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

**STRATEGIC PLANNING COMMITTEE**

**Date: 26-Aug-2020**

**Subject: Planning Application 2020/90609 Erection of detached car port and store (Listed Building within a Conservation Area) Tolson Cottage, Dean Brook Road, Armitage Bridge, Huddersfield, HD4 7PB**

**APPLICANT**

Mr & Mrs G Shaw

**DATE VALID**

17-Mar-2020

**TARGET DATE**

12-May-2020

**EXTENSION EXPIRY DATE**

10-Jun-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: Newsome**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE refusal of the application (for the reasons below) and the issuing of the decision notice to the Head of Planning and Development.

1. The proposed erection of a car port and store, and the formation of additional amenity space, would both by their nature be inappropriate development within the green belt. The proposed development would materially harm the openness of the green belt, and very special circumstances to justify why the proposed development should be allowed in this instance have not been demonstrated. The proposal is therefore contrary to the aims of Chapter 13 (paragraphs 143 to 145) of the National Planning Policy Framework, and Policy LP58 of the Kirklees Local Plan.

2. The proposed development would give rise to a further domestication of this part of the Armitage Bridge Conservation Area, which has historically been undeveloped, and would interrupt long-range views from Armitage Road into the fields beyond the site boundary, which are considered valuable to the character of the conservation area. It would thereby cause harm to the character of the conservation area, and although this is considered less than substantial, no public benefit has been demonstrated to justify the harm caused. The proposal is therefore contrary to the aims of Policy LP35 of the Kirklees Local Plan and Chapter 16 (paragraphs 195 to 196) of the National Planning Policy Framework.

3. The proposed development would involve substantial excavation within the root zone of a mature tree which is considered to be of significant amenity value, thereby jeopardising its long-term viability, contrary to the aims of Policy LP33 of the Kirklees Local Plan.

**1.0 INTRODUCTION:**

1.1 This application is brought before Strategic Committee for determination at the request of Cllr Andrew Cooper, who has also requested a site visit. The grounds for requesting a Committee decision are:

*"I am of the view that its construction would not be a significant detriment to the amenity of the conservation area and as such would ask that it be referred to Planning Committee if you are minded to recommend refusal. Liaison with the applicants over a method statement to protect the tree would be welcome to protect the tree and enable the application. I also request that Committee conduct a site visit if possible".*

1.2 The Committee Chair has confirmed that Cllr Cooper's request is valid.

1.3 The accompanying Listed Building Consent application (reference: 2020/90610) is awaiting determination. As there has been no request to have this application determined by Committee, it will be a delegated matter.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 Tolson Cottage is a semi-detached house in the Armitage Bridge Conservation Area and is Grade II Listed. The property, which is built in natural stone and stone slates, is two-storey and was originally part of a coach house built in the mid-19<sup>th</sup> Century that served Tolson House. It has had a link extension added to connect it to the single garage (which was subsequently converted to a kitchen / dining room).
- 2.2 Tolson Cottage is near the northwestern edge of the built-up part of Armitage Bridge. It forms part of an informal, staggered row of houses extending to the north-east which have a shared tarmac-surfaced access track to their rear, with open undeveloped land beyond. To the southeast is the main part of the settlement of Armitage Bridge which consists mainly of terraced houses. To its south-west side, Tolson Cottage is bounded by a paved access track leading to a former mill complex.
- 2.3 The land that is the subject of this application consists of a small area of tarmac hardsurfacing located between the shared access track and the open fields, used for parking associated with Tolson Cottage, together with some landscaping between the tarmac area and open fields consisting of raised beds with planting and a single mature tree.

## **3.0 PROPOSAL:**

- 3.1 The proposal is for the erection of a double car port and domestic store, and associated works. The building, laid out on a north-south orientation, would measure 7.85m in length, 5.6m in depth, and 4.1m in height to the ridge of the double-pitched roof. The left-hand part of the structure would have solid stone walls, the remainder comprising two bays for parked cars would be open, supported by timber posts.
- 3.2 The raised area to the rear would be reduced in height, stone flags would be laid to create additional amenity space, and a timber fence would be erected around it.

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

- 4.1 2016/94260: Conversion of garage to living space and erection of single storey link extension. Approved and implemented.
- 4.2 2020/90610: Listed Building Consent for erection of detached car port and store and associated works. Awaiting determination.

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

- 5.1 The applicant was advised that officers considered the proposed development to be inappropriate in principle and was also notified of specific planning concerns (e.g. tree issues). Amended plans have not been sought or submitted, since in officers' view the planning concerns relate to the principle rather than the details of the proposals and cannot realistically be overcome.

## **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 27/02/2019).

### Kirklees Local Plan (2019):

- 6.2 The site of the proposed development is within the Green Belt, the Armitage Bridge Conservation Area and the Strategic Green Infrastructure Network on the Local Plan proposals map.
- LP1 – Achieving sustainable development
  - LP2 – Place shaping
  - LP21 – Highway safety
  - LP22 – Parking
  - LP24 – Design
  - LP31 – Strategic Green Infrastructure Network
  - LP33 – Trees
  - LP35 – Historic Environment
  - LP58 – Garden extensions

### Supplementary Planning Guidance / Documents:

- 6.3 None.

### National Planning Guidance:

- 6.4 Chapters of most relevance:
- Chapter 12 – Achieving well-designed places
  - Chapter 13 – Protecting Green Belt land
  - Chapter 16 – Conserving and enhancing the historic environment

### Climate change:

- 6.5 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

### Newsome Neighbourhood Plan:

- 6.6 A Neighbourhood Plan is being prepared for Newsome, however no draft plan has been published yet.

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

- 7.1 Publicity was undertaken by site notice, neighbour letter and press publicity.
- 7.2 One representation was received from Ward Councillor Andrew Cooper - for details see Section 1.0 above.

## **8.0 CONSULTATION RESPONSES:**

### **Statutory:**

- 8.1 There are no statutory consultations to be undertaken for this application.

### **Non-statutory:**

- 8.2 **KC Arboricultural Officer** – Recommend refusal.
- 8.3 **KC Planning Conservation and Design** – Recommend refusal.

## **9.0 MAIN ISSUES**

- Principle of development
- Appropriateness with the green belt
- Urban design and heritage issues
- Residential amenity
- Highway issues
- Trees
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The land upon which the car port is proposed to be built lies within the designated green belt in the Local Plan, although Tolson Cottage and its historic curtilage are outside it. The application must therefore be considered having regard to the aims of Chapter 13 of the National Planning Policy Framework, which states that development within the Green Belt is generally inappropriate unless for a limited range of uses, including agricultural buildings, outdoor recreational facilities, and extensions to existing buildings.
- 10.2 Tolson Cottage is a Grade II Listed Building. Both Tolson Cottage itself and the site of the proposed development lie within the Armitage Bridge Conservation Area. NPPF Chapter 16 and Policy LP35 state that development proposals affecting a designated heritage asset (the Conservation Area and Grade II Listed Building), should preserve or enhance the significance of the asset. Proposals which would remove, harm or undermine the significance of a non-designated heritage asset, or its contribution to the character of a place, will be permitted only where benefits of the development outweigh the harm having regard to the scale of the harm and the significance of the heritage asset.

10.3 Other Local Plan policies of particular relevance are:

- LP21 – Proposals must ensure the safe and efficient flow of traffic and safe access.
- LP24 – The form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, and provide a high standard of amenity for neighbouring occupiers including appropriate distances between buildings and a high level of sustainability.
- LP31 – Development proposals must ensure the function and connectivity of a Strategic Green Infrastructure Network is retained or replaced.
- LP33 – Trees and woodlands of significant amenity should be protected.
- LP58 – Extension of gardens in the green belt will not normally be permitted.

Appropriateness within the green belt

- 10.4 A double car port and store was to have originally formed part of the 2016/94260 proposal but was deleted on planning officers' advice as being inappropriate in the green belt. The erection of detached buildings for domestic purposes is, in practice, often treated as acceptable in the green belt, on the basis that if built within the curtilage of a dwelling house and in close proximity to the existing house, they can be regarded as being similar to extensions. This is subject to an assessment of their impact on the openness of the green belt having regard to their scale relative to the host building, taking into account any previous or proposed extensions.
- 10.5 In this instance, it is considered that the land in question does not qualify as domestic curtilage. The house, former garage, link extension and the associated garden space form a discrete and self-contained parcel of land which in officers' opinion should be regarded as the property curtilage. The site of the proposed development, on the opposite side of the shared access track, consists of tarmac hardstanding used for parking, and a raised landscaped area supported by a low stone wall. These are both features associated with domestic curtilage but they do not in themselves make it part of the curtilage, especially when they are relatively distant from the house and do not form a single enclosure with it. It is therefore considered that the development proposed is inappropriate in principle. This applies to both the erection of the car port / store, and to the formation of a paved area to use as additional amenity space – this latter operation would in effect amount to the change of use of land to a domestic garden, which under Policy LP58 should not be permitted unless very special circumstances can be shown to exist.
- 10.6 From aerial photographs and historic maps it would appear that the whole strip of land lying on the northwestern side of the shared track, to the rear of Dean Brook Cottage and the other dwellings in that row, originally comprised a farm access track and has been progressively enclosed and domesticated over a period of time since 2000, but is still notable for the lack of any permanent or substantial buildings. The erection of a building – even a car port of partly open-sided design – would represent a further domestication of this area and would thereby cause material harm to the green belt through loss of openness.

- 10.7 In conclusion, the development would be inappropriate in principle within the green belt and would harm its openness, contrary to the aims of Chapter 13 of the NPPF and Policy LP58, and very special circumstances, to justify why the development should be allowed in this instance, have not been demonstrated as required by paragraph 143 of the NPPF.

#### Urban design and heritage issues

- 10.8 The proposal site is historically undeveloped, and could be described as having a semi-rural setting. Being undeveloped it allows views of the fields beyond from Armitage Road, along with a clear view of the mature sycamore directly behind the site. It is considered that these open views contribute positively to the character of the Armitage Bridge Conservation Area. In an appendix to the now-superseded Unitary Development Plan, the character of the conservation area is summarised as: "Large but compact nineteenth century stone built mill complex, includes former mill owner's home, workers' housing and church, with mill ponds and river, open spaces and mature trees".
- 10.9 The proposed development would not cause harm to the setting of the Listed Building (Tolson Cottage). Any potential impact upon the character of the conservation area must, however, be carefully considered. The conservation area at this point is characterised by the contrast between the densely built up settlement and the open fields beyond. Whilst it is noted that the proposed development would be of lightweight construction and would make some use of traditional materials, it would still result in the further domestication of this part of the conservation area, which would be harmful to its character.
- 10.10 The proposed close-boarded timber fence would also fail to respect the character of the conservation area which is characterised by low stone walls and wire fences at the field boundary. The erection of a fence or other means of enclosure up to 2m high can in some circumstances be permitted development under Part 2, Class A of the General Permitted Development Order. The associated excavation works and formation of a paved area would, however, require permission, and the whole must therefore be regarded as one operation. The proposed fence, which is of domestic appearance, would further aggravate the harm caused, but it must be emphasised that removing or redesigning the fence would not overcome officers' objections to the proposed development on heritage or green belt grounds.
- 10.11 It is considered that the proposed development would harm the character of the conservation area. Whilst the harm caused is considered "less than substantial", any such harm still needs to be justified in terms of an identifiable public benefit if an application is to be allowed, as required by paragraphs 195-196 of the NPPF.
- 10.12 The purported justification provided in the submitted heritage statement is that following the conversion of the garage at this property, which was approved in 2017, storage space is now required, and that furthermore it will provide protection from sap and debris being dropped from the sycamore tree onto the cars parked in this area. These are considered to represent private not public benefits. In conclusion, the development is harmful to the Armitage Bridge Conservation Area and no public benefit has been demonstrated to outweigh the harm caused, contrary to the aims of LP35 and Chapter 16 of the NPPF.

### Residential amenity

- 10.13 It is considered that owing to its siting in relation to other residential properties, the proposed development would have no impact upon residential amenity.

### Highway issues

- 10.14 The proposed development, it is proposed, would be used for the parking of motor vehicles and for domestic storage in connection with the established residential use of Tolson Cottage. On this basis it is considered that it would be unlikely to result in a material increase in the use of the access to the public highway and would have no implications for the safety or convenience of highway users.

### Trees

- 10.15 The mature sycamore tree within the site is not covered by a Tree Preservation Order but is protected by virtue of being within a conservation area. It is considered to have significant amenity value.
- 10.16 The plans indicate that the applicant's intention is to retain the tree. However, any excavation or building works in close proximity to a mature tree may inadvertently cause harm to its health and long-term viability by causing root damage. In this instance the excavations would not be very deep. It should be noted, however, that the majority of feeder roots are present in the top 600mm of soil. Furthermore, the tree's structural roots, known as the root plate, are usually within 1-2m of the base of the tree.
- 10.17 The submitted plans suggest that the only excavations required would be to form a paved area to be used as additional outdoor amenity space. Based on the case officer's observations on site, the extent of the raised area is not accurately shown on the submitted plans, so that even if the paved area were to be deleted from the scheme and only the works essential for the formation of the car port were proposed, this would still involve excavating part of the raised area very close to the trunk of the tree. The precise extent of the excavation works is not shown on the drawings so far submitted, and an arboricultural impact assessment and method statement were not supplied with the application, which makes it difficult to accurately assess the degree of impact on the tree. But officers' assessment is that the excavation works would almost inevitably cause damage to the tree's root system and endanger its long-term health and survival.
- 10.18 The applicant has offered to provide a method statement for the tree works, but officers' assessment is that a method statement would not be able to mitigate the harm caused so as to ensure, with any degree of confidence, the tree's long-term retention. It is therefore recommended that the application cannot be supported as it would be incompatible with the aim of retaining trees of significant amenity value as set out in Policy LP33.



## Representations

- 10.19 The comments made by Ward Councillor Andrew Cooper are repeated here, followed by officer responses.

*“I am of the view that its construction would not be a significant detriment to the amenity of the conservation area and as such would ask that it be referred to Planning Committee if you are minded to recommend refusal. Liaison with the applicants over a method statement to protect the tree would be welcome to protect the tree and enable the application. I also request that Committee conduct a site visit if possible.”*

- 10.20 The issues of impact on the conservation area and the impact upon the mature tree have been examined in depth earlier in the report (paragraphs 10.8-12 and 10.15-18), and in both cases it is considered that the negative impact would be such as would justify a refusal of permission.
- 10.21 No representations have been made by other third parties.

## Other Matters

### *Climate change*

- 10.22 In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects. Given that the development is small-scale and a partly open-sided structure, the amount of embodied energy will be relatively low, and it is unlikely to give rise to any significant additional energy consumption (such as heating and internal lighting). It is therefore considered to be compatible with the council’s carbon reduction aims.

## **11.0 CONCLUSION**

- 11.1 The proposed development has been assessed to be inappropriate in principle within the green belt and harmful to its openness, and since very special circumstances have not been demonstrated, it should not be approved. The development would also be harmful to the significance of a designated heritage asset (the Armitage Bridge Conservation Area) and no public benefit has been demonstrated to justify the harm. Thirdly, the development would be likely to result in damage to a mature tree of significant value, thereby failing to ensure its long-term retention. The proposed development would therefore be contrary to objectives set out in Local Plan Policies LP24(a), LP33 and LP35 of the Local Plan, and Chapters 13 and 16 of the NPPF.

## **12.0 REASONS FOR REFUSAL**

12.1 The following reasons for refusal are recommended:

1. The proposed erection of a car port and store, and the formation of additional amenity space, would both by their nature be inappropriate development within the green belt. The proposed development would materially harm the openness of the green belt, and very special circumstances to justify why the proposed development should be allowed in this instance have not been demonstrated. The proposal is therefore contrary to the aims of Chapter 13 (paragraphs 143 to 145) of the National Planning Policy Framework, and Policy LP58 of the Kirklees Local Plan.

2. The proposed development would give rise to a further domestication of this part of the Armitage Bridge Conservation Area, which has historically been undeveloped, and would interrupt long-range views from Armitage Road into the fields beyond the site boundary, which are considered valuable to the character of the conservation area. It would thereby cause harm to the character of the conservation area, and although this is considered less than substantial, no public benefit has been demonstrated to justify the harm caused. The proposal is therefore contrary to the aims of Policy LP35 of the Kirklees Local Plan and Chapter 16 (paragraphs 195 to 196) of the National Planning Policy Framework.

3. The proposed development would involve substantial excavation within the root zone of a mature tree which is considered to be of significant amenity value, thereby jeopardising its long-term viability, contrary to the aims of Policy LP33 of the Kirklees Local Plan.

### **Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90609>

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