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**Report of the Head of Development and Master Planning**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 18-Jul-2019**

**Subject: Planning Application 2019/90623 Erection of cat cage and garden shed to front (within a Conservation Area) 22, Ottiwells Terrace, Marsden, Huddersfield, HD7 6HB**

**APPLICANT**

R Haworth

**DATE VALID**

22-Mar-2019

**TARGET DATE**

17-May-2019

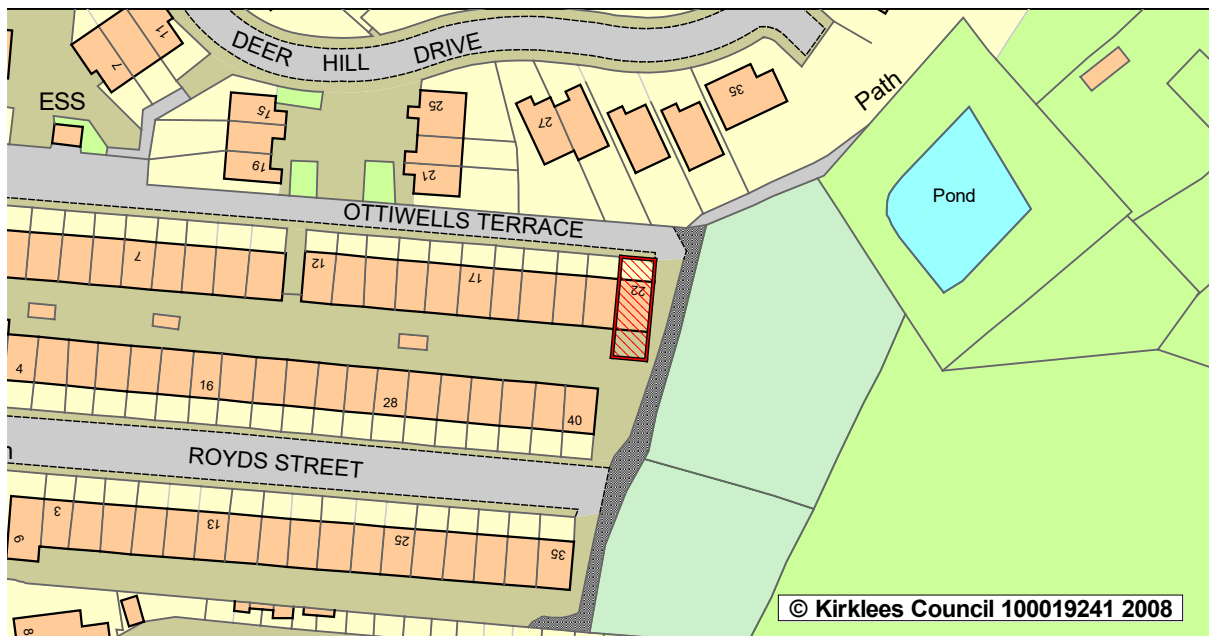
**EXTENSION EXPIRY DATE**

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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: Colne Valley**

No

Ward Members consulted

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**RECOMMENDATION: Refuse**

1 The proposed cat cage and garden shed by reason of their scale, form, siting and materials would fail to preserve the character and appearance of the host building, the terraced row of dwellings of which it forms part of and the wider Marsden Conservation Area causing harm to its significance and to the visual amenity of the area in general. The harm is considered to be less than substantial harm, however, as required by paragraph 193 of the National Planning Policy Framework, great weight has been given to that harm in assessing the impact of the proposed development. Public benefits have not been demonstrated to outweigh the harm caused in this case. The development would therefore be contrary to the Council's duties under the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies LP24 (a and c) and LP35 of the Kirklees Local Plan and paragraphs 127, 130, 190, 193 and 196 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

- 1.1 This application was presented to Members at the Committee meeting on 6<sup>th</sup> June 2019 however was deferred for a site visit.
- 1.2 This application was originally brought to Committee at the request of former Cllr Donna Bellamy for the following reason:

*"For committee to determine if it does impact on the Conservation Area. If it is indeed a prominent development at the front of the house, as this row of terraces generally use the other entrance to their homes so could be seen as rear of house."*

- 1.3.1 The Chair of Committee confirmed that former Cllr Bellamy's reason for making this request is valid having regard to the Councillor's Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 22 Ottiwells Terrace is an end terraced property within the Marsden Conservation Area and Ottiwells Terrace is one of the three streets of terraces consisting of five long rows of cottages. The houses on this street date back to the early 20<sup>th</sup> Century and they are typical of mill worker's housing of the late 19<sup>th</sup> and early 20<sup>th</sup> Centuries with hammer dressed stone external walls, ashlar stone window and door surrounds and the repetitive design of windows and doors along the terrace.

- 2.2 The dwellings within the terraced row are typified by low stone boundary walls with gate posts around small front gardens, some of which have hedges, short railings or low dividing boundary fences. The boundary treatments are, in the main, at low level and in keeping with the character of the terrace by the use of traditional materials.
- 2.3 The site is located in mainly residential area with the vicinity comprising of mainly terraced properties. The rear elevations of the properties facing the application site are relatively modern detached properties.

### **3.0 PROPOSAL:**

- 3.1 The application seeks permission for the erection of a cat cage and garden shed to the front of the property. At the time of the site visit, the cat cage and shed had been constructed and in situ at the property.
- 3.2 The proposed cage encompasses most of the front garden area projecting forward of the front elevation of the property by 4.1 metres and 3.4 metres in width. The shed sits within the garden area enclosed by the cage and abuts the front and side boundaries of the property being a depth of 2.65 metres and a width of 1.75 metres. The structure sits upon 0.3 metre high decking.
- 3.3 The shed is clad with a shiplap finish and the fencing is a lattice style. The cage itself is a T bar steel frame with a grey/silver finish.
- 3.4 The submitted Design and Access Statement states that the cage is required to provide a safe outdoors space for the young cats/kittens at the property and protect them from loss or harm and prevents them causing motor accidents. It also cites that the structure makes the house more secure and stops people throwing litter in the garden or sitting on the wall and also from theft of the stone. The Statement goes on to say that the shed provides much needed outside storage as well as an enclosed seating area for the summer months. It has been designed to give privacy in the living room and the cats somewhere to run off energy using the roof.

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

- 4.1 No planning history
- 4.2 Enforcement history: COMP/18/0297  
Alleged unauthorised structure – under investigation

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

- 5.1 No negotiations have taken place nor have amended plans been sought or received. This is due to the application seeking retrospective permission for development which has already taken place.

### **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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

6.2 The site is within the Marsden Conservation Area within the Kirklees Local Plan.

6.3 Kirklees Local Plan (as modified):

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP21** – Highway safety and access
- **LP24** – Design
- **LP35** – Historic environment

6.4 Supplementary Planning Guidance / Documents:

Marsden Conservation Area Appraisal

6.5 National Planning Guidance:

- **Chapter 12** – Achieving well-designed places
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

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

7.1 The application was publicised by letters, press notice and site notice. The period of publicity expired 26<sup>th</sup> April 2019. 16 letters of representation have been received with 9 representations against the proposal, 7 representations in support of the proposal and 1 general comment in response to the representations from the applicant regarding the proposal. The following is a summary of responses:

### Objections

- Visual amenity issues: Far too large for the size of the front elevation, creates an eyesore, is unsightly and doesn't blend in with surroundings (including when seen from a distance)
- Highway safety issues: wooden sheds create a blind spot for vehicles turning the corner which blocks view for oncoming children and traffic, close to a public footpath and create danger for users.
- Residential Amenity issues: The shed/cat cage seems to have been fitted with electric and lights up most evenings appearing to have a use which is more than a shed giving concerns regarding noise when used for social occasions

### Supporting comments

- Good quality materials used and not out of keeping with the surrounding and other adjacent buildings
- No detriment to the environment and no detracting from the natural beauty of the area
- It is an end house with no view, it is not an eyesore
- Photographs demonstrating other structures within the area including hedges and sheds

### Non material issues:

- Devalues other houses in the terrace
- Cage is amazing
- Protects animal from straying onto the roads
- Believe it is intended for breeding and the sale of cats
- It is not to be used for the breeding of cats and the cats are none breeding cats as terms of contracts given at adoption to each family, confirmation is given that neutering has been completed on each rescue cat

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K.C. Conservation and Design – object due to the impact on the host property and wider Conservation Area

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

West Yorkshire Police – advice given regarding mitigation security measures

K.C. Public Rights of Way – No comment due to being retrospective application

## **9.0 MAIN ISSUES**

- Principle of development
- Impact on the Conservation Area/visual amenity
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations
- Conclusion

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site is within the Marsden Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. Policy LP35 requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and to ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.

## Impact on the Conservation Area/visual amenity

### *Information submitted with regards to significance*

- 10.2 Paragraph 189 of the National Planning Policy Framework requires that applicants describe the significance of any heritage assets affected, including any contribution made by their setting. The applicant has provided a Design and Access Statement which falls short of the tests set out in paragraph 189. The development shows limited regard to the significance of the Conservation Area by obscuring a considerable amount of the façade and introducing a dominant and incompatible feature in the front garden where the significance lies in the visibility of the line of facades and the low boundary features. The use of a grey metal framework and mesh for the cage structure on such a large scale is out of keeping with the terrace.

### Impact of the proposal on the significance on the Conservation Area

- 10.3 Policy LP24 requires that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape and minimise impact on residential amenity of future and neighbouring occupiers.
- 10.4 Paragraph 193 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset the Local Planning Authority should give great weight to the heritage asset's conservation irrespective of harm.
- 10.5 The proposed cat cage extends across almost the full width of the dwelling and covers the depth of the front garden set down from the first floor windows by 0.7 metres. The shed sits within this caged area. Its mass erodes the streetscape of the terraced row resulting in an overly prominent and incongruous form in the previously open front garden area, resulting in the loss of the strong linear form of the row.
- 10.6 As cited within the consultation response from the Conservation and Design Officer, the terraced mill worker's houses are characterised by the repetition of the facades and low boundary features in the front gardens. It is considered that this large structure causes less than substantial harm to the character and significance of the Conservation Area by obscuring a considerable amount of the façade and introducing a dominant and incompatible feature in the front garden. Whilst it is noted that the application site is the end of a terraced row, the repetition of the terrace and the view along it is interrupted by the introduction of the large structure and therefore harm is caused to its distinct character.
- 10.7 It is not considered that it has not been demonstrated that public benefits outweigh the harm to the character and significance of the Conservation Area.

### Justification for the harm to significance

- 10.8 Paragraph 194 of the NNPF requires that the Local Planning Authority should require clear and convincing justification for any harm.

- 10.9 The applicant's Design and Access Statement states that the use of woodwork and the cage typifies Marsden's industrial heritage and improves the appearance of the dwelling and improves the view as the shed partially hides the neglected woodland and dilapidated sheds and rubbish and old fences in the allotments. As set out above, it is considered that the justification submitted falls short of being clear and convincing as required by paragraph 194 of the National Planning Policy Framework.
- 10.10 As such, it is considered that the cat cage and shed result in an unacceptable form of development from a visual amenity and Conservation Area perspective and would be contrary to Policies LP24 and LP35 of the Kirklees Local Plan as well as the aims of Chapters 12 and 16 of the National Planning Policy Framework.

#### Impact on residential amenity

- 10.11 The cat cage and shed are effectively single storey in height and set in from the boundary with the adjoining property, No. 21. As the elevation facing the neighbour is the framework and mesh of the cage with the door to the neighbouring property being adjacent to the boundary, it is not considered to cause significant harm by virtue of overshadowing or, on balance, by being overbearing. The rear elevation of the properties on Deer Hill Drive would face the application site but a separated from the structure by a boundary wall and Ottiwells Terrace.

#### Impact on highway safety

- 10.12 The proposal does not result in an intensification of the use of the dwelling and does not result in a loss of parking provision or access arrangements. However, visibility has been reduced when accessing the rear of the properties raising concerns regarding highway safety issues and thus not compliant with Policy PLP21 of the Kirklees Local Plan. However, when considering the implications of the proposal on highway safety, it is noted that Ottiwells Terrace and the road connected to the rear of the terrace are privately owned, unadopted roads with the GIS System not indicating that these roads are connected to the side of the application site. Whilst they are used for vehicular access traffic speeds are low and given this it is considered that on balance, there is not a materially detrimental impact on highway safety or the users of any public right of way running close to the site.

#### Other matters

- 10.13 The site is located within the Council's GIS bat alert layer however, it is not identified on the map as having bat roosts and the proposal does not interfere with the existing roof of the property. As such, it is not considered that a Bat Survey is required in this instance.

#### Representations

- 10.14 16 letters of representation were received as part of the public consultation process for the application. Insofar as they have not been addressed in the report above, comments are summarised below with the Local Planning Authority response. Letters in support of the application are noted.

## Objections

- Visual Amenity Issues:  
See paras 10.2-10.10 of the assessment.
- Highway Safety Issues  
See para 10.12
- The shed/cat cage seems to have been fitted with electric and lights up most evenings appearing to have a use which is more than a shed giving concerns regarding noise when used for social occasions  
Response: This is a matter for the Environmental Services team to address via their complaints procedure regarding light and/or noise pollution.

## **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 means in practice.
- 11.2 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposal does not accord with the development plan and that the application of policies within the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.

### **Background Papers:**

Application web page:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90623>

Certificate of Ownership – Certificate A signed and dated 24<sup>th</sup> February 2019