
Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 07-Feb-2019

Subject: Planning Application 2018/93781 Change of use of existing post office into living accommodation and erection of new Post Office/General Store (modified proposal 2014/90895) with raised garden area and drive to rear Hightown Post Office, 483, Halifax Road, Hightown, Liversedge, WF15 8HU

APPLICANT

Richard Walker,
Hightown Post Office
Store

DATE VALID

29-Nov-2018

TARGET DATE

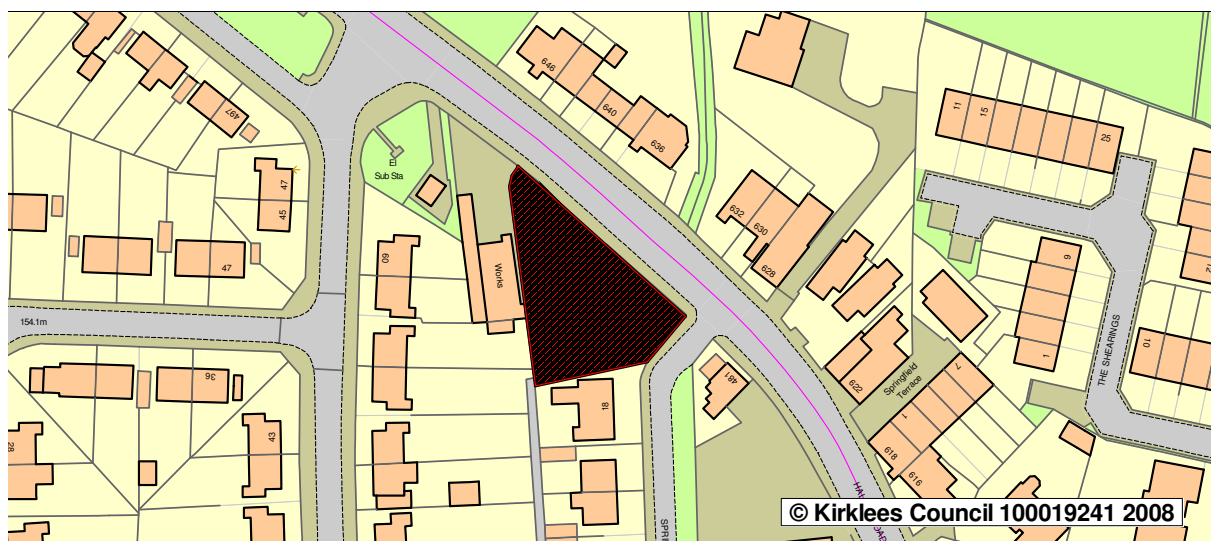
24-Jan-2019

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: Liversedge & Gomersal

Yes

Ward Members consulted

RECOMMENDATION: Delegate refusal of the application for the reasons outlined below, the issuing of the decision notice and enforcement notice requiring the removal of the development to the Head of Strategic Investment in order to:

- Await expiration of site publicity (1 March 2019)

1. The building, by reason of its height and roof design would form an incongruous feature within the street scene which would be damaging to the character of the area. This would be harmful in terms of visual amenity and therefore fail to comply with Policies D2 and BE1 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Publication Local Plan and government guidance contained within the National Planning Policy Framework.

2. The proposed driveway and parking area to the rear of the building, by reason of the limited space and its encroachment onto part of Public Right of Way SPE/94/60, would not achieve adequate access or usable parking spaces and is therefore considered to be detrimental to highway safety. The proposal therefore fails to comply with Policies D2, BE1 and T10 of the Kirklees Unitary Development Plan, Policy PLP22 of the Kirklees Draft Publication Local Plan and government guidance contained with the National Planning Policy Framework.

3. The building, by reason of its height to the rear, would result in an overbearing and oppressive impact on the occupiers of 483 Halifax Road. This would be detrimental to residential amenity and fail to comply with Policies D2 and BE1 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Publication Local Plan and government guidance contained within the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub-Committee for determination given the level of representation received both in support and objecting to the proposals.

1.2 The Chair of the Sub-Committee has confirmed that this reason is valid having regard to the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is a grassed area of land which appears to be part of the garden associated with 483 Halifax Road. This existing building contains a post office/store within the single storey building which runs adjacent to the highway and a two storey dwelling which is sited at 90 degrees to the post office.
- 2.2 The surrounding area is predominantly residential though there are open fields allocated as Urban Green Space located to the north. A public right of way PROW (Spen/94/60) runs to the south of the site, outside of the application boundary and to the rear of the dwellings on Springfield Drive.

3.0 PROPOSAL:

- 3.1 The applicant has been granted planning permission the erection of a building to facilitate a new general store together with the change of use of the majority of an existing post office/store into habitable accommodation at 483 Halifax Road, Hightown.
- 3.2 The current application is seeking consent to change the roof type from the approved hipped roof to a gable, increase the width of the building from 19m to 20.05m, and increase the eaves height from 3m to 3.25m and the overall height from 5m to 7.35m. The facing materials would also be altered on the side and rear from the approved stone to blockwork and render. The plans also now include a raised garden area and retaining wall to the rear with a drive to the rear of the new building.
- 3.3 The applicant's agent has stated that the alterations have been carried out contrary to the approved permission in order meet building regulations requirements for a building of this nature (i.e. to facilitate the damp proof course for the disabled level threshold and in order to meet criteria on ventilation in a store) and to gain height within the roof void to provide for storage.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2005/92191 – Erection of single storey extension, approved
- 2007/93998 – Erection of ground floor extension, approved
- 2014/90895 – Change of use of existing post office into living accommodation and erection of new general storey – granted with a section 106 agreement

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

- 5.1 Officers raised concerns with the information initially submitted in terms of the accuracy of the plans. Following a site visit with the Enforcement Officer to measure the building on site, amended plans have been supplied by the agent.

5.2 During the course of this application, the applicant has also started building a retaining wall and altering the level of part of the garden. Such works constitute an engineering operation which requires planning permission in its own right. However, the applicant was offered the opportunity to include these detail in the current application and neighbours were offered 10 days to comment on the changes to the proposal. The changes provided also included a driveway and off road parking spaces for five vehicles to the rear of the building.

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
- **T10** – Highway Safety
- **S1** – Town Centre/Local shopping centres

Publication Draft Local Plan:

6.3

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP13** – Town Centre Uses
- **PLP21** - Access
- **PLP 22** – Parking
- **PLP 24** - Design

National Planning Guidance:

6.4

- Chapter 6 – Building a strong competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The plans were advertised by site notice and neighbour notification letters which expired initially on 05/01/2019. After a number of corrections to the plans and receipt of an additional plan showing the raised garden area and driveway, a further round of publicity was carried out for 14 days.
- 7.2 Seventeen representations have been received objecting to the scheme, which expressed the following views:-
- The building is an eyesore
 - No parking has been provided for vehicles
 - The loss of the bushes
 - The size and height of the building are far too large and out of character with the area
 - The building interferes with access and visibility for road users entering and leaving Springfield Drive
 - The builders have not been wearing high vis, the cement mixer has been blocking the pavement and the workmen have been working at height with no safety equipment
 - The building is overbearing on Springfield Drive
 - The use of illuminated signage for the shop would be out of place in the area
 - The larger development is not a slip up but a deliberate choice of the applicant contrary to the permission granted
 - Why were the neighbouring properties opposite not notified of the original application
 - The applicant and the agent are making a mockery of the Planning Department
 - The applicant has ignored the Council's request to stop works until the lack of planning has been resolved
- 7.3 Twenty-nine representations have also been received in support of the scheme which expressed the following views:-
- Provision of better facilities including disabled access and wider range of products
 - The building is in keeping with the area
 - The new shop would not change the existing parking provision
 - The store and its owners are an asset to the area
 - Encouraging small businesses to expand
 - Creation of jobs
 - Shutting the shop would be inappropriate
- 7.4 Cllr Holmes has also expressed her concerns regarding the scale of the building and requested that the application is determined by the Heavy Woollen Planning Sub Committee should officers be minded to approve the scheme.
- 7.5 Given the additional plan indicating the parking provision and driveway to the rear would affect the Public Right of Way SPE/94/60, a press notice has been published which will expire 01/03/2019.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory: K.C. Highways DM** – There are a number of issues with the application including the new driveway being formed on the PROW SPE/94/60, the parking shown to the rear would not allow 5 vehicles to park, the bin store as shown is not sufficient for retail purposes, insufficient parking provision for staff, poor visibility for the drive onto Springfield Drive.

8.2 **Non-statutory: NONE**

9.0 MAIN ISSUES

- Principle of development
- Impact on Town and Local Centres
- Visual Amenity
- Residential Amenity
- Highway issues including Public Rights of Way
- Conditions
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

10.1 The site is unallocated within the Unitary Development Plan. As such, development can be supported providing the proposal does not prejudice the avoidance of overdevelopment, highway safety, residential amenity, visual amenity and the character of the surrounding area in line with the requirements of policy D2 (specific policy for development on unallocated land).

10.2 These issues along with other policy considerations will be addressed below.

Impact on Town and Local Centres

10.3 A post office/general store is a retail unit (A1) within the Use Classes Order and as a retail unit; these should be located within town or local centres. The application site is outside of a defined local centre with the closest being Roberttown, Littleton or Scholes, all of which are a considerable distance away.

10.4 The existing post office/store has been in place for a considerable period of time and is a well-established part of the local community. It is therefore considered that as there is already a retail unit in this location then the principle of a replacement unit is acceptable and would have a very limited impact upon the neighbouring local centres.

10.5 Whilst a replacement retail unit may be acceptable and indeed has recently been granted planning consent under application ref: 2014/90895, consideration needs to be given again to the existing post office and what will happen to it. The application proposes to change the use of the off licence/shop element of this into habitable accommodation to be associated with the existing dwelling and retain only the post office counter.

- 10.6 However, if the current application is approved, there is currently no mechanism to ensure that the existing shop closes before the new store opens or that this existing store closes at all. The previously agreed Section 106 agreement relating to application ref 2014/90895 is now void as the plans to which it related have not been followed. Should this current amended scheme be agreed, the applicant would need to enter into a new S106 Legal Agreement to ensure that the existing retail shop is to be converted into habitable accommodation and not retained as a retail unit. This would ensure that the development would comply with current town centre policies.

Visual Amenity

- 10.7 The design of the previously approved building would have been very similar to the existing post office. The plans agreed included a long, rectangular building with a hipped roof. This would have mirrored the design and appearance of the existing building and would have been constructed using stone which would have been sympathetic in appearance to the surrounding properties. It was considered therefore that the new shop building would not have appeared out of character with the surrounding area.
- 10.8 However, the applicant has begun and indeed substantially completed on site a much larger building with an inconsistent eaves height including sections which would have been the same height as a two storey property. The alteration of the roof form to a pitched roof substantially increases the bulk and massing of the structure and the position within the street scene is particularly prominent.
- 10.9 Given the increased bulk and massing together with the new design of the roof form and the irregular height of the building, the proposal is considered to result in the formation of an incongruous feature which has a negative impact on the closely associated 483 Halifax Road and the neighbouring properties on both Halifax Road and Springfield Drive.
- 10.10 The facing materials of the building are also no longer in line with the previous approval, with the use of render to the side and rear although this alteration is minor and the use of render is evident elsewhere in the vicinity. As such, the use of render can be considered to be acceptable, on balance.

Residential Amenity

- 10.11 Whilst there are a number of residential properties within the locality, none would be directly affected by this proposal. There would be a distance of approximately 25m between the front elevation of the building and the dwellings on the opposite side of Halifax Road and a distance of 15m from the rear to the side gable of 18 Springfield Drive. Because of the relationship between this property and the new building, there would be no significant detrimental impact to this dwelling as a result of the proposal.
- 10.12 Although the building is higher than the originally approved single storey structure, it is still some distance from the nearest neighbouring properties and as such would result in no significant harm to the amenities of the occupiers of the neighbouring properties on the opposite side of Halifax Road and on the opposite corner with Springfield Drive.

10.13 Notwithstanding the above, the increased height of the building would have an overbearing and oppressive impact on the first floor window of 483 Halifax Road. Although this dwelling is currently occupied by the developer, the impact upon the main house is still a consideration and as such, the larger building is considered to be harmful in terms of residential amenity.

Highway issues

10.14 There are a number of highway safety concerns relating to the development and these are addressed as follows:

10.15 At least two of the parking bays demonstrated do not have a 6.0m clearance to allow for access and egress, and it seems unlikely a driver would be able to enter and exit the site in a forward gear. Swept path analysis demonstrating the bays and turning area are fit for purpose have not been provided and the driveway would need to be 4.5m in width to allow drivers to pass without obstruction. The driveway as indicated on the site plan is insufficient given the width of 3.5m and visibility splays from the proposed new access onto Springfield Drive have not been provided.

10.16 In addition, the bin storage and collection point as indicated on the proposed site plan is not sufficient in terms of size for a retail unit.

10.17 The proposed driveway encroaches onto part of Public Right of Way SPE/94/60; the footpath has a minimum width of 1.8m and, according to historical records, could be up to 6.1m in width. The additional site plan submitted with parking spaces indicated details the footpath with a width of approximately 1.0m which does not reflect the actual width of the PROW. Given the encroachment onto part of Public Right of Way SPE/94/60 this would be unlikely to achieve adequate access or usable parking spaces within the rear area as shown on the submitted plan and is therefore considered to be detrimental to highway safety.

10.18 Although it is appreciated that the original planning permission did grant a replacement store with no parking provision shown, the current scheme under consideration with its greater size and indicated staffing levels would likely require an off street parking provision which cannot be achieved within the site. Therefore given the relationship and width of the existing footpath to the access of the proposed parking area it is considered that the proposal is not acceptable in terms of highway safety.

10.19 Given the significant concerns in terms of highway safety, the proposal would not accord with Policy T10 of the UDP or Policies PLP 21 and PLP 22 of the PDLP.

Representations

10.20 Seventeen representations have been received objecting to the scheme, which expressed the following views:-

- The building is an eyesore
Response: *This is a material consideration as it relates to visual amenity. The originally approved building had similar form to the main house and existing post office. The roof form of the modified proposal is pitched with a steep angle resulting in substantial massing which would be out of character with the area*
- No parking has been provided for vehicles
Response: *This is a material consideration as it relates to highway safety*
- The loss of the bushes
Response: *This is not considered to be of significant detrimental impact to visual amenity.*
- The size and height of the building are far too large and out of character with the area
Response: *This is a material consideration as it relates to visual amenity. The originally approved building had similar form to the main house and existing post office. The roof form of the modified proposal is pitched with a steep angle resulting in substantial massing which would be out of character with the area,*
- The building interferes with access and visibility for road users entering and leaving Springfield Drive
Response: *This is a material consideration as it relates to highway safety*
- The builders have not been wearing high vis, the cement mixer has been blocking the pavement and the workmen have been working at height with no safety equipment
Response: *This is not a material consideration as safety at work is the remit of the Health & Safety Executive,*
- The building is overbearing on Springfield Drive
Response: *This is a material consideration as it relates to visual amenity. The height has increased particularly on the rear corner which is on to Springfield Drive. The resultant structure is much larger than originally approved and would be out of character with the area*
- The use of illuminated signage for the shop would be out of place in the area
Response: *This is not a material consideration for this application as it is the subject of a separate application, 2018/93566*
- The larger development is not a slip up but a deliberate choice of the applicant contrary to the permission granted
Response: *This is not a material consideration as the government requires the Local Planning Authority to consider retrospective applications as if they had not been built*
- Why were the neighbouring properties opposite not notified of the original application?
Response: *This is noted. At the time of the previous application, a site notice was posted in the vicinity of the site and neighbour notification letters sent to those properties adjacent to the site. In relation to the current application, the neighbours opposite and adjacent the site were notified by neighbour notification letter, and a site notice was posted in the vicinity of the site.*
- The applicant and the agent are making a mockery of the Planning Department
Response: *This is not a material consideration*
- The applicant has ignored the Council's request to stop works until the lack of planning has been resolved
Response: *This is not a material consideration. The applicant and agent have both been made aware that any further work carried out is at their own risk.*

10.21 Twenty-nine representations have also been received in support of the scheme which expressed the following views:-

- Provision of better facilities including disabled access and wider range of products
Response: *This is not a material consideration*
- The building is in keeping with the area
Response: *This is a material consideration as it relates to visual amenity. The originally approved building had similar form to the main house and existing post office. The roof form of the modified proposal is pitched with a steep angle resulting in substantial massing which would be out of character with the area,*
- The new shop would not change the existing parking provision
Response: *This is a material consideration as it relates to highway safety and has been addressed within the Highway section of this report*
- The store and its owners are an asset to the area
Response: *This is not a material consideration*
- Encouraging small businesses to expand
Response: *This is a material consideration and is a factor in the decision making process. The economic benefits of encouraging businesses to grow are not in dispute. However, the benefits in terms of the business are not considered in this instance to outweigh the harm caused in terms of visual amenity, residential amenity or highway safety.*
- Creation of jobs
Response: *This is a material consideration and is a factor in the decision making process. The formation of jobs is an important issue within the district and is normally something the Local Planning Authority wish to support. However, the benefits in terms of the potential for jobs is not considered in this instance to outweigh the harm caused in terms of visual amenity, residential amenity or highway safety.*
- Shutting the shop would be inappropriate
Response: *This is not a material consideration.*

Other Matters

Enforcement

10.22 Partial demolition to allow the applicant to revert to the previously approved plans would not be reasonable in this instance. The gable end of the building onto Springfield Drive would need to be removed along with 1.05m of the width, a section of the rear elevation, the eaves would need to be reduced on all elevations from 3.25m to 3m and the roof removed in its entirety. Should members be minded to vote in line with the officer recommendation, the subsequent enforcement notice would need to be issued for full demolition.

10.23 Members also need to be aware that if the building were to be demolished the applicant would still be able to construct the originally approved replacement shop under application ref: 2014/90895.

10.24 There are no other matters for consideration.

11.0 CONCLUSION

- 11.1 This application for a modified proposal for change of use of existing post office into living accommodation and erection of new post office/general store at Hightown Post Office has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.
- 11.2 The additional height and massing of the building result in a feature within the street scene which is incongruous and out of keeping with the character of the area. The proposal therefore fails to comply with Policies D2 and BE1 of the UDP.
- 11.3 The parking provision shown on plan to the rear of the building indicates five parking spaces. However, these spaces would not have a 6.0m clearance to allow for access and egress for all of the spaces, and it appears to be unlikely that a driver would be able to enter and exit the site in a forward gear. Furthermore, the width of the new driveway is insufficient at 3.5m and the plans do not demonstrate adequate visibility onto Springfield Drive. The proposal therefore does not show sufficient parking or safe access to and from the site and is considered to be detrimental to highway safety. The proposal therefore fails to comply with Policies D2, BE1 and T10 of the Kirklees Unitary Development Plan, Policy PLP22 of the Kirklees Draft Publication Local Plan and government guidance contained with the National Planning Policy Framework.
- 11.4 The new building has a detrimental impact on a first floor window of 483 Halifax Road which will result in an overbearing and oppressive impact which is contrary to Policies D2 and BE1.
- 11.5 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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.
- 11.6 It is recommended that the application be refused for the reasons set out at the beginning of this report.

Background Papers:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f90895>

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93781>

Certificate of Ownership –Certificate A signed: