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**Report of the Head of Planning and Development****HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 13-Feb-2020****Subject: Planning Application 2019/93617 Erection of detached dwelling adj,  
The Hall, Liversedge Hall Lane, Liversedge, WF15 7DP****APPLICANT**

Mrs Franklyn

**DATE VALID**

05-Nov-2019

**TARGET DATE**

31-Dec-2019

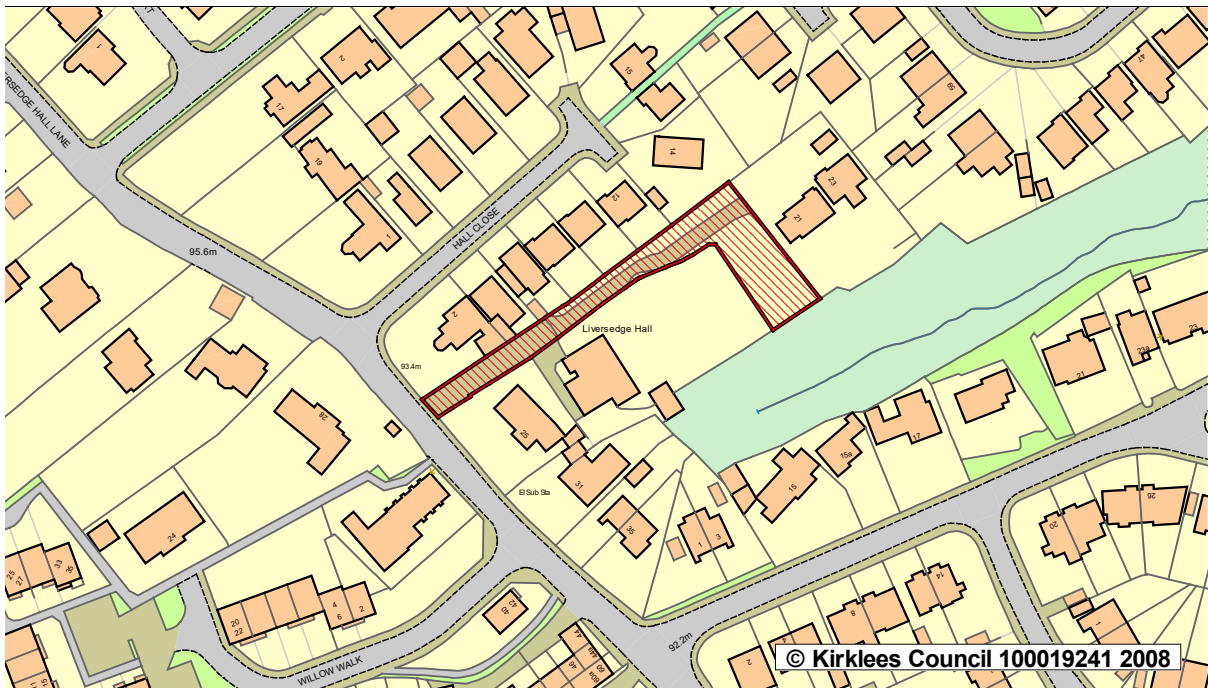
**EXTENSION EXPIRY DATE**

20-Feb-2020

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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: Heckmondwike**

YES

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:****REFUSE**

**1. The proposed dwelling within the garden of Liversedge Hall would cause a high level of harm to the significance of the Grade II Listed Building. It would also impact upon the aesthetic and historical value of the Hall by reason of its visibility from the Hall, result in the loss of soft landscaping and further reduce land associated with it since the proposed dwelling, together with the existing two dwellings developed in the garden area would leave it with only half of the gardens that it benefitted from when re-modelling took place in the late 19th Century, and a fragment of the land to which it was associated from the medieval period until the early 20th Century. The installation of a blue plaque to raise awareness of the history of the Hall has been proposed by the applicant and would be of a public benefit, albeit limited in nature when weighed against the high level of harm of the proposed house on the setting of the listed building. As such, the public heritage benefits are not outweighed by the high level of harm to the setting of Liversedge Hall and the principle of the proposed house is unacceptable, contrary to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies LP24 and LP35 of the Kirklees Local Plan, as well as chapters 12 and 16 (particularly paragraphs 194 and 196) of the National Planning Policy Framework'**

**1.0 INTRODUCTION:**

- 1.1 On the 17<sup>th</sup> October 2019 Heavy Woollen Planning Committee refused planning application 2019/91346 for erection of detached dwelling with integral garage on the same plot of land as the current application.
- 1.2 The current proposal is very similar to that previously refused. In relation to the previously refused application 2019/91346, the integral garage has been omitted and as such, the overall width of the dwelling reduced by approximately 4.8 metres (which increases the separation distance to the listed building by the same amount), there have been very limited alterations to the external design, scale, massing, height and position of the main dwelling proposed. In officers' opinion, these are not sufficient to overcome the reasons for refusal of the previous application.

- 1.3 Due to the previous involvement of Committee Members the current proposal is brought forward, by officers, to the Heavy Woollen planning sub-committee for determination. This is in accordance with the Council's Scheme of Delegation.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The site is identified as land adjacent to The Hall, Liversedge Hall Lane, Liversedge. The site is roughly rectangular, approximately 18.0m wide x 37m deep, and is currently a relatively level garden lawn associated with Liversedge Hall. It is accessed via a tarmacked driveway serving the Hall and two detached houses at 21 and 23, Liversedge Hall Lane.
- 2.2 To the north is a small residential cul-de-sac of detached dwellings and to the south is a strip of woodland. To the east are detached dwellings at 21 and 23, Liversedge Hall Lane with more housing beyond, and to the west is Liversedge Hall, and further housing.
- 2.3 The site is unallocated on the Kirklees Local Plan, although to the south is woodland protected by a Tree Preservation Order and allocated Urban Greenspace on the Kirklees Local Plan.
- 2.4 The site is within the setting of a listed Building (Liversedge Hall).

## **3.0 PROPOSAL:**

- 3.1 The application is for the erection of one detached dwelling.
- 3.2 It is a one and a half storey, 2 bedroom house, with the bedrooms in the roof space. The eaves would be around 2.8m high and the ridge height would be approximately 6.6m. There would be dormer windows to habitable rooms in the north western and south eastern elevations, whilst the gable ends to the north eastern and south western elevations would be blank except for a side door in each. There is a projecting element from the south eastern elevation providing additional space for living-room 2, and a small porch over the front doorway to the opposite elevation.
- 3.3 The external walls would be coursed natural stonework and the roof would be surfaced in artificial stone slates. The windows would be aluminium framed glazing (coloured dark grey) and the dormers would be of timber. The projecting element at the back would have a dwarf wall with timber framework above, dark grey aluminium window frames and artificial stone slate roof.
- 3.4 There would be two parking spaces on driveway to the front of the dwelling together with rectangular area of garden. To the rear would be a patio and larger garden space.
- 3.5 To the north is a residential cul-de-sac, to the south is woodland, to the east are associated houses and to the west is Liversedge Hall and its garden.

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

- 4.1 **2019/91346** – Erection of detached dwelling with integral garage. Refused.  
<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2F91346>

**2018/92724** – erection of detached dwelling with integral garage. Withdrawn.  
<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F92724>

**1994/91360** – Outline application for erection of 2no dwellings. Conditional outline permission.  
<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=94/91360>

**1995/91780** – Reserved matters application for erection of 2 no detached, 2-storey houses with garages. Granted approval of reserved matters.  
<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=95/91780>

**1995/90226** – relocation of garage. Conditional full permission.  
<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=95/90226>

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

- 5.1 No negotiations have taken place during the course of this application.

#### **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).

The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan (2019):

- 6.2 **LP 1** – Presumption in favour of sustainable development  
**LP 2** – Place shaping  
**LP 11** – Housing mix and affordable housing  
**LP 21** – Highway safety and access  
**LP 22** – Parking  
**LP 24** – Design  
**LP 30** – Biodiversity and geodiversity  
**LP 33** – Trees  
**LP 35** – Historic Environment  
**LP 38** – Minerals and safeguarding  
**LP 51** – Protection and improvement of local air quality  
**LP 52** – Protection and improvement of environmental quality  
**LP 53** – Contaminated and unstable land  
**LP 61** – Urban Greenspace

### National Planning Guidance:

- 6.3    **Chapter 5** - Delivering a sufficient supply of homes  
      **Chapter 11** - Making effective use of land  
      **Chapter 12** - Achieving well-designed places  
      **Chapter 15** - Conserving and enhancing the natural environment  
      **Chapter 16** - Conserving and enhancing the historic environment

### Supplementary Planning Guidance:

- 6.4    Highways Design Guide Supplementary Planning Document

West Yorkshire Low Emissions Strategy and Air Quality and Emissions  
Technical Planning Guidance

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

- 7.1    The application has been advertised by neighbour notification letter, press notice and site notice.
- 7.2    Eight representations were received following a period of public consultation. A summary of the comments received is set out below.

### Objections (1)

- The proposal would have an adverse impact upon residential amenities of occupiers of adjacent properties.
- Considering two similar applications have already been rejected on historical ground, what has altered from a historical point of view?
- It appears that the new application soon after the last one was rejected suggests some agreement may have been made.

### Support (7)

- It will not have a negative impact upon the current residential situation and will enhance the area.
- It is far enough away from the Hall to ensure that it does not spoil the heritage features and its setting.
- The proposed blue plaque will increase local awareness and put it on the heritage trail of Kirklees.
- The proposal is very similar to another planning application nearby (Duxbury Hall, Roberttown).
- The development will allow family to remain close for essential support

### Ward Member response

Cllr Kendrick has commented that *'I understand that this application is scheduled to be heard at the Planning Sub-Committee on 13<sup>th</sup> February and I would like to attend to speak in support of this application'*.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**K C Highways Development Management** – No objection subject to a condition relating to areas to be surfaced and drained.

**K C Environmental Health** – No objections subject to a conditions relating to submission of phase 1, phase 2, contaminated land reports and assessments, and an electric vehicle charge point

**The Coal Authority** – No objection to current planning application, however direct to comments and recommendations contained with consultation response letter of 24<sup>th</sup> September 2018 in respect to 2018/92724 which remain valid and acceptable for the current proposal

### 8.2 Non-statutory:

**K C Conservation and Design** – Object. It would cause a high level of harm to the significance of the listed building. It would also impact upon the historical value of the Hall by further reducing the land associated with it. Any harm to, or loss of, the significance of a designated heritage asset, should require clear and convincing justification. There would be a high level of harm, but the harm would be less than substantial harm.

The proposal should be refused unless a special case is made with regards to the applicant's personal circumstances that are considered to be exceptional, justified and outweigh the harm of the proposed development to the significance of the listed building.

**K C Ecology** – comments given in response to planning refusal 2019/91346 - No objections subject to removal of PD rights and / or amending the red line boundary to exclude the TPO'd area.

**K C Arboricultural officer** – No objections subject to condition relating to protective fencing around protected trees.

**West Yorkshire Archaeology Advisory Service** – advice the same as previously refused application 2019/91346. No objection subject to an appropriate level of archaeological observation and recording to be carried out during development (an archaeological watching brief), secured by either of two suggested conditions.

They strongly advise that the developer be advised that a reasonable period of time for the execution of the necessary archaeological work must be allowed for within the overall site timetable

## 9.0 MAIN ISSUES

- Principle of development
- Visual amenity / local character issues
- Residential amenity
- Highway issues
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 Policy LP1 of the Kirklees local Plan states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan (KLP) will be approved without delay, unless material considerations indicate otherwise.
- 10.2 The footprint of the proposed dwellinghouse and associated garden are on land that is unallocated on the KLP but within the setting of Liversedge Hall, a Grade II Listed Building, a heritage asset of national importance. These are material considerations.
- 10.3 It is noted that this application, currently under consideration, follows planning refusal 2019/91346 for erection of detached dwelling with integral garage, approximately 4 months ago.
- 10.4 Planning refusal 2019/91346 was for a 4 bedroomed detached house in the same location on slightly wider plot and the reason for refusal was as follows:

*'The proposed 4 bedroom detached house within the garden of Liversedge Hall would cause a high level of harm to the significance of the Grade II Listed Building. It would impact upon the aesthetic and historical value of the Hall by reason of its visibility from the Hall, result in the loss of soft landscaping and further reduce land associated with it since the proposed dwelling, together with the existing two dwellings developed in the garden area would leave it with only half of the gardens that it benefitted from when re-modelling took place in the late 19th Century, and a fragment of the land to which it was associated from the medieval period until the early 20th Century.'*

*The installation of a blue plaque to raise awareness of the history of the Hall has been proposed by the applicant and would be of a public benefit, albeit limited in nature when weighed against the high level of harm of the proposed house on the setting of the listed building.*

*As such, the public heritage benefits are not outweighed by the high level of harm to the setting of Liversedge Hall and the principle of the proposed house is unacceptable, contrary to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies LP24 and LP35 of the Kirklees Local Plan, as well as chapters 12 and 16 (particularly paragraphs 194 and 196) of the National Planning Policy Framework'.*

- 10.5 The current proposal is a 2 bedroom detached dwelling of similar design (without integral garage) and proportions as previously refused, around 4.8m further from the facing elevation of Liversedge Hall now that the proposed integral garage has been removed.

- 10.6 In more detail, the integral garage has been removed allowing the width of the plot to be reduced by approximately 4.8m. Around 1.0m has also been removed off the width of the proposed dwelling but there are no appreciable differences in the eaves or ridge height, nor the depth of the footprint and it would remain a one and a half storey building with two dormer windows in the front and rear roof slopes.
- 10.7 The projection of one of the living rooms projecting at the back has been increased approximately 1.0m and re-positioned centrally on the rear elevation.
- 10.8 Internally, at ground floor level, the previously proposed bedrooms have been removed and the bathroom enlarged to provide wheelchair accessibility. The stairs have been re-positioned and indicate a stair lift. At first floor level, there would be two bedrooms with en-suite toilets baths.
- 10.9 Externally, the current proposal would retain two car parking spaces and a smaller area of garden to the front, at the back would be a similar sized patio and slightly less garden / lawn area. There would now be one new doorway in either side elevation. In the front and rear elevations, the windows and doors would be the same (albeit repositioned in the rear elevation) and there would be three further velux roof light, two to the front and one at the back. The facing materials would be the same as previously proposed, predominantly coursed natural stone walls and the proposed roofing materials would be artificial stone slates as opposed to stone slates (which were previously proposed). The proposed western boundary wall would be as previously proposed, 1.2m high and built of stone.
- 10.10 No additional public heritage benefits have been proposed.
- 10.11 In summary, the main difference is the omission of integral garage allowing the width of the plot to be reduced by approximately one third which increases the separation distance between the front of Liversedge Hall and the nearest boundary of the proposed plot by around 4.8m. However, in officers' opinion there have been very limited alterations to the external design, scale, massing, height and position of the remaining part of the proposed dwelling (with proportionate external private amenity space). It is roughly the same as previously refused.
- 10.12 As such, forming a slightly narrower plot would not, in the opinion of officers, overcome the harm the proposed dwelling would have upon the setting of Liversedge Hall Listed building. The proposed public benefits remain the same as previously refused and these relatively limited benefits do not outweigh the harm of the proposed dwelling on the setting of the Listed building. In officers' opinion the current proposal would not overcome the reason for refusal of the previous application.

*Impact upon setting of heritage asset:*

Policy context:

- 10.13 In terms of assessing the impact upon the setting of this grade II listed building heritage asset, the Council have a statutory duty under s.66 of the Planning (Listed Buildings and Conservation Area) Act 1990 to have special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest which it possesses.



- 10.14 Chapter 16 of the NPPF, reflects and expands upon this. In paragraph 193 it requires that *'when considering the potential impact of a proposed development on the significance of a designated heritage asset, great weight should be given the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance'*.
- 10.15 In paragraphs 194 and 196 of the NPPF, it goes on to say that *'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.'*  
*'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.*
- 10.16 Policies LP24 (design) and LP35 (historic environment) of the KLP are also relevant. Policy LP24 of the KLP states that proposals should promote good design by ensuring (amongst other things) that the form, scale, layout and details of all development respects and enhances the character of heritage assets. Policy LP35 of the KLP requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development.
- 10.17 In this instance the application has been accompanied by a heritage statement prepared by a special heritage consultant. It has been slightly updated to reflect the current proposal and circumstances of the applicant, however the historical background information and assessment is the same as considered as part of the previously refused application. It is however noted that it infers that the newly revised development proposals would be at a much lower level than the Hall and with a lower profile in relation to the nearest existing house. However, having assessed the submitted plans, officers can confirm that these are the same as the refused application.
- 10.18 The Council's Conservation and Design experts have also assessed the proposal. Both are referred to below

*History and development of Liversedge Hall:*

- 10.19 Historical records indicate that there has been a dwelling on the site of Liversedge Hall since at least the 13<sup>th</sup> Century. Most notable associations have been with the de Liversege family (from which the Hall and township takes its name), and the Neville family which were one of the most powerful in late medieval England.
- 10.20 In the late 15<sup>th</sup> Century the building was a hall house facing in a southerly direction comprising a central hall and two cross wings to the east and west.

- 10.21 The 1854 OS map shows that Liversedge Hall was the centre of an agricultural estate surrounded by associated yards, agricultural buildings, orchard, woodlands and gardens. Beyond were associated fields.
- 10.22 By the late 19<sup>th</sup> Century the west wing of the Hall had been demolished and the building remodelled to face north east. But despite these extensive changes, works respected the historical development of the building. What survives to the present day is the east wing, staircase tower and part of the hall range.
- 10.23 Also by this time, the landscaping around the Hall was altering. New buildings were being constructed to the south east and south west, and an area of farmland and orchard was enclosed to form a garden to the north east of the Hall and this is the site of the proposed development.
- 10.24 By the early 20<sup>th</sup> Century the garden appears to have been extended to the north east, to take in a small field and this was developed with two houses in the late 20<sup>th</sup> Century. In between time, residential piecemeal development began to surround the Hall, and in 1967, Liversedge Hall was listed.

*Significance of heritage assets affected*

- 10.25 There is some difference of opinion on this between the author of the heritage impact assessment submitted with the application and that of the Council's Conservation and Design team. The former makes the point that historically the main façade of the building faced south and therefore formal gardens relating to it would have been on that side of the building, not the eastern side where it is currently. They continue that what is now the principal frontage, together with the garden which provides its setting, is probably less than 150 years old, articulating a Victorian residence, not the 17<sup>th</sup> Century and earlier gentry house that is cited in the List entry. They go on to say that to build a detached house in the garden to the east of the Hall is unlikely to uncover significant archaeological remains for the reasons above, and would in any case presumably be covered by a condition requiring an appropriate level of investigation.
- 10.26 West Yorkshire Archaeology and Advisory Service confirm that an archaeological watching brief is recommended and suggest two alternative conditions. This is on the basis that little is currently known of the Hall's context prior to the mid 19<sup>th</sup> Century and it is possible that the application site may contain evidence of both the medieval Neville manor and features associated with the gardens of the 16<sup>th</sup> century and later Liversedge Hall.
- 10.27 In the Council's Conservation and Design officer's opinion, Liversedge Hall has archaeological value for its potential to yield information about the form and layout of the late 15<sup>th</sup> Century Hall and earlier structures at the site. It also has high historical value for its association with the de Liversedge and Neville families, and as a good example of a high-status gentleman's residence of the 17<sup>th</sup> Century. It has some historical value as an example of a re-modelled Hall perhaps reflecting concerns in the late 19<sup>th</sup> Century about the loss of ancient buildings. It has high aesthetic value as a good example of a 17<sup>th</sup> Century gentleman's residence, which has been re-modelled in the late 19<sup>th</sup> Century, in keeping with the earlier design of the Hall.

### *Setting of the heritage assets affected*

- 10.28 Here again there is a difference of opinion between the author of the heritage impact assessment and the Council's Conservation and Design team. The former's stance is that the setting of Liversedge Hall is now uncompromisingly suburban as a result of residential developments during the second half of the 20<sup>th</sup> century. It assesses views to and from the heritage asset and in summary concludes that distant views are to a great extent obscured by surrounding development.
- 10.29 The Conservation and Design team take the view that every Listed building is unique in its setting and that the remaining gardens to the east and woodland to the south east of Liversedge Hall are key components of its setting and make an important contribution to its significance. They point out that the Hall once had an extensive landscape setting as the centre of a working farm and that this has diminished to a critical degree in the 20<sup>th</sup> Century by piecemeal development, so all that remains is the present garden and woodland, which makes an important contribution to understanding its historical value.
- 10.30 They acknowledge that the current gardens were laid out as part of remodelling the Hall in the late 19<sup>th</sup> Century, however the Hall was redesigned to overlook the gardens and the gardens provide a space in which to appreciate the Hall.
- 10.31 They go on to say that little is currently known of the Halls context prior to the mid 19<sup>th</sup> century and it is possible that the application may contain evidence of both the medieval Neville manor and features associated with the gardens of the 16<sup>th</sup> Century Liversedge Hall. The gardens are therefore important for their evidential value.

### *Impact of the proposal on significance:*

- 10.32 The Heritage Impact Assessment asserts that the proposed dwelling would essentially reduce the viewing distance between the Hall and the nearest house on the eastern side by approximately 10.0m, but this would not prevent viewers looking in a western direction to the Hall, appreciating the full extent and character of its east façade. In addition the impact of the proposed dwelling on the view from the Hall in an eastern direction would be reduced by the revised new dwelling being at a much lower level than the Hall, and its lower profile in relation to the nearer existing house. In officers' opinion the currently proposed new dwelling is at the same level and has virtually the same profile as previously refused under planning refusal 2019/91346.
- 10.33 The West Yorkshire Archaeological Advisory Service also comment that the proposed development may disturb and destroy important archaeological evidence of the medieval and later activity adjacent to the listed hall and a pre 16<sup>th</sup> century manor house.
- 10.34 In the opinion of officers, the proposed 2 bedroom detached house of one and a half storeys within the garden of Liversedge Hall would cause a high level of harm to the significance of the Listed Building. It would also impact upon the historical value of the Hall by further reducing land associated with it. The proposed dwelling, together with the existing two dwellings developed in the garden area would leave it with only half of the gardens that it benefitted from when re-modelling took place in the late 19<sup>th</sup> Century, and a fragment of the

land to which it was associated from the medieval period until the early 20<sup>th</sup> Century. This impact could not be mitigated, except by the construction of a temporary building and this would not be a reasonable proposition.

- 10.35 The erection of the proposed dwelling would impact upon its aesthetic value by reason of its visibility from the Hall, the loss of soft landscaping and reducing the space in which to appreciate the Hall from the gardens.
- 10.36 The proposal may also disturb and destroy important archaeological evidence of the medieval and later activity adjacent to the Listed Building and a pre 16<sup>th</sup> Century manor house. This impact could however be mitigated by an appropriate level of archaeological observation and recording.
- 10.37 As stated in paragraph 194 of the NPPF, any harm to, or loss of, the significance of a designated heritage asset (including from development within its setting), should require clear and convincing justification. In this instance the stated reason for the development is to provide a new home for the Hall's elderly owner, to allow the family to provide care for this family member in close proximity. Whilst this is the case it is the principle of a house at the application site which is unacceptable due to its harm upon the setting of Liversedge Hall, and as such very limited weight is given to this reason for the development
- 10.38 It is also noted that the Heritage Impact Assessment states that the proposal includes enhancement in the form of interpretation of the heritage asset for the benefit of the public. This is welcomed and would be of some limited public benefit to the historic environment, but would not outweigh the high level of harm to the setting of Liversedge Hall as a result of the proposed dwellings.

*Summary:*

- 10.39 To conclude, the proposed 2 bedroom detached house within the garden of Liversedge Hall would cause a high level of harm to the significance of the Grade II Listed Building. It would impact upon the aesthetic and historical value of the Hall by reason of its visibility from the Hall, result in the loss of soft landscaping and further reduce land associated with it since the proposed dwelling, together with the existing two dwellings developed in the garden area would leave it with only half of the gardens that it benefitted from when re-modelling took place in the late 19<sup>th</sup> Century, and a fragment of the land to which it was associated from the medieval period until the early 20<sup>th</sup> Century. The installation of a blue plaque to raise awareness of the history of the Hall has been proposed by the applicant and would be of a public benefit, albeit limited in nature when weighed against the high level of harm of the proposed house on the setting of the listed building. As such, the public heritage benefits are not outweighed by the high level of harm to the setting of Liversedge Hall and the principle of the proposed house is unacceptable, contrary to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies LP24 and LP35 of the Kirklees Local Plan, as well as chapters 12 and 16 (particularly paragraphs 194 and 196) of the NPPF.
- 10.40 In relation to the previously refused application 2019/91346, whilst the integral garage has been omitted and the width of the plot reduced around 4.8m, (which increases the separation distance to the listed building the same amount), there have been very limited alterations to the external design, scale, massing, height and position of the remaining part of the proposed dwelling. The proposal does therefore not overcome the reasons for refusal of the previous application.

### Visual amenity / local character issues

- 10.41 Policy LP24 of the KLP states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. This is supported by the National Planning Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local character ....while not preventing or discouraging appropriate innovation or change (para.127 of the NPPF).
- 10.42 In this instance it is considered that the design and appearance of the proposed house would be in keeping with the architectural style and materials of the existing houses on adjacent land to the east. However, due to its position, which remains in close proximity to the listed Liversedge Hall, and that it would still reduce the land associated with the setting of Liversedge Hall, it is considered that the principle of the proposed development fails to respect and enhance the character of the heritage asset. As such, the proposal would fail to promote good design, contrary to policy LP24 (a) of the KLP and the aims of chapter 12 of the NPPF.

### Residential Amenity

- 10.43 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 (b) of the KLP states that proposals should promote good design by ensuring that they provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.
- 10.44 The closest neighbouring dwelling which could be impacted by the proposed development is 21, Liversedge Hall Road, which is a 2-storey detached house to the east of the application site. Although it is on adjacent land also in the ownership of the applicant consideration should be given to any future occupants of the building should it be sold.
- 10.45 In terms of an overbearing or overshadowing impact, given that the ridge and eaves heights of the proposed house are significantly below that of this neighbouring property and there would be a separation distance of at least around 3.8m between closest facing elevations, it is considered that there would be relatively limited impact of this nature.
- 10.46 In terms of overlooking, both the facing gable elevations would be blank apart from a new door way in the side elevation of the proposed dwelling, and whilst an element of the proposed building which projects to the rear would be to a living room and have windows in the side elevation, there would be a distance of around 4.0m to the mutual boundary with tall shrubs on the boundary.
- 10.47 In this context, it is considered that there would be limited adverse impact upon the residential amenities of the occupiers of this neighbouring property.

- 10.48 The next nearest neighbouring property is at 14, Hall Close. It is a detached bungalow located to the north of the proposed house on slightly raised ground. The separation distance between the closest parts of each is approximately 22.5m, with access driveway (to 21 & 23, Liversedge Hall Lane) and border planting in between, together with what appears to be a dry stone wall on the mutual boundary. Given this separation distance, together with an indirect relationship between windows on each property, and that the application site is on lower ground, it is considered that there would be no material overshadowing effect and any overlooking impact would be at a significant distance and at an oblique angle.
- 10.49 In these circumstances it is also considered that there would be very limited adverse impact upon the residential amenities of the occupiers of this neighbouring property.
- 10.50 No. 12, Hall Close is a detached 2-storey house located to the north west of the application site. It is further away from the proposed building than the bungalow at no. 14, Hall Close, and again there would be no direct relationship between windows, with similar features and boundary treatment in between. As such, there would be no significant impact upon the residential amenities of the occupants of this neighbouring property.
- 10.51 No other neighbouring properties would be affected by the proposal.
- 10.52 Overall, it is considered that the proposal would provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings, and is compliant with Policy LP24 of the KLP in regard to the amenity of future and neighbouring occupiers.

#### Highway issues

- 10.53 The proposed dwelling would be accessed from Liversedge Hall Road via a private driveway shared with three other houses. The proposed development consists of a two bedroom dwelling with 2 off access road parking likely to accommodate two vehicles.
- 10.54 These proposals are considered acceptable from a highways perspective, provided there is a condition attached relating to areas to be surfaced and drained, prior to the development being brought into use. As such, with the inclusion of such a condition should planning permission be granted, the proposal is compliant with policies LP21 and LP22 of the KLP.

#### Coal Mining legacy:

- 10.55 The application site falls within the defined high risk development area, therefore, within the application site and surrounding area there are coal mining features and hazards which would need to be considered. As required for planning refusal 2019/93617, the applicant has re-submitted the Coal Mining Risk Assessment (dated August 2018) by JNP Group consulting engineers. The report concludes that recorded coal workings were at sufficient depths to pose no risk of mining subsidence at the ground surface, and given that Liversedge Hall was built circa 1600, it is considered unlikely that coal has been mined at shallow depth beneath the site since that date, however the potential for near surface coal extraction prior to construction of the Hall cannot be

discounted. Therefore they advise further site specific investigations to mitigate, or at least enable better estimation of the risks. Accordingly, appropriate recommendations are made that intrusive ground investigation works are considered necessary.

- 10.56 Following consultation with the Coal Authority, they confirm that they have no objection and refer back to a response to previously withdrawn application 2018/92724 which remain valid and applicable to the current proposal. In the previous response they recommended a condition for the results of the site investigations to be submitted to the Local Planning Authority to evidence that the site can be made safe and stable for the proposed development. This is acceptable and in accordance with Chapter 15 of the NPPF and Policy LP 53 of the KLP.

#### Contaminated Land:

- 10.57 Chapter 15 of the NPPF and Policy LP53 of the KLP require that proposals be assessed in light of available information relating to contamination of unstable land.
- 10.58 In this instance, the Council's Environmental Health officers have been consulted and commented that they have concerns that the garden levels may have been made up with ash and clinker. They also note the findings of the coal mining risk assessment that identified the potential for historic shallow mining at the site. They therefore recommend pre-commencement condition relating to submission of phase 1 and phase 2 site investigation reports should planning permission be granted.

#### Air quality:

- 10.59 Chapter 15 of the NPPF and Policy LP 51 of the KLP require local planning authorities to promote low carbon forms of transport. As such, the Council's Environmental Health officers require that an electric vehicle charging point is installed at the proposed dwelling. Provided that this is applied, should planning permission be granted, the proposal would comply with Policies LP21 and LP 51 of the KLP and the aims of chapter 15 of the NPPF.

#### Climate Change:

- 10.60 Chapter 12 of the Local Plan relates to climate change and states that: "Effective spatial planning is an important part of a successful response to climate changes as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development". This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and if planning permission were to be granted, the inclusion of electric vehicle charging point(s) would contribute positively to the aims of climate change.

#### Impact upon protected species (trees):

- 10.61 Chapter 15 of the NPPF and Policies LP24 and LP33 of the KLP require the retention of valuable or important trees to maximise visual amenity and environmental benefits.
- 10.62 In this instance, the red line boundary does not encompass part of a strip of woodland to the south which is subject to Tree Preservation Order 51/93. The Council's Arboricultural officers have been consulted and raised no objections subject to condition relating to protective fencing around protected trees on or adjacent the boundary of the site. Subject to this the proposal would not threaten woodland and is compliant with policies LP24 and LP33 of the Kirklees Local Plan.

#### Impacts upon ecology:

- 10.63 Habitats within the woodland are identified as priority habitats on Natural England's deciduous woodland inventory. As such policy LP30 of the KLP is relevant. It states that proposals will be required to protect Habitats and Species of Principal Importance unless the benefits of the development clearly outweigh the importance of the biodiversity interest, in which case long term compensatory measures will need to be secured.
- 10.64 The Council's Ecologist was consulted regarding the previously refused application 2019/91346 and stated that the existing woodland TPO provides some protection to the priority habitat. However, to ensure protection, they also suggest removing permitted development rights and/or amending the red line boundary to exclude the TPO'd area. Subject to this, there are no objections.
- 10.65 The current plans show the red line site boundary omitting the TPO'ed area. This overcomes concerns relating to preventing harm to woodland that provides protection for priority habitat, and so complies with policy LP30 of the Kirklees Local Plan.

#### Minerals and safeguarding:

- 10.66 Policy LP38 (minerals and safeguarding) of the Kirklees Local Plan applies because the site area is over 1000 square metres.
- 10.67 In this instance, the site is surrounded by residential development and a TPO'd woodland and therefore would have limited value as a minerals resource. However, should Members be minded to approve the application it is recommended that the application is delegated back to officers to seek an impact report from the agent.

#### Representations

- 10.68 8 representations were received following the period of public consultation. In so much as the points have not been addressed above, officers respond as follows:



### Objections (1)

The proposal would have an adverse impact upon residential amenities of occupiers of adjacent properties.

**Response:** The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report and considered to be acceptable from officers.

Considering two similar applications have already been rejected on historical ground, what has altered from a historical point of view?

**Response:** The impact of the proposal upon the setting of a listed building has been fully addressed in the above report and found by officers to be unacceptable.

It appears that the new application soon after the last one was rejected suggests some agreement may have been made.

**Response:** No agreement has been made prior to submission of the current planning application.

### Support (7)

It will not have a negative impact upon the current residential situation and will enhance the area.

**Response:** The comment in support is noted and has been considered in the above report.

It is far enough away from the Hall to ensure that it does not spoil the heritage features and its setting.

**Response:** The comment in support is noted and has been considered in the above report.

The proposed blue plaque will increase local awareness and put it on the heritage trail of Kirklees.

**Response:** This is acknowledged but in officers opinion is limited in nature when weighed against the high level of harm of the proposed house on the setting of the listed building

The proposal is very similar to another planning application nearby (Duxbury Hall, Roberttown).

**Response:** Each application is assessed on its individual merits and have been fully assessed above

The development will allow family to remain close for essential support.

**Response:** Noted however, the special circumstances put forward by the applicant are not considered to outweigh the harm to the setting of the designated heritage asset.

### Other matters:

- 10.69 There are no further material planning matters considered relevant to the determination of this application.

## **11.0 CONCLUSION**

- 11.1 Taking all material considerations into account, for the reasons outlined above, the proposed detached house within the garden of Liversedge Hall would cause a high level of harm to the significance of the Grade II Listed Building. It would impact upon the aesthetic and historical value of the Hall by reason of its visibility from the Hall, result in the loss of soft landscaping and further reduce land associated with it since the proposed dwelling, together with the existing two dwellings developed in the garden area would leave it with only half of the gardens that it benefitted from when re-modelling took place in the late 19<sup>th</sup> Century, and a fragment of the land to which it was associated from the medieval period until the early 20<sup>th</sup> Century. The installation of a blue plaque to raise awareness of the history of the Hall has been proposed by the applicant and would be of a public benefit, albeit limited in nature when weighed against the high level of harm of the proposed house on the setting of the listed building. As such, the public heritage benefits are not outweighed by the high level of harm to the setting of Liversedge Hall and the principle of the proposed house is unacceptable.
- 11.2 In relation to the previously refused application 2019/91346, whilst the integral garage has been omitted and the width of the plot reduced around 4.8m, (which increases the separation distance to the listed building the same amount), there have been very limited alterations to the external design, scale, massing, height and position of the remaining part of the proposed dwelling. The proposal does therefore not overcome the reasons for refusal of the previous application
- 11.3 The NPPF has introduced the 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 practise.
- 11.4 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 considerations. The application is therefore recommended for refusal.

### **Background Papers:**

Application and history files.

#### **2019/93617:**

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93617>

Certificate A signed and dated 31.10.2019

#### **Previously refused planning application 2019/91346:**

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91346>