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**Report of the Head of Strategic Investment**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 22-Feb-2018**

**Subject: Planning Application 2017/91618 Change of use and erection of extension and alterations to former club/pub to form 7 apartments 14, New Road, Kirkheaton, Huddersfield, HD5 0HP**

**APPLICANT**

A Knapton

**DATE VALID**

11-May-2017

**TARGET DATE**

06-Jul-2017

**EXTENSION EXPIRY DATE**

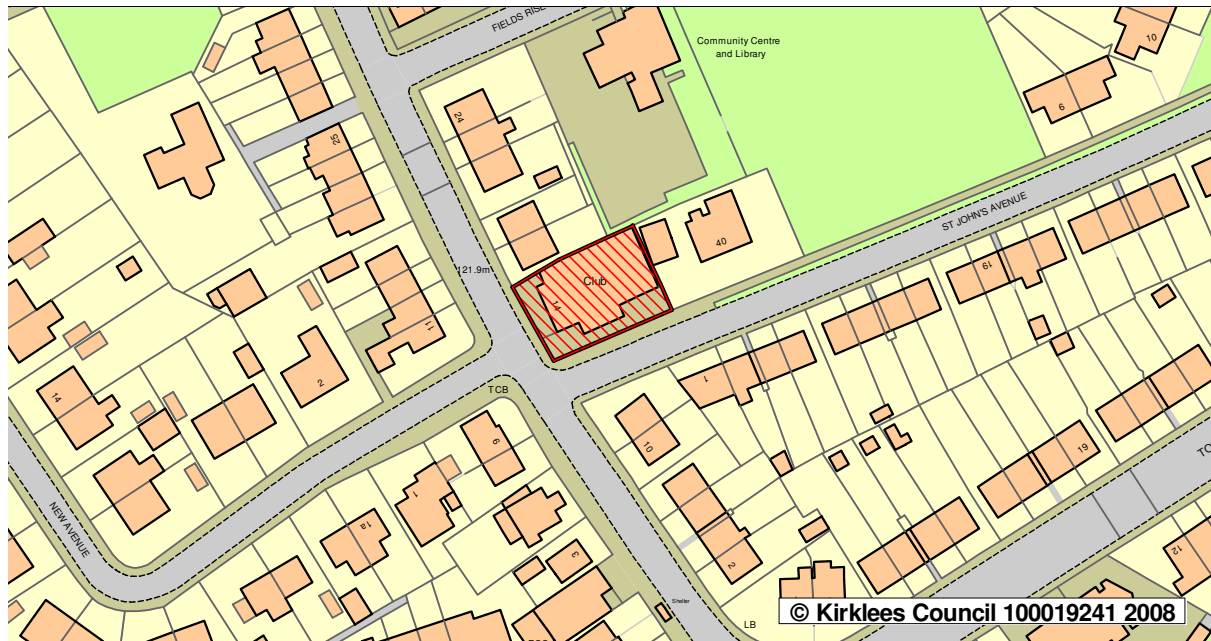
03-Oct-2017

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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: Dalton**

N

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION: REFUSE**

1. The proposals, due to the scale, mass, height and overall projection of the two storey rear extension and its siting in close proximity to no. 16 New Road, would have an overbearing impact and cause undue overshadowing of the external private amenity areas of this property, resulting in an adverse loss of amenity to the existing and future occupiers of this property. This is contrary Policy D2 (v) of the Kirklees Unitary Development Plan and the fourth Core Planning Principle of the National Planning Policy Framework which seeks to secure a good standard of amenity for all existing occupiers of land and buildings as well as Policy PLP24 (b) of the Publication Draft Local Plan.

2. The proposals, by reason of their location in proximity to a major hazard installation, is such that potentially there would be a risk of harm to people on safety grounds. The information submitted with the application does not demonstrate how this harm can be outweighed. The proposal would therefore fail to comply with paragraph 109 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

1.1 The application is brought to Huddersfield Sub Committee at the request of Councillor Peter McBride who states:

*“given the dilemma that although I would welcome the housing provision that this might provide although the scale of development may have an adverse affect on neighbours. I would also welcome the views of the Kirkheaton Group currently developing the Neighbourhood Plan”.*

The Chair of Sub-Committee confirmed that Councillor Peter McBride’s reason for making this request is valid having regard to the Councillors’ Protocol for Planning Committees. Chair agreed for a site visit to be carried out.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site relates to a corner plot which lies at the junction of New Road and St John's Avenue in Kirkheaton. The site accommodates a two storey stone building facing New Road with a small amenity area bound by a stone wall along this road frontage. To the side (south east), along St John's Avenue, is an open forecourt area, currently used for parking of vehicles and storage of bins. The single storey rendered extension on this side provides entrance to the host building and large single storey flat roofed extension to the rear. The last known use of the building was as the Kirkheaton Liberal club.
- 2.2 The site adjoins residential garden areas beyond the north and east boundaries and lies in a predominately residential area.

## **3.0 PROPOSAL:**

- 3.1 The application seeks permission to demolish the existing single storey rear and side (rendered) extensions, erection of two storey rear extension, alterations and change of use to form 7 apartments. The revised plans now indicate the cellar areas to be used as storage areas. At ground floor the proposals would provide 3 apartments. At first floor a further 3 x one bed apartments and a one bed apartment is proposed in the roof space of the proposed two storey extension. This would be served wholly by roof lights.
- 3.2 Externally, the proposals would provide eight car park spaces along the southern boundary, bin storage and communal garden areas for the proposed apartments. A two metre fence is also proposed on the northern boundary shared with no. 16 New Road.

## **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 2011/90623 – erection of canopy shelter over disabled ramp access – refused  
28.Jun 2011
- 2003/91037 – formation of access ramp – granted May 2003

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

- 5.1 7<sup>th</sup> November 2017 – revised plans omitting living accommodation in cellar areas and amendments to fenestration to include high cill openings.

11<sup>th</sup> September 2017 - agreement to a further extension of time to address concerns in relation to basement apartments and to consider reducing the height of the two storey extension to avoid adverse impact on the amenities of no. 16 New Road

23<sup>rd</sup> July 2017- agreement to extension of time

## 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 The site is unallocated on the UDP Proposals Map and on the publication draft local plan. The site lies in close proximity of the local centre of Kirkheaton.
- 6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:  
D2 – Unallocated land  
BE1 – Design principles  
BE2 – Quality of design  
BE11 – materials  
BE12 – Space about buildings  
EP4 – Noise sensitive development  
H8 – Change of use to residential  
T10 – highway considerations  
T19 – parking provision
- 6.4 PLP1 Presumption in favour of sustainable development  
PLP2 Place shaping  
PLP7 Efficient and effective use of land and buildings  
PLP 20 Sustainable travel  
PLP21 Highway safety and access  
PLP22 Parking  
PLP24 Design  
PLP48 Community facilities and services  
PLP51 Protection and improvement of air quality
- 6.5 National Planning Guidance:  
Chapter 6 – delivering a wide choice of high quality homes  
Chapter 7 – Requiring good design  
Chapter 8 – Promoting Healthy Communities  
Chapter 11 – conserving and enhancing the natural environment.  
Core Planning Principles
- 6.6 Other Documents  
West Yorkshire Low Emission Strategy Planning Guidance (WYLES)

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

- 7.1 The application was advertised by site notice and neighbour letters. Two representations have been received in response to the publicity. One is in support from the adjacent occupier of no. 40 St John's Avenue. The other is from occupier of no. 16 New Road, who sought for an explanation of the proposals to assess whether it would have an impact on no. 16 New Road and the amenities currently enjoyed by the occupiers of this property. Clarity was also sought on the position of window openings to avoid overlooking into private amenity areas.

Kirkburton Parish Council – none received to date

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K.C. Highways Development Management – support subject to conditions

Health and Safety Executive (HSE) - advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case – see assessment below.

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

K.C. Environmental Services - – support subject to conditions

## **9.0 MAIN ISSUES**

- Principle of development (including housing issues)
- Urban design issues
- Residential amenity (including Health & safety)
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site is located within an area unallocated on the UDP and draft Local Plan. Policy D2 is appropriate and stipulates that development should protect the visual and residential amenity of neighbouring properties. The application site adjoins residential properties to the north-west off New Road and towards the east on St John's Avenue. The assessment below will consider the visual and residential amenity.
- 10.2 The proposal seeks the change of use of an existing building and the principal policy to consider in the UDP is Policy H8. This sets out that the change of use of buildings to residential use will normally be permitted subject to employment, environmental, amenity and traffic considerations. Post-dating this is advice in Chapter 6 of the NPPF which states that LPAs should...bring back into residential use empty housing and buildings and 'approve planning applications for change to residential use and any associated development from commercial buildings...'

- 10.3 There are two specific elements to the proposed development, first the loss of the community facility (employment - Policy H8 of UDP) and secondly the alterations and extensions of this building to convert the existing building into seven apartments (environmental, amenity and traffic considerations – Policy H8 of UDP).
- 10.4 Considering the first element, section 8 of the NPPF relates specifically to delivering social, recreational and cultural facilities and states planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the communities ability to meet its day to day needs. Policy PLP48 of the publication draft Local Plan is also considered relevant given the potential loss of a community facility which reiterates the points made above.
- 10.5 The site lies in close proximity to the local centre of Kirkheaton. The property is stated to have been vacant since September 2016 according to the information submitted. With respect to the loss of a community facility the property is empty and it is considered that it does not currently serve the needs of the local community. Furthermore, there are public houses located south east and west of the application site on Town Road (Yeaton Cask) and Bankfield Lane (The Spangled Bull), all in close proximity of the application site. It is considered therefore that even with the loss of this facility there would remain sufficient provision to serve the needs of the local community.
- 10.6 Furthermore subject to assessment of all other material considerations, the conversion of the existing building, on this prominent site on two road frontages would provide a wider benefit to the character and appearance of the local area by bringing the building in to a long term viable use, where it is more likely the building would be maintained on a regular basis over time. The principle of the loss of this community facility is therefore in accordance with the requirements of Section 8 of the NPPF and policy 48 of the draft Local Plan.

#### *Housing issues- Five Year Land Supply*

- 10.7 Currently the Council is unable to demonstrate a five year supply of deliverable housing sites. In these circumstances, in accordance with NPPF paragraph 49, “relevant policies for the supply of housing should not be considered up to date”. Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. This requires proposals which accord with UDP to be approved without delay or where the UDP is silent or out-of-date to grant planning permission unless the adverse impacts of doing so would ‘significantly and demonstrably’ outweigh the benefits in the NPPF.

#### Urban Design issues

- 10.8 UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. In principle development should respect the scale, height and design of adjoining buildings/land levels and be in keeping with the predominant character of the area.

- 10.9 The existing building has been extended previously with the addition of single storey extensions to the sides and rear. The rear extension extends up to the northern and eastern boundary which are shared with the adjoining plots accommodating residential dwellings, namely no. 16 New Road and 40 St John's Avenue. It is considered the design, scale and appearance of these existing extensions adds little value to the character of the host building and street scene.
- 10.10 The proposals are to:
- largely demolish the existing extensions including ramp access to southern elevation,
  - retaining a small section of the side extension adjoin the boundary with no. 16 New Road,
  - erect a new two storey extension to the rear with hipped roof,
  - provide a new ramp access to proposed two storey extension provide new external steps to side (south elevation) of host building
  - provide a secure bin storage area adjacent to the boundary of no. 40 St John's Avenue
  - retain 8 car park spaces along the southern elevation and
  - erect a 2m high fence on party boundary with no. 16 New Road.
- 10.11 The proposed extension would be set in 1.7m from the southern (side) elevation of the host property. It would be replacing the existing single storey extensions which comprise of a render and stone finish with a substantial two storey stone extension. Given the siting, design and external facing materials to match the host building, officers are of the opinion the proposals would be more in keeping with the characteristics of the host building and not detract from the visual amenity of the street scene.
- 10.12 The demolition of the existing structures, in particular the single storey rendered side extension would ensure a more usable and practical area, to provide off street parking for the proposed development. In addition the secure gated bin store to be sited adjacent to the proposed extension and eastern boundary would provide adequate visual screening of bins and would be an improvement to the current situation where bins are left on the side of the building in full view. In terms of visual amenity, the proposals are considered to accord with Policies D2, BE1 and BE2 of the UDP, as well as the aims of Chapter 7 of the NPPF as well as PDLP Policy PLP24, and would ensure the visual amenity of the host property and area is not compromised.

#### Residential Amenity

- 10.13 It is considered the use of the premises as residential use would result in less noise and disturbance than what would have been experienced from the club when it was in operation. The apartments would have minimal external amenity area. Environmental Services raise no objections and it is considered the proposal would not have a detrimental impact on residential amenity of existing or future occupiers in regard to either noise or air pollution, and would accord with policy EP4 of the UDP, PLP52 of the PDLP and chapter 11 of the NPPF.

- 10.14 Turning to space about building distances, Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows for new dwellings. New dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and land. Distances less than those specified will be acceptable if it can be shown that by reason of permanent screening, changes in level or innovative design no detriment would be caused to existing or future occupiers of the dwellings or to any adjacent premises. Physical separation of this building from adjacent land and property is a key consideration.
- 10.15 The proposals on the whole would accord with Policy BE12 and would to a certain extent, in particular adjacent to the northern and eastern shared boundaries, increase the current distances to the neighbouring sites by reduction of the overall footprint of the building. However there are concerns related to the resultant impact on the adjoining neighbouring plot of no. 16 New Road, from the overbearing and oppressive impact of the scale of the two storey extension. This would have a projection of 9m from the rear wall of the host building.
- 10.16 In the main, the proposals would provide an adequate level of privacy for the existing and future residents of the proposed apartments. However, officers are concerned with the potential loss of light and overbearing impact to the neighbouring residential plot to the north no.16 New Road. The proposals in the siting, scale and mass are considered to cause an adverse impact to the amenities currently enjoyed by the occupiers of this neighbouring property, contrary to Policy D2 of the UDP which seeks to ensure that new development does not prejudice residential amenity. This policy is consistent with one of the core planning principles of the National Planning Policy Framework (the Framework), which seeks to provide a good standard of amenity for all existing and future occupants of land and buildings. This is reflected in Policy PLP 24b of the emerging local plan.

*Health & Safety:*

- 10.17 Turning to matters of Health and Safety, the site is located within a Consultation Zone for a major hazard site. The Health and Safety Executive (HSE) has therefore assessed the application through its planning advice web app, based on details input by officers. The HSE have advised that:

*the risk of harm to people at the proposed development site is such that HSE's advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.*

- 10.18 The Planning Practice Guidance on Hazardous Substances notes that the decision on whether or not to grant planning permission rests with the Local Planning Authority. Nevertheless *"In view of its acknowledged expertise in assessing the off-site risks presented by the use of hazardous substances, any advice from Health & Safety Executive that planning permission should be refused for development for, at or near to a hazardous installation or pipeline should not be overridden without the most careful consideration."*



- 10.19 Major hazard sites/pipelines are subject to the requirements of the Health and Safety at Work etc. Act 1974, which specifically includes provisions for the protection of the public. However, the possibility remains that a major accident could occur at an installation and that this could have serious consequences for people in the vicinity. Although the likelihood of a major accident occurring is small, it is felt prudent for planning purposes to consider the risks to people in the vicinity of the hazardous installation. Where hazardous substances consent has been granted (by the Hazardous Substances Authority), then the maximum quantity of hazardous substance that is permitted to be on site is used as the basis of HSE's assessment.
- 10.20 Officer's opinion is that provision of housing on this site does not outweigh the level of risk identified by the HSE. No information has been submitted which sufficiently demonstrates that the risk of harm to people at the proposed development site could be adequately addressed. The proposals as such would be contrary to paragraph 109 of the NPPF, which promotes enhancement of the natural and local environment by preventing new development being put to unacceptable risk by 'unacceptable levels of...pollution'.
- 10.21 Should Members be minded to grant permission against HSE advice, the Executive requires 21 days' notice to give further consideration to the proposal before a decision is issued and determine whether or not to request the Secretary of State to call-in the application. In light of this the application would need to be delegated back to Officers to allow further consideration by the HSE before issuing of the decision.

#### Highway issues

- 10.22 UDP Policy T10 states that "New development will not normally be permitted if it will create or materially add to highway safety or environmental problems or/in the case of development which will attract or generate a significant number of journeys, it cannot be served adequately by the existing highway network ...". Policy T19 addresses car parking in relation to the maximum standards set out in Appendix 2 to the UDP. Guidance in the NPPF states under paragraph 32 that plans and decisions should take account of whether, amongst other things, "safe and suitable access to the site can be achieved for all people".
- 10.23 The proposals would provide adequate parking provision to serve the seven proposed apartments, six of which are shown to be one bed and apartment no. 1 with two bedrooms. The provision of secure waste storage will also be provided along the eastern boundary. Highway Officers advise secure and safe storage for cycles should be considered. This can be conditioned to be provided as the cellar storage areas could accommodate this.
- 10.24 To summarise, the proposals which include alterations to the car park layout would be a more practical layout than the existing car park layout and provide a secure waste storage area. Should members be minded to approve the application, highway issues can be addressed through the imposition of appropriate conditions to include details of cycle storage and proposed car park layout to be made laid out and made operational prior to the occupation of the apartments. As such from a highway safety aspect, the proposals would not give rise to highway safety concerns nor considered to create or materially add to highway safety issues, in accordance with UDP Policies T10 and T19 as well as DPLP Policy PLP 21 and guidance in the NPPF.

## Representations

- 10.25 Two representations have been received, 1 in support and one objecting from the occupier of no. 16 New Road, who sought for an explanation of the proposals to assess whether it would have an impact on no. 16 New Road and the amenities currently enjoyed by the occupiers of this property. Clarity was also sought on the position of window openings to avoid overlooking into private amenity areas.

**Response:** The plans have been revised to incorporate high cill openings in the north and east elevations to avoid direct overlooking into the private amenity areas of the neighbouring properties. The proposed two metre fence along the northern boundary can also be conditioned to extend along the full length of this boundary to avoid any direct overlooking and loss of privacy to the rear garden area of no. 16 New Road. However, as assessed above concerns remain in relation to the potential loss of light which would be caused from the scale, bulk, mass and height of the proposed two storey extension with a projection of 9m.

- 10.26 Cllr McBride requested the application be brought to committee for determination *given the dilemma that although I would welcome the housing provision that this might provide although the scale of development may have an adverse affect on neighbours. I would also welcome the views of the Kirkheaton Group currently developing the Neighbourhood Plan.* The issues related to housing provision versus residential amenity has been considered in the assessment above. In addition the Kirkheaton Group developing the Neighbourhood Plan has been contacted and asked if there are any views on the proposal. Any response will be reported to committee in the update.

## Other Matters

### *Air Quality:*

- 10.27 In the interests of air quality, and to comply with West Yorkshire Low emissions Strategy, Policy PLP24 of the emerging local plan and Chapter 11 of the NPPF, it is recommended that a planning condition be imposed requiring the installation of an electric vehicle charging points be incorporated into the proposals on the granting of permissions in accordance with the standard procedure. This would be conditioned should Members be minded to approve the proposals.

### *Contamination:*

- 10.28 To ensure that any unexpected contamination is dealt with appropriately and to protect the future occupants of the development would not be at risk of contamination Environmental Service officers have recommended standard conditions in the event of unexpected contamination. Again the recommended condition will be included on the decision notice to accord with Policy G6 of the UDP and Chapter 11 of the NPPF, should the application be supported by Members.

## 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.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would not constitute sustainable development and in light of the above assessment recommended for refusal.

### **Background Papers:**

Application and history files as noted in report.

Website link to be inserted here

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91618>

Certificate of Ownership –Certificate A signed by agent