
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/93226 Erection of two storey and single storey extensions Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN

APPLICANT

Acumen Architects

DATE VALID

21-Nov-2018

TARGET DATE

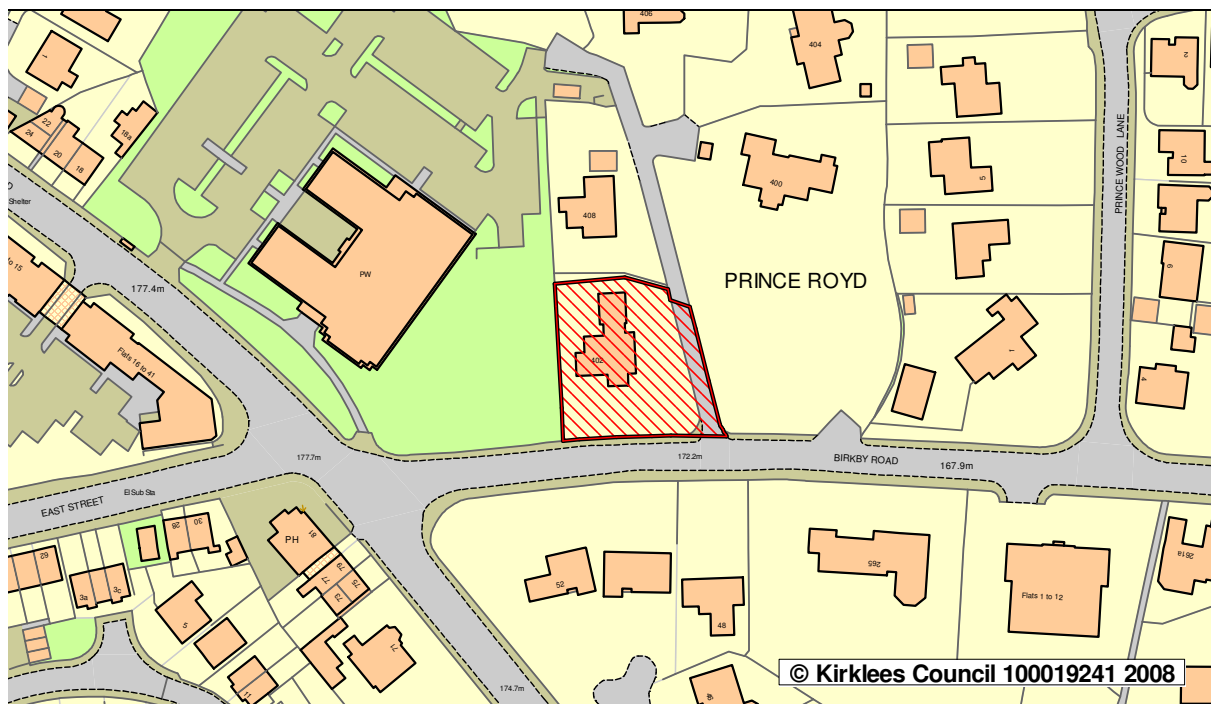
16-Jan-2019

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: LINDLEY

Y

Ward Members consulted

RECOMMENDATION: REFUSE

1. The proposed extensions, by reason of their scale, and in the context of, and bulk and footprint of, the existing dwelling relative to its plot size, would amount to overdevelopment of the site. This would result in a visually assertive development out of character with, and harmful to, the visual amenity of the local area. This would be contrary to the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought before Sub-Committee for determination on account of the refusal of the previous application (2018/90978) for the erection of extensions on this site, the very short time that has elapsed since this decision was made, and the previous reason for refusal being a material consideration in the assessment of the revised scheme.

2.0 SITE AND SURROUNDINGS:

2.1 402 Birkby Road, known as Brigsteer, is a large detached dwelling situated on the north side of Birkby Road approximately 45m east of the junction with Halifax Road. Vehicular access is provided by an unadopted road adjacent to the eastern boundary of the plot which continues to serve 5 other dwellings. The plot, which measures approximately 20m from north to south and 15m (on average), is somewhat elevated above the level of Birkby Road. Vehicular access to the unadopted road is taken at the north-east corner of the site. The dwelling itself is of an asymmetrical design and layout, with an attached double garage at the northern end. Most of the amenity space is to the south and west, and there are several mature trees on the southern and eastern boundaries. To the west, the site is bounded by the Church of Jesus Christ of Latter Day Saints grounds, and to the north by no. 408 Birkby Road.

3.0 PROPOSAL:

3.1 The proposal is for the erection of a two-storey extension to the southern elevation of the property, and a single-storey extension to the north-west corner.

3.2 The two-storey extension would be 5.3 by 6.0m and would be tied into the southern and part of the western elevations, projecting 2.3m to the south of the existing dining room, and would be 4.7m high to the eaves and with a gable roof.

- 3.3 The proposed single-storey extension would be 3.7m by 3.1m and would be located on the west or rear of the dwelling, tied in to the northern wall of the main dwelling and the southern wall of the garage, and with a monopitch roof.
- 3.5 Compared with the previous, refused scheme (2018/90978), the single-storey extension has been reduced in length from 5.3m to 3.7m but other than this there have been no changes in design.
- 3.4 There is a Council highway improvement scheme proposed nearby which would create a new lane within the carriageway of Birkby Road for southbound traffic turning right onto Birkby Road at the junction with Halifax Road, and then merge into the existing carriageway. It would take a wedge of land off the curtilage of the Church of Jesus Christ of Latter Day Saints and Brigsteer. This is dependent on the Council securing land off the relevant parties but the site plan has been drawn to reflect what the site would look like if it were carried out. This does not form part of the planning application and is not assessed in the report.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1

2003/94421 – Outline application for the erection of a detached dwelling (within the curtilage of the dwelling now known as 408 Birkby Road). Approved and implemented.

2004/91771 – Reserved matters for the erection of a detached dwelling. Approved and implemented.

2018/90978 – Erection of single-storey and two-storey extensions. Refused by Huddersfield Planning Sub-Committee. Reason for refusal:

“The proposed extensions, by reason of their scale, and in the context of and bulk and footprint of the existing dwelling relative to its plot size and those of surrounding houses, would amount to overdevelopment of the site. This would result in a visually assertive development out of character with, and harmful to, the visual amenity of the local area. This would be contrary to the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.”

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

- 5.1 04-Dec-2018: Agent submitted calculations to show that no. 408 is more densely built up than 402 in terms of footprint to plot size ratio.

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 48 of the National Planning Policy Framework (2018). 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 (2018), 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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)
- **T10** – Highway safety
- **T19** – Parking
- **NE9** – Retention of mature trees.

Supplementary Planning Guidance / Documents:

6.3

PLP 21: Highway safety and access
PLP 22: Parking
PLP 24: Design
PLP 33: Trees.

National Planning Guidance:

6.4

- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 14 – Meeting the challenge of climate change, flooding and coastal change
- Section 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The proposal was advertised by a site notice and neighbour notification letters. The publicity period expired 06-Nov-2018. In addition, the applicant was required to submit an amended ownership certificate because on the original Certificate under Article 14 submitted with the application form the list of owners notified had not been filled in correctly. The corrected Certificate B was submitted on 21-Nov-2018. The mandatory 21-day period for notification under Article 13 therefore expires on 12-Dec-2018. Within this period, the Council did not actively undertake any new publicity since there had been no changes to the plans and so such a course of action was not justified.

7.2 Representations have been made by a total of 10 local residents and other third parties. Of these, 6 are in opposition, 4 are in support (although it is noted that in this category one has not provided their full name).

7.3 A summary of the concerns and comments made is given below:

Grounds of objection and concerns

- Overdevelopment and has not adequately addressed the reason for refusal
- The extensions will make it the most densely developed plot, and the plot coverage will be proportionately still greater if the highway improvement goes ahead.
- Already bigger than approved and with more bedrooms.
- Loss of privacy caused by the south-facing upper floor window in the extension.
- Insufficient parking space for the likely number of cars, and no swept path analysis.
- Loss of trees including during construction.
- No proven right of way along lane, no right of access to shared turning head, ownership of boundary walls is disputed, and it has not been demonstrated that safe access could be gained during construction.
- Highway safety problems will become worse if the highway improvement scheme goes ahead because vehicles will pull into the lane off Birkby Road at a greater speed.
- The applicant is named as Acumen Architects on the form – if they really intend to occupy the property it will need a change of use to commercial, alternatively why doesn't it give the name of the current or intended occupant?

Supporting and general comments

- The house as built was passed for the purposes of Building Regulations.
- The occupants of no. 402 have historically played an active role in maintaining the shared lane.
- The house has accommodated 4 or more cars in the past without difficulty.
- The development will not cause overlooking and would harmonise with its surroundings.
- It would be done in matching materials.
- Plot coverage is considerably higher for no. 408.
- Replacement of trees would be a net benefit; would not involve any loss of protected trees.
- Some of the objectors' letters raise issues that are not material from a planning point of view.

Ward Councillor Cahal Burke, who commented on application 2018/90978, was notified of the new application. Cllr Burke did not request a Committee decision or make any new representations on this application.

8.0 CONSULTATION RESPONSES:

8.1 Statutory: There were no statutory consultees

8.2 Non-statutory:

No consultations were considered necessary in this instance. For application 2018/90978, Highways Development Management and the Arboricultural Officer were consulted and neither had any objection in principle.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is on land that is unallocated within the UDP Proposals Map and without designation on the PDL. 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]”.
- 10.2 Other UDP Policies of relevance include BE1 and BE2 (development should be visually attractive and contribute to a sense of local identity), BE13 (extensions should respect the design features of the existing building), BE14 (extensions should not have an adverse impact on adjacent properties or land), T10 (development should not create or materially add to highway safety problems), T19 (development should ensure that adequate parking is provided taking into account the recommendations in Appendix 2) and NE9 (mature trees should normally be retained).
- 10.3 PLP24 (c) of the Publication Draft Local Plan states: “Proposals should promote good design by ensuring that . . . extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers”. PLP21-22, which cover highway safety and parking, can in principle be given considerable weight but cover the same concerns as the UDP policies T10 and T19. Policy PLP33 (Trees) states that proposals should normally retain any “valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location, or contribute to the environment.”

Urban Design issues

- 10.4 The previous application, 2018/90978, was subject to a number of revisions during the application process, including the deletion of a detached garage near the south-western corner of the site. It was the opinion of planning officers at the time that the proposed scheme, as modified, could be recommended for approval; it was however refused by Planning Sub-Committee, the reason being that proposed extensions, by reason of their scale, and in the context of and bulk and footprint of the existing dwelling relative to its plot size and those of surrounding houses, would amount to overdevelopment of the site, thereby harming visual amenity.
- 10.5 The new application leaves the proposed two-storey extension to the south elevation unchanged. The only change to the scheme is a reduction in the size of the small single-storey extension, from 5.3 to 3.7m in length.
- 10.6 As before it is noted that the immediate neighbouring dwellings are all individually designed, two-storey houses on plots of varying sizes. In the previous officers' report to Sub-Committee it stated that Brigsteer and its immediate neighbour to the north, no. 408, both had a plot coverage of approximately 17%. It has subsequently come to light that this is incorrect – based on calculations done independently by the applicant and by the case officer, it would appear that no. 408 has a slightly higher degree of plot coverage. Based on the house as built, or in no. 408's case the house plus garage as it stood when the dwelling now known as Brigsteer was built, plot coverage is approximately 17.5% for Brigsteer and 19.8% for no. 408.
- 10.7 On the basis of these calculations it can be seen that 408 is the more densely built-up plot in terms of footprint, and would appear the most densely built up of the houses served by this unadopted road.
- 10.8 It is considered however that the above factors do not result in a substantial change to the planning merits of the scheme. The proposed single-storey lean-to extension to the north-west corner has been reduced in size, but this was in any case the smaller and less visually prominent of the two extensions. So it is considered that the change to the development proposal as a whole, in terms of the impact it would have upon visual amenity, is minimal.
- 10.9 Furthermore, whilst it is acknowledged that planning officers made an error in calculating plot sizes for the previous application, the recalculation only reveals a small difference between no. 402 and its neighbour in terms of plot coverage (2.3%). It is reasonable to take this into account as a material consideration, but as the difference is very small it is not considered a sufficiently strong factor to justify an approval, based on the previous reason for refusal.
- 10.10 In conclusion it is considered that the changes in the plans since the refused scheme have not adequately addressed the reasons for refusal, that it would amount to overdevelopment of the site resulting in a visually assertive development out of character with, and harmful to the visual amenity of, the local area, contrary to the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.

Residential Amenity

- 10.11 The two-storey extension would be 24m from the nearest point on the curtilage of another residential property (in this case, 48-52 Inglewood Avenue) and 42m from the facing rear elevation of nos. 50-52 (no. 48 is still further away) and it is considered that it would not give rise to any significant overlooking or other undesirable impacts. The single-storey extension would be approximately 7m from the northern boundary of the site and it is considered that owing to its separation distance and small size it would not affect the amenities of no. 408.
- 10.12 In conclusion it is considered that the proposal as shown on the current plans would not result in a loss of amenity to any neighbouring residential property or adjacent land, and would thereby accord with the aims of Policies D2, BE14 and PLP24(b).

Landscape issues

- 10.13 As before, it is considered that the existing trees have only limited amenity value and do not merit a Tree Preservation Order. The development as proposed would not, in any case, involve works within the crown spread of a tree or necessitate any tree pruning or similar works. Several trees will, unavoidably, be lost if the proposed junction improvement to Birkby Road goes ahead. This does not form part of the application but the applicant has proposed that some replacement planting could be undertaken on the Birkby Road frontage. It is considered that the proposed development has no implications for the wider landscape.

Highway issues

- 10.14 The proposed development does not involve any new or amended means of access to the highway. Existing parking and manoeuvring arrangements within the site would be unaffected. The attached garage would be retained and there would be space enough within the site to park at least two vehicles near the southern end of the curtilage. Using standard swept paths, a car can easily undertake a three-point turn within the site.
- 10.15 In conclusion, the proposed development, if implemented in accordance with the submitted plans, would not create or materially add to highway safety problems, and would accord with the aims of Policies T10, T19, PLP21 and PLP22.

Representations

- 10.16 The concerns expressed are summarised below with officer responses:
- Overdevelopment and has not adequately addressed the reason for refusal
Response: The proposal is still considered to be overdevelopment for the reasons set out at length in paragraphs 10.4-10.10.

- The extensions will make it the most densely developed plot, and the plot coverage will be proportionately still greater if the highway improvement goes ahead.

Response: The analysis of the relative degree of coverage for different plots, in particular nos. 402 and 408, has been undertaken based on how the two dwellings would have appeared when Brigsteer was first built and the original plot divided to form two plots. It does not take into account any later, or proposed, additions in either case, nor does it take into account the proposed highway improvement which does not form part of this application and is outside the applicant's control.

- Already bigger than approved and with more bedrooms.

Response: Based on plans held by the Council and supplied by the applicant, the dwelling seems to have been built larger than shown on the approved plans, but not dramatically so. The most notable difference is not in the footprint but in the height of the walls from ground to eaves, which has allowed the inclusion of second-floor living space in what was originally approved as a two-storey dwelling. It should be noted that this in itself however is not a material planning consideration in the assessment of this application. The dwelling, it would appear, has been substantially completed for more than 10 years and there is no record of a breach of condition ever being challenged by the Council, and so any breach of condition that may have occurred relating to the design or scale is now immune from any enforcement action. Furthermore, as the operational development to construct the dwelling was substantially completed more than 4 years ago this would also preclude enforcement action being considered. Finally, an increase in the number of bedrooms does not necessarily require planning permission in and of itself since the layout of internal space is, in general, outside of planning control.

- Loss of privacy caused by the south-facing upper floor window in the extension.

Response: It is considered that the distance between the proposed extension and the nearest facing dwelling is too big for significant overlooking to occur.

- Insufficient parking space for the likely number of cars, and no swept path analysis.

Response: This issue has been fully examined in paragraphs 10.14-10.15 above. It is considered that the amount of parking and turning provision, which would remain unchanged, would be sufficient to serve the development in the event of an approval, and swept path analysis is not a standard requirement for applications of this type.

- Loss of trees including during construction.

Response: As previously stated, none of the trees on site is considered worthy of a tree preservation order. In the event of officers being minded to approve, further replanting could in any case be conditioned if deemed necessary.

- No proven right of way along lane, no right of access to shared turning head, ownership of boundary walls is disputed, and it has not been demonstrated that safe access could be gained during construction.

Response: Notice has been correctly served on the owners of the lane. The plans involve no alterations to the lane. Access during construction, including any temporary removal of boundary walls that might be required, is deemed to be a private civil matter. The development would be unlikely to result in a material increase in refuse collection vehicles or other large vehicles on the lane so the rights of use over any shared turning head within the lane, or absence thereof, are not material to the application.

- Highway safety problems will become worse if the highway improvement scheme goes ahead because vehicles will pull into the lane off Birkby Road at a greater speed.

Response: The proposal involves no change to private access arrangements and would not affect intervisibility, so this cannot be treated as a material consideration.

- The applicant is named as Acumen Architects on the form – if they really intend to occupy the property it will need a change of use to commercial. Alternatively why does it not give the name of the current or intended occupant?

Response: The form has been filled in correctly and the application is valid. The fact that Acumen Architects are named as the applicant does not imply that they intend to occupy the property.

10.17 Comments in support of the application are summarised below with officer responses:

- The house as built was passed for the purposes of Building Regulations.

Response: Building Regulations and Planning are two separate regimes of control and it does not follow that the house was built fully in accordance with the plans approved for planning purposes.

- The occupants of no. 402 have historically played an active role in maintaining the shared lane.

Response: This is not deemed to be a material consideration in determining the application.

- The house has accommodated 4 or more cars in the past without difficulty.

Response: A precise analysis of how many cars can be safely parked within the site has not been undertaken, but officers are satisfied the proposal would not give rise to increased highway safety problems.

- The development will not cause overlooking.

Response: Noted.

- It will harmonise with its surroundings and would be done in matching materials.

Response: For the reasons set out in paragraphs 10.4-10.10 of the Assessment it is considered the development would not be in harmony with its surroundings, notwithstanding the use of matching materials.

- Plot coverage is considerably higher for no. 408.

Response: It is acknowledged in paragraphs 10.6-10.7 above that the degree of plot coverage is greater for no. 408.

- Replacement of trees would be a net benefit; would not involve any loss of protected trees.

Response: It is noted that the applicant has shown a willingness to carry out replanting and that none of the existing trees is covered by a tree preservation order.

- Some of the objectors' letters raise issues that are not material from a planning point of view.

Response: Again, this is noted and has been highlighted where appropriate in officer responses to the grounds of objection.

Other Matters

10.18 *Construction access.* It is important to note that a Construction Management Plan is not a standard requirement for Minor or Householder development and such a plan has not been requested by officers in this case.

11.0 CONCLUSION

11.1 It is considered that the proposed development, taking into account the Sub-Committee decision to refuse application 2018/90978, which the new scheme has not adequately addressed, and all other material considerations, would amount to overdevelopment and would not adequately respect the character of the existing dwelling or its surroundings. It is therefore recommended that permission is refused.

12.0 REASON FOR REFUSAL

1. The proposed extensions, by reason of their scale, and in the context of, and bulk and footprint of, the existing dwelling relative to its plot size, would amount to overdevelopment of the site. This would result in a visually assertive development out of character with, and harmful to, the visual amenity of the local area. This would be contrary to the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.

Background Papers:

Application and history files.

Website link to be inserted here

Certificate of Ownership – Notice served on nos. 402, 404, 406, 408, 410 Birkby Road, 21-Nov-2018.