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**Report of the Head of Strategic Investment****HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 04-Jan-2018**

**Subject: Planning Application 2017/93341 Erection of extensions and alterations to existing detached garage to form dwelling with associated access, parking and curtilage areas Adj, 10, Cherry Tree Walk, Scholes, Holmfirth, HD9 1XG**

**APPLICANT**

S Hough

**DATE VALID**

29-Sep-2017

**TARGET DATE**

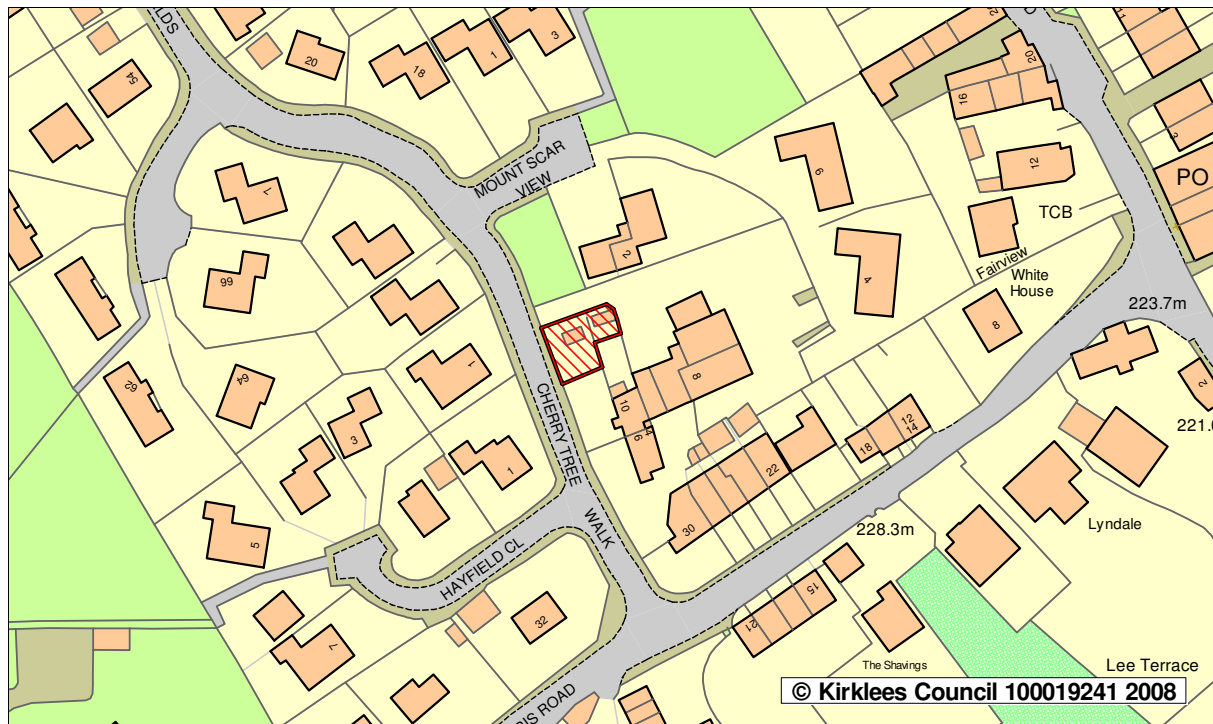
24-Nov-2017

**EXTENSION EXPIRY DATE**

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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**

### **Refuse, on the following grounds;**

1. The proposed dwelling by reason of its: scale, massing, siting within very close proximity to the highway and northern site boundary; design with a predominantly blank gable facing onto the Cherry Tree Walk and large dormers, would result in an incongruous form of development in a prominent location that would fail to integrate into or improve the established character of the area. The development is therefore contrary to Policies D2 (vi, vii), BE1 (i, ii), BE2 (i) and of the Kirklees Unitary Development Policy, PLP24 (a) of the Publication Draft Local Plan and the overarching aims and objections of Chapter 7 National Planning Policy Framework (2012) with particular reference to paragraph 64.

## **1.0     INTRODUCTION**

- 1.1     The application is brought to committee at the request of Cllr Kenneth Sims. The following reason has been given;

*'it is important that we're possibilities small infill plots should be used which fits on with the character of the area and helps with housing numbers'*

- 1.2     The Chair of Sub-Committee confirmed that Cllr Kenneth Sims' reason for making this request was valid having regard to the Councillors' Protocol for Planning Committees.

## **2.0     SITE AND SURROUNDINGS**

- 2.1     The application relates to land within the curtilage of the dwelling at no. 10 Cherry Tree Walk Scholes that comprises a detached garage (with accommodation in the roof space) and a detached timber shed. The garage is constructed in natural stone and is designed with a gable roof that is finished in concrete tiles. It is accessed via a vehicular drive taken off Cherry Tree Walk. The host dwelling is situated to the south of the site. The site is within a predominantly residential area with dwellings of various designs and style. The predominant material of construction is stone.

- 2.2 Cherry Tree Walk is characterised by dwellings which are set back from the road by generous and well-landscaped front gardens. The area has a spacious and open feel to it with the principal elevation of the houses facing directly onto the street.

### 3.0 PROPOSAL

- 3.1 The application seeks planning permission for the erection of extensions and alterations to the existing detached garage to form a two bedroomed dwelling with associated access, parking and curtilage areas. These would comprise increasing the footprint and height of the garage, changing the roof pitch, constructing two dormers windows within the roof and other alterations. The extension and alterations proposed would completely redevelop the existing garage to result in a rectangular dwelling measuring approximately 6.0 metres in length and 8.6 metres in width with a height to ridge of approximately 6.2 metres and eaves of 2.8 metres. The ensuing dwelling would be faced in natural stone and designed with a gable roof that would be finished in concrete tiles.
- 3.2 A new access off Cherry Tree Walk would be formed to serve the dwelling leading onto a tandem parking area for two cars to the south of the property. The access would also serve and lead to a parking area for the host property which would accommodate two cars.

### 4.0 RELEVANT PLANNING HISTORY

#### 4.1 Application site

2000/90426: Erection of two storey extension – Conditional Full Permission

2003/90194: Erection of detached double garage – Conditional Full Permission

2016/92406: Erection of extensions and alterations to existing detached garage to form dwelling with associated access, parking and curtilage areas – Refused and subsequently dismissed at appeal. The reason it was dismissed was ‘due to the environmental harm that would arise as a result of the development’.

#### 4.2 Surrounding area

*Adjacent to 16A, Cherry Tree Walk*

95/91720: Outline application for the erection of one dwelling – Refused

**Reason for refusal:** *It is considered that the site is of insufficient size to accommodate the proposed dwelling in accordance with the Council's approved residential standards, UDP Policy BE12. Furthermore, in the position intended, the proposal would detract from the residential amenity of adjacent properties and it would not satisfactorily relate to the surroundings to the detriment of the visual amenities of the area.*

## **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 During the public representation period an error in the plans was brought to the attention of officers. This was discussed with the applicant who corrected the proposal accordingly.
- 5.2 The applicant was informed of officer concerns with the proposal and, as no amendments are considered to overcome the concerns expressed, the intention to recommend the application for refusal.

## **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 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. 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. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

- 6.2 On the UDP Proposals Map the site is unallocated.

- 6.3 The site is unallocated on the PDLP Proposals Map.

- 6.4 Kirklees Unitary Development Plan (UDP) Saved Policies 2007

- **D2** – Unallocated Land
- **BE1** – Design Principles
- **BE2** – Quality of Design
- **BE12** – Space about buildings
- **EP4** – Development and Noise
- **T10** – Highway safety
- **T19** – Parking standards

- 6.5 Kirklees Publication Draft Local Plan

- **PLP1** – Presumption in favour of sustainable development
- **PLP2** – Place shaping
- **PLP3** – Location of new development
- **PLP21** – Highway safety and access
- **PLP24** – Design
- **PLP51** – Protection and improvement of local air quality

## 6.6 National Planning Guidance

- **Paragraph 17** – Core planning principles
- **Chapter 1** – Building a strong, competitive economy
- **Chapter 6** – Delivering a wide choice of high quality homes
- **Chapter 7** – Requiring good design
- **Chapter 11** – Conserving and enhancing the natural environment

## 7.0 **PUBLIC/LOCAL RESPONSE**

7.1 The application has been advertised via site notice and through neighbour letters to addresses bordering the site. The end date for publicity was the 27th of November, 2017.

7.2 Five representations have been received, each in objection to the proposal. The following is a summary of the concerns raised;

- Certificate of ownership declaration has not been signed.
- Claims that the applicant was previously employed by Kirklees Council.
- Complaint that they did not receive a letter, despite objecting to the site's previous application and no site notice has been posted.
- Object to the design and prominent appearance of the dwelling.
- Objection that the proposal is being done for financial gain and the proposed dwelling will quickly be for sale.
- Comments that the garage, when approved in 2003, was built taller than approved.
- The amended parking layout is outside of the application's red line.
- Because of the sloping nature of the site the side elevation of the proposed dwelling adjacent to no.6 Cherry Tree Walk will be greater in height and therefore more intrusive
- The inspector's comments were clear and the proposal does not overcome the previous reasons for refusal. The supporting design documents are of dwellings not on Cherry Tree Walk and thus are not appropriate.
- Initial comments to the proposal raised concerns that the parking layout measurements were wrong. (These were investigated by officers and indeed proven to be wrong. Amended plans have been provided with correct dimensions). Subsequent comments question whether other measurements are wrong. Other inaccuracies are pointed out between the written statement and plans.
- Question K.C. Highway's requested condition for the parking to be surfaced and drained, such as where the water will go. The area has been prone to torrential rain which has flooded dwellings, and the proposal may exacerbate this.
- The proposed dropped kerbs and driveway accesses will remove on-street parking. There is a high demand for parking in the area.
- The windows of no.10 and the proposed dwelling face either other well below BE12's guideline distance of 21.0m.
- Concerns of overlooking and loss of privacy from the dormer and French doors, and harm through overbearing/overshadowing upon neighbouring.

7.3 Holme Valley Parish Council: 'Support the application'.

## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

K.C. Highways: Initially requested further details. Confirmed that amended plans are acceptable, subject to condition.

### **8.2 Non-statutory**

None

## **9.0 MAIN ISSUES**

- Principle of development
- Urban Design issues
- Residential Amenity
- Highway issues
- Other Matters
- Representations

## **10.0 APPRAISAL**

### Principle of development

#### *Sustainable Development*

- 10.1 NPPF Paragraph 14 and PLP1 outline a presumption in favour of sustainable development. Paragraph 7 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation (Para.8). The dimensions of sustainable development will be considered throughout the proposal.

- 10.2 Paragraph 14 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

#### *Land allocation*

- 10.3 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states;

*'Planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]'*

All these considerations are addressed later in this assessment.

- 10.4 Consideration must also be given to the emerging local plan. The site is without notation on the PDLP Policies Map. PLP2 states that;

*All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...*

The site is within the Kirklees Rural sub-area. The listed qualities will be considered where relevant later in this assessment.

#### Urban Design issues

- 10.5 The application is a modified proposal to 2016/92406 which was refused and dismissed at appeal because of concerns related to visual amenity. The current application is a revised proposal for a dormer bungalow, with the previous design seeking a true two storey dwelling. Other changes include an additional planting feature and a decorative gable vent feature to the road-facing elevation.
- 10.6 The dwellings within the vicinity of the area (along Cherry Tree Walk) are generally set back from the edge of the road. The existing garage appears to be the only building that is located within 2.0m of the highway. However, its impact on the street scene is minimal as it has an active road frontage (garage door) and is small in scale. Thus it is subservient within the street scene and in the context to dwellings within the vicinity.
- 10.7 The application proposes extensions and alterations to this garage which would increase its scale and massing in order to create a new residential property. This includes raising the roof, an extension and the construction of two dormer windows in the northern roof slope. This would notably change the visual characteristics of the building, forming a structure clearly identifiable as an individual dwelling, as opposed to an outbuilding subservient to no. 10. The appearance of this dwelling would be at odds with the wider character of the area.
- 10.8 The proposed dwelling would be located 2.0m from the edge of the highway, with a height of 6.2m to ridge. This is out of keeping with neighbouring dwellings, which are well set back from the highway with open garden areas between the front elevations and the highway edge. This is exacerbated by the gable being blank, bar a small decorative vent feature and planting to the front of the gable. These features would not overcome the prominence of the blank gable and its impact on the wider streetscene resulting in the structure appearing obtrusive and incongruous within the established character of Cherry Tree Walk. The proposed use of traditional materials and the land level being slightly lower than the land level of the houses on the opposite side of Cherry Tree Walk does not alter this view.

- 10.9 The applicant has provided examples of other gable elevations facing the highway in Scholes. This is not in dispute but they are not typical within Cherry Tree Walk. This matter was raised at the appeal for 2016/92406, with the inspector stating;

*I note the appellants' reference to other dwellings in the area which have gables close to the road, but these are on different sites with different visual characteristics to that of the appeal site.*

- 10.10 Other aspects of the design, including the extension, dormers and associated works, contribute to dominant and incongruous nature of the development. The dormers in particular are large features in the northern roof slope and are located close to the boundary of the site. Indeed the proposed dwelling does not comply with Policy BE12 of the UDP as it does not achieve 1.5m between the wall of the dwelling and the boundary of the site (to the north). Due to this the ground floor windows are shown to be high level and the prominence of the dormers is exacerbated. They would be very prominent in the streetscene, again at odds with the urban grain of Cherry Tree Walk.
- 10.11 Paragraph 64 of the NPPF stipulates that permission should be refused for development of poor design that fails to improve the character and quality of an area and the way it functions. By reason of the scale, massing, design and siting of the proposed development, officers conclude that the proposal would harm the visual amenity of the streetscene. The proposal is therefore considered to be in conflict with Policies D2 (vi, vii), BE1 (i, ii) and BE2 (i) of the UDP, PLP24 (a) of the PDLP and Chapter 7 of the NPPF.

#### Residential Amenity

- 10.12 To the north of the site is an area of open land not associated with any of the neighbouring dwellings and access to no. 8 Cheery Tree Walk. To the east is curtilage of no.8 Cherry Tree Walk and to the west is no.1 Cherry Tree Walk. To the south is no.10 Cherry Tree Walk, the host dwelling.
- 10.13 No. 8 Cherry Tree Walk is located to the south-east of the application site. The side elevation of the proposed dwelling includes French windows facing the curtilage of this property. Thus there is potential for overlooking of no.8's garden space. There is no direct overlooking to the dwellinghouse, due to the orientation of the dwellings. As no.8's garden space is to the front of the dwelling, with no privacy screening, the impact of the proposed window is not considered significant so as to unreasonably harm the living conditions of the occupants. The distance the proposed dwelling would retain, approximately 9.0 metres, to this neighbour, along with its siting to the northwest, would also ensure that there will not be any overbearing or overshadowing issues.
- 10.14 No. 1 Cherry Tree Walk is located to the west of the application site. The side elevation of the proposed dwelling to face no.1 has no windows, preventing concerns of overlooking. The increase in the building's height of 0.8m is not considered detrimental to the amenity of no.1's residents, with the separation distance being 17.0m.



- 10.15 The proposed dwelling would face the host property no. 10 Cherry Trees Walk, with the proposed rear extension and a new window being in the line of a window of no.10. The window in question serves a playroom/office. Within the supporting document the applicant states *'it is noted from correspondence within the previous application these windows to the playroom present no issue to siting and at worst can be made opaque'*. It is confirmed that the window is secondary for the room. As a secondary window it is not considered that the arrangement would result in overbearing that would cause material harm to occupiers of no.10. However, at a distance of 8.4m there are concerns of overlooking. Thus, if minded to approve, a condition can be imposed requiring that the office/playroom window of no.10 be obscurely glazed (no.10 is within the applicant's control)
- 10.16 Consideration must be given to the amenity of future occupiers. Officers note that the dwelling would have a limited provision of amenity space. This is however considered commensurate to the size of the proposed dwelling. To ensure that the amount of amenity space provided is maintained a condition can be imposed restricting permitted development rights if this application is approved. The internal floor area of the dwelling, compared to the number of bedrooms proposed, it is considered to be acceptable to provide an acceptable standard of amenity for the occupants.
- 10.17 In summary, subject to condition, officers are satisfied that the development would not cause material harm to the amenity of nearby residents and that future occupiers would benefit from a suitable standard of amenity. As such the development is deemed to comply with Policies D2, PLP24 and Paragraph 14 of the NPPF.

#### Highway issues

- 10.18 It is noted that the plans initially showed the driveways incorrectly. This was discussed with the applicant, and the plans amended. The correct plans show two parking spaces being proposed per dwelling. This provision is acceptable for the scale of the associated host dwellings.
- 10.19 Taking into account that the proposed driveways are to be immediately adjacent to the existing driveway, and that it leads onto an unclassified residential road, officers are satisfied that the proposed access arrangements are acceptable.
- 10.20 If minded to approve Highways have requested a condition be imposed requiring the driveway to be surfaced and drained. Officers consider this reasonable to impose.
- 10.21 In summary the proposal is not anticipated to harm the safe and efficient operation of the Highway and complies with the objectives of Policies T10 and PLP21.

## Other Matters

### *Impact on local ecology*

- 10.22 The site is within the council's bat alert layer, with the development having the potential to harm the local bat population. Nonetheless the garage is a modern structure that appears to be well sealed and unlikely to have any bat roost potential.
- 10.23 Notwithstanding this PLP30 and Chapter 11 of the NPPF seek for planning applications to enhance local ecology. If minded to approve a condition can be imposed requiring bat and/or bird boxes to be provided, along with an advisory note of what to do should bats be found.

### *Considering the lack of a housing land supply*

- 10.24 Paragraph 49 of the NPPF states that housing applications should be considered in the context of presumption of sustainable development and that relevant policies for the supply of housing should not be considered up to date if the LPA are unable to demonstrate a five-year supply of deliverable housing. At this time Kirklees Council do not have a five year supply of housing.
- 10.25 Nonetheless the proposed development is not considered to be sustainable. A key tenet of sustainable development is the 'environmental role', which includes the built environment. As addressed in paragraphs 10.5 – 10.11 officers conclude that the proposal would cause material harm to the built environment.
- 10.26 Paragraph 14 of the NPPF states that where the relevant policies of the development plan are out of date, permission should be granted unless the specific policies in the framework indicate development should be restricted. Paragraph 64 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Thus officers conclude the development does not amount to sustainable development.
- 10.27 This view was shared in the Inspector's appeal decision letter, ref. 2016/92406, which stated;

*I appreciate that the proposal would provide a dwelling in a sustainable location and that the Council cannot demonstrate an up to date five year housing land supply. However, the tiny contribution of one dwelling to the supply of housing would not outweigh the demonstrable harm to the character and appearance of the area, and the consequent conflict with development plan policies.*

## Representations

10.28 Five representations have been received raising concern with the proposal. Below are the issues that have not been addressed within this assessment.

- Certificate of ownership declaration has not been signed.
- Complaint that they did not receive a letter, despite objecting to the site's previous application and no site notice has been posted.

**Response:** Signatures are redacted from the public webpage. Officers confirm that the original document contained a signature. Neighbour letters are sent to dwellings which share a boundary with the site. The representation was received prior to the officer's site visit, when the site notice was posted.

- Claims that the applicant was previously employed by Kirklees Council.
- Objection that the proposal is being done for financial gain and the proposed dwelling will quickly be for sale.

**Response:** These are not material planning considerations.

- Comments that the garage, when approved in 2003, was built taller than approved.
- The amended parking layout is outside of the application's red line.

**Response:** Officer's acknowledge that the garage was not built in accordance with the approved plans. Given the age of the structure it is now immune from enforcement action.

- Initial comments to the proposal raised concerns that the parking layout measurements were wrong. These were investigated by officers and indeed proven to be wrong. Amended plans have been provided with correct dimensions. Subsequent applications question whether other measurements are wrong. Other inaccuracies are pointed out between the written statement and plans.

**Response:** Officers are satisfied that the amended plans are accurate and correctly convey the proposed development.

- Question K.C. Highway's requested condition for the parking to be surfaced and drained, such as where the water will go. The area has been prone to torrential rain which has flooded dwellings, and the proposal may exacerbate this.

**Response:** The referenced condition requires works to be undertaken in accordance with the Communities and Local Government; and Environment Agency's '*Guidance on the permeable surfacing of front gardens*'. Various options are available, including the water being taken to a soakaway, drained into vegetation or the ground.

- Holme Valley Parish Council: 'Support the application'.

**Response:** Comments in support are noted.

- 10.29 Councillor Sims requested the application be determined by the sub-committee for the following reason: *'it is important that we're possibilities small infill plots should be used which fits on with the character of the area and helps with housing numbers'*.

**Response:** Officers would concur with this viewpoint but for the reasons set out in paras 10.5 to 10.11 above this development would not fit in with the character of the area and cannot be supported.

## **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 a combination of the scale, massing, siting and design of the dwelling proposed is considered to result in an incongruous form of development that would fail to complement or enhance the established character of the area in respect of street layout. The proposal for the development of this land would result in significant harm to the character of the local area which would outweigh any benefits. For this reason the proposal is contrary to Policy BE1, BE2 and D2 of the UDP, PLP2 and PLP24 and the NPPF, paragraphs 14 and 64.
- 11.3 As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this application, the material considerations considered above do not justify making a decision other than in accordance with the development plan which require the application to be refused.

## **Background Papers**

Application and history files can be accessed at:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93341>

Certificate of Ownership: Certificate A signed.