday accommodation would also not comprise habitable room windows as the kitchen is separated from the living space. As such, there will be no adverse overlooking or overbearing impacts to the occupiers of the existing dwelling or future occupiers of the proposed holiday accommodation.
- 10.17 The holiday accommodation would include a habitable room window to the rear (west) which would retain a separation distance of approximately 1.5 metres to the boundary shared with the undeveloped adjacent land to the west. This is acceptable in the case as the land comprises a woodland and is within the green belt; thus, the likelihood of it becoming built upon are relatively slim. It is therefore considered that on balance, in this case, the reduced distances are acceptable.
- 10.18 As previously outlined within the “General Principle / Policy” section of this report, the existing building is small in scale and would provide very limited internal space for the occupants. However, on the basis that the proposal is for holiday accommodation and would not be a permanent home for the occupants, the size of the accommodation proposed is considered to be acceptable. As previously discussed, a legal agreement will secure the use of the building solely as holiday accommodation.
- 10.19 Concerns have been raised within the letters of neighbour representation that the proposal would give rise to noise levels in the area. When considering the scale of the development proposed, it is likely that only a small number of people would be accommodated in the holiday home at any given time. As such, the proposal is unlikely to give rise to significant material increase in noise levels that would unreasonably harm the living conditions currently enjoyed by the occupiers of neighbouring properties.

- 10.20 Concerns have also been raised regarding the impact on amenity of residents through the activities associated with the occupation of the properties spoiling the enjoyment of homes. If granted most planning approvals are likely to interfere, to some extent, with adjoining occupiers' enjoyment of their property. However the test is whether this is proportionate. In this case given the limited size of the accommodation and the proposed restrictions in its occupation, and all the other matters that are assessed in this appraisal, it is considered that there would not be an undue adverse effect on the amenities of adjoining occupiers.
- 10.21 The disruption and potential health and safety issues of access and parking arrangements to residents, including elderly residents, is assessed in 'highway issues' below. This concludes that the very limited activity and the low speeds of traffic would not result in a materially adverse impact to residents.
- 10.22 Given the above considerations, this proposal would not adversely affect the amenities of the occupiers of existing properties within the vicinity and the level of amenity provided for the use proposed is acceptable subject to a legal obligation to limit its occupation. The proposal thus complies with Policies BE1, EP4 of the UDP and core planning principles contained within paragraph 17 of the NPPF.

#### Housing issues

- 10.23 The holiday accommodation, whilst considered Class C3, would not be suitable to provide a suitable level of amenity for permanent occupation. For the reasons set out in this report it would not be appropriate to extend the property either because of the impact on the Green Belt. It is therefore not considered to add to the housing stock of the district.

#### Highway issues

- 10.24 The development consists of the conversion of an existing outbuilding to a 1 bedroom holiday accommodation with 1 associated vehicle parking space adjacent to 1 Wheat Close. The existing site and building are used as an annex and store/dog kennel. The rear access to Wheat Close is well surfaced and maintained but it is not an adopted highway, the access within the red line serves as rear access to all the properties on Wheat Close and is accessible by car.
- 10.25 The site is situated south off Woodhead Road (A6024). This section of Woodhead Road connects Holmbridge to Holme Lane and is subject to a 60-mph speed limit and has street lighting along its length.

- 10.26 The access to and from the development is good and there are no underlying road safety issues at the junction of Wheat Close and Woodhead Road. Visibility from Wheat Close onto Woodhead Road is acceptable. There is a bus stop just to the east of Wheat Close and a public footpath links Wheat Close to Brownhill Lane to the south of the site.
- 10.27 In regards to the internal layout of the site 1 parking space and internal turning has been provided and shown on the plans (drawing number. Tru.15/08c) this complies with recommended standards. The amended location of the parking space is away from the existing unadopted highway and would have minimal impact on existing parking provision or access. Until recently there was no parking associated with the annex and it is only since the hot tub has been removed that a single parking space has been available. Taken in isolation the development has an acceptable level of parking to serve it that would not materially displace parking associated with the host building 1 Wheat Close. Furthermore due to the size and location of the development these proposals should not cause any intensification to the public highway.
- 10.28 Significant objection has been received regarding the suitability of the access arrangements for the proposed development and the impact of its use. The application site boundary includes the rear access along Wheat Close terminating in the parking area for the building and land that would provide turning for vehicles using that space. Adequate provision for cars to access, park and egress the site can be made using these arrangements. It is acknowledged that the track is single width and that it would be inconvenient to meet other vehicles along the access track. However, given the low speed of vehicles and the limited vehicle movements associated with the development it is considered that this would not result in material harm to highway safety, residents, cyclists or users of the public footpath. Reference has been made to an informal/unofficial one-way system that exists in Wheat Close, where vehicles enter the site using the rear access and leave by using the track to the front of the properties. No material weight can be given to this as there is no legal requirement for these arrangements. Residents and visitors to any of the properties could chose to arrive or leave by using either or both the front and rear accesses. Given this the land included in the red line boundary is sufficient to consider the access arrangements to the development.
- 10.29 The level of parking available to serve the residents of Wheat Close, and the implications of a future decision of Yorkshire Water to take back land at the front of the dwellings, has formed the basis of objections. Photographs have more recently been provided with some objections to show cars parked to the front of properties, in front of the outbuilding and the northern access to the reservoir. These will be shown at committee. A response to the implications of the loss of the additional land provided by Yorkshire Water (which allows 2 parking spaces per property if engineering operations had been undertaken to form the spaces) is set out in paragraph 7.12 of the report. Officers do agree that such a scenario would reduce the amount of available parking spaces serving the dwellings along Wheat Close (to one per dwelling) and potentially give rise to highway safety issues. However, the existing outbuilding is not

located within the strip of land identified and a single parking space to serve the development would be provided which does not include this land either. As such, in the event of the scenario mentioned above, sufficient parking would be retained for the proposed development, notwithstanding it appearing that it has more recently been in use since the removal of the hot tub. Furthermore, given the size and siting of the proposed holiday let it is not envisaged that the parking demand generated from a small one bedroomed facility would, even with it receiving visitors be significant and cause demonstrable harm that would warrant a reason for refusal.

10.30 As set out in paragraphs 10.27 and 10.28 it is considered that the access arrangements to serve the building are acceptable. The small scale of the development would not have a material impact on visibility to Woodhead Road or the likelihood of blockages to the access that would adversely affect residents. Traffic speeds along both the front and rear access of Wheat Close are low given the proximity to the junction with Woodhead Road, and the nature and width of the track.

10.31 Subject to conditions, the proposal would not give rise to any highway safety issues and would comply with Policies T10 and T19 of the Kirklees Unitary Development Plan.

#### Drainage issues

10.32 Foul drainage is indicated to connect to the main sewer and surface water drainage to be dealt with via soakaway. As no alterations are proposed to the shell of the building that would affect these issues, subject to the surfacing of the parking space being in accordance with Communities and Local Government and Environment Agency guidance, there are no objections to drainage proposals.

#### Representations

10.33 The matters raised within the letters of representations have been carefully considered and have been addressed in Section 7 and throughout section 10.

#### Planning obligations

10.34 Unilateral Obligation

10.35 Due to the size of the building, as originally reported to committee on 30<sup>th</sup> June 2016 and as set out earlier in section 10, it would not offer a good standard of amenity for future occupants were it to be permanently occupied as a residential dwelling, however is considered acceptable for temporary occupancy as a holiday let. In addition, the use of the building for permanent residence could lead to pressure for it to be extended which would adversely affect the openness of the green belt. Thus it is considered necessary to secure a legal obligation, in the form of a Unilateral Undertaking, to limit the

occupation to holiday accommodation. A draft Undertaking was submitted shortly before the committee meeting on 27<sup>th</sup> October. The general terms of this are set out in points 1-3 below. These are acceptable but in respect of clause 2 it was recommended that the further restriction in *Italics* be added. An amended draft Undertaking has been submitted with this wording included.

1. The outbuilding to be in use as a holiday let for a period of no more than 9 months in any given year excluding certain times of the year i.e. the November, December and January;
2. Limiting the occupancy of the outbuilding as a holiday let for up to a maximum of 28 days at a time to individual residents *with a requirement to have a minimum of 14 days no return between bookings*; and
3. Requiring the applicant to maintain a register of occupation which can be requested by the local planning authority at any given time.

#### Other Matters

#### 10.36 Air Quality

10.37 NPPF Paragraph 109 states that “ the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.....” The West Yorkshire Low Emission Strategy Planning Guidance has been drafted to take a holistic approach to Air Quality and Planning. In this particular instance taking into account the NPPF and the WYESPG it is considered that promoting green sustainable transport could be achieved on this site by the provision of an electric vehicle charging point which can be accessed by the occupiers of the holiday accommodation. This in turn can impact on air quality in the longer term.

#### 10.38 Footpath

10.39 There is a public footpath within the vicinity of the site to the east. Due to the nature of development proposed and the distance it retains (approximately 71 metres) to this footpath, this proposal is not considered to affect this footpath.

### **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, the NPPF, the draft local plan and other material considerations. It is considered that the development would constitute sustainable development. The proposal is considered not to have a materially adversely impact on the character of the area, the openness or character of green belt, highway safety or residential amenity. It 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 Strategic Investment)**

1. The development hereby permitted shall be begun within three years of the date of this permission.

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. Prior to the development being brought into use, the approved vehicle parking area shall be 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 13<sup>th</sup> May 2009 (ISBN 9781409804864) as amended or superseded; and retained as such thereafter.

4. 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) no extensions or outbuildings included within Classes A to E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

5. An electric vehicle recharging point shall be installed within the dedicated parking area of the approved holiday accommodation before it is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging point so installed shall thereafter be retained.

**Background Papers:**

Application and history files.

2016/90477

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f90477>

2000/92801

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2000%2f92801>+

2012/91536

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2012%2f91536+>

Certificate of Ownership Certificate B dated 1<sup>st</sup> December 2016 – Notice served on:

The Occupier 2 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016

The Occupier 3 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016

The Occupier 4 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016

The Occupier 5 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016

The Occupier 6 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016

The Occupier 7 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016

The Occupier 8 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016

The Occupier 9 Wheat Close, Holmbridge Holmfirth HD9 2QL 25/11/2016