
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 14-Oct-2020

Subject: Planning Application 2020/91542 Change of use and regrading of land to form car park and seating area Boot and Shoe Inn, St. Georges Road, Scholes, Holmfirth, HD9 1UQ

APPLICANT

D. Whiteley

DATE VALID

04-Jun-2020

TARGET DATE

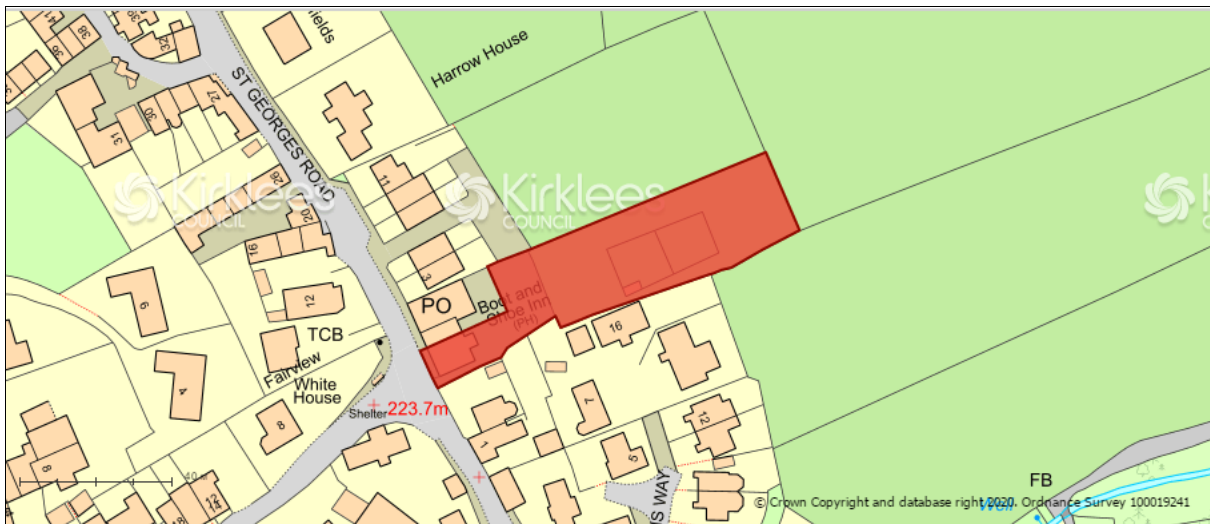
30-Jul-2020

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: Holme Valley South

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed development would introduce a new noise source into a quiet area of Scholes, this noise source would be particularly harmful to the living conditions of occupants of existing properties given the close proximity to neighbouring residential dwellings and the nature of the use of the site (for vehicles and customers visiting the public house). This noise source would therefore cause disturbance and loss of amenity to neighbouring properties, and therefore would be contrary to Policy LP24(b) of the Kirklees Local Plan, and Paragraph 127 of the National Planning Policy Framework.

1.0 INTRODUCTION

1.1 This is an application for full planning permission (reference 2020/91542), for the change of use and regrading of land to form car park and seating area to the rear of the Boot and Shoe Inn.

1.2 The application is brought before Strategic Committee for determination in accordance with the Council's Scheme of Delegation at the request of Councillor Firth for the reason outlined below:

'lack of public parking [to serve the pub] since the new build on St Georges Road'.

1.3 The Chair of Strategic Committee has accepted that the reason for making this request is valid having regard to the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS

2.1 Boot and Shoe Inn, St. Georges Road, Scholes, Holmfirth, HD9 1UQ

2.2 The application site relates to a parcel of land to the rear of the Boot and Shoe Inn, off St. Georges Road, in Scholes. To the north and east of the site are open fields, with residential dwellings located to the south and north west.

3.0 DESCRIPTION OF PROPOSAL

3.1 The application seeks planning permission for the change of use and regrading of land to form car park and seating area to the rear of the public house.

3.2 To the rear of the Boot and Shoe Inn is an existing car park, a 1:12 access slope is to be created down from the existing carpark into the parcel of land to the east. This will provide a new car parking area for 6 vehicles and cycle bays. The car park is to be surfaced with a paving grid. To the south of the new car park a 1.5m acoustic embankment is to be created with new landscaping and planting. A 1.8m close boarded timber acoustic fence is also to be placed along part of the

southern boundary of the site. Just off the new car parking area there is to be a seating area for customers. There will be a number of tables and chairs dotted around this portion of the site, with a post and wire fence to be erected between the seating area and new car park.

4.0 RELEVANT PLANNING HISTORY

4.1 Boot & Shoe Inn

2007/93223 – Installation of 2 no. fold away canopies. Approved 8th October 2007.

2004/94045 – Deemed application (via Enforcement Appeal) for use of land for stationing of mobile home and for domestic purposes. Withdrawn 13th October 2004.

4.2 Scholes Post Office

2020/90943 – Change of use of lower ground floor to form two one-bed apartments, with external alterations. Withdrawn.

5.0 HISTORY OF NEGOTIATIONS/AMENDMENTS RECEIVED

5.1 Amendments were sought to the original proposals to provide noise mitigation between the neighbouring dwellings to the south and the proposed car park and seating area. These amendments saw the inclusion of acoustic fencing, reduction in proposed car parking spaces and new landscaping and embankment.

6.0 PLANNING POLICY BACKGROUND

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 27th February 2019).

6.2 The application site is unallocated in the Kirklees Local Plan but the site is located within the Green Belt, a Bat Alert Area and is within the Holme Valley Neighbourhood Plan Area.

6.3 Kirklees Local Plan (LP):

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP10 – Supporting the Rural Economy**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP24 - Design**
- **LP30 – Biodiversity & Geodiversity**
- **LP48 – Community Facilities and Services**
- **LP57 – The Extension, Alteration or Replacement of Existing Buildings**

6.4 National Polices and Guidance:

- Chapter 6 – Building a strong, competitive economy
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt Land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change.
- Chapter 15 - Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE

Neighbour Letters – Expired 22nd July 2020.

Site Notice – Expired 17th July 2020.

Press Notice – Expired 10th July 2020.

43 representations have been received in objection to the proposals, and 97 representation has been received in support, and 5 general comments. Comments are provided below.

Support -

- The proposals will be a fantastic enhancement to a great village pub who are at the heart of the whole community;
- The proposed development appears to be well away from the main residential areas in the village;
- The proposals would be a great addition to help the pub to comply with the social distancing guidelines and get through this tough time within the hospitality sector;
- The pub already has a license to open and have patrons sat outside the pub well beyond the time of 9pm that is applied for in this application;
- Local businesses should be supported;
- The pub is an asset to the village and should be supported;
- Many public houses are going out of business and this is only going to increase as a result of lockdown, The Boot and Shoe is relying on these plans to ensure business continuity;
- Having the parking and seating area at the back of the pub would create a safer entrance to not only the pub, but the post office, houses and the road itself;
- The design is sympathetic to the environment, aesthetically pleasing to the eye and in keeping with a traditional village pub;
- Anyone that lives here will have been aware of the fact that there was a pub on their doorstep before they moved in;
- Usually parking is on the road and around the pub, by increasing their off road parking it will be a welcome improvement for both car owners and road users;
- Most other pubs already have beer gardens and lots of outdoor seating, therefore the pub is not asking for anything unreasonable or out of the ordinary;
- The proposed seating area to the rear would provide a safe space for families and friends to catch up without worrying about being too close to a main road;
- The landlord and land lady would never allow excessive noise, litter or unruly behaviour, the outdoor seating area would always be staffed to ensure noise is kept to a minimum, the area would be run on a timed basis so it would never b open late at night and would only be used in the Summer for only a

short few months of the year. Acoustic fencing could also be installed to ease any noise;

- All the other pubs in the area seem to be permanently closed;
- Any perceived negative impact of a small incursion into the Green Belt is far outweighed by the highway benefits and community value of the proposed scheme;
- The proposals seek to provide cycle spaces this will allow avid cyclists somewhere to call in from far afield knowing that their bicycles will be safe during their visit;
- Do not consider the proposed fencing to be an issue as it will prevent people accidentally feeding livestock that are often in the adjacent fields;
- The car park entrance has restricted views, this could be mitigated by making 1 car's length from the junction no parking and providing mirrors;
- Having an area to the rear of the public would eliminate any customers spilling out along the pavement area to the front of the pub causing a hazard for pub customers, pedestrians and motorists.

Objection -

- There is already enough parking to the rear of the pub, it only serves alcohol so why is more car parking needed?;

Officer note: Noted.

- The proposed seating area is visible and very close to neighbouring properties;

Officer note: Noted. The potential impact on neighbouring properties is discussed within the privacy and amenity of neighbouring properties section of this report.

- Access to the ramp goes over land not owned by the Boot and Shoe;

Officer note: The required requisite notice was given to relevant parties who also have ownership of the land. These details were provided within the submitted application forms.

- The current owners have 4 cars and large tipping trailer (5 spaces already gone), the staff from the pub have cars, at least 2 on busy days totalling 7 spaces;

Officer note: Noted.

- The route to the ramp takes away any existing parking that is already there. The current landlord is using farm vehicle access to proposed parking area, what will prevent others from the same as the route has been cleared and established?;

Officer note: Noted.

- Concerns in respect to noise and loss of privacy – this was demonstrated on the 4th July 2020 at the re-opening when a marquee was erected in the existing car park;

Officer note: Concerns in respect to noise and privacy have been addressed below within the impact on residential amenity section of this report.

- The proposed seating area will be significant in size and remote from the pub, separated by 2 car parks;

Officer note: Noted.

- The proposals are being talked about in the village as a temporary measure due to COVID19, there is no mention of a temporary period of approval in the application;

Officer note: This application is not for a temporary approval.

- The proposed car park and drinking area are situated on Green Belt in a rural and quiet area;

Officer note: Noted.

- The proposed timber fence would not be in keeping with the stone walls in the area and is unlikely to solve the noise pollution;

Officer note: The Council's Environmental Health officers were consulted on the proposals in respect to noise pollution, their comments are shown within the consultation responses section of this report.

- The boot and shoe is a traditional drinkers pub;

Officer note: Noted.

- It is common knowledge that the beneficial owner of the Boot and Shoe Inn is a separate person to the stated applicants. The applicants intention is to make substantive and permanent changes to a property they do not own. This undisclosed person is connected with the application and this arrangement leaves open the possibility of interest by way of an obfuscated connected person. The Planning Authority should ascertain that the application is bona fide and make the determination openly available in the public interest. There is hearsay that groundwork and other skilled trade services are being provided by friends. If so those services are 'benefits in kind' as defined by HMRC. These individuals are also obfuscated connected persons and likewise should be identified in the public interest;

Officer note: The tenant of the public house can submit a planning application at the site but works could not commence (if the application was approved), without the permission of the beneficial owner of the Boot and Shoe Inn first.

- General family noise from adjacent dwellings (not part of this application) can be clearly heard across the valley-like terrain of the surrounding landscape;

Officer note: Noted.

- Although it is stated that there had been consultation with neighbours and the wider population of Scholes, this is incorrect;

Officer note: Noted.

- There are already 3 beer gardens in the vicinity and therefore there is no need for any more;

Officer note: Noted, although each application has to be assessed on its own merits.

- Concerned it will devalue neighbouring properties;

Officer note: Unfortunately, this would fall outside of the planning remit and therefore cannot be assessed within this report.

- This is yet another example of over development of the village;

Officer note: Noted.

- There is no planning gain re. traffic management. The ramp is insufficient for 2 vehicles side by side so traffic would need to operate single alternate line which requires direction, traffic controls, and possibly new street signage;

Officer note: The Council's Highways officers have been consulted on the proposals, their comments can be found within the Consultation Responses section of this report.

- 25+ years ago there was a gun club on this land, this use was closed down due to 2 hours of noise on a Sunday morning, this beer garden will operate 7 days a week and would be much noisier than any gun club;

Officer note: The Council's Environmental Health officers were consulted on the proposals in respect to noise pollution, their comments are shown within the consultation responses section of this report.

- Pedestrians will have to walk through two car parks to access the beer garden;

Officer note: Noted.

- The applicant states within the submitted application forms 'no' to whether works have already begun on the site, this answer is incorrect;

Officer note: Noted.

- Section 8 of the application forms seeks statements concerning public roads, the answer 'yes' given by the applicant is incorrect. The existing access emerges directly onto the junction of Paris and St Georges Road. There is no net planning gain concerning public highways, and one set of problems would be replaced with another;

Officer note: The Council's Highways officers have been consulted on the proposals; their comments can be seen under the consultation responses section of this report.

- Section 12 of the application form seeks information on ecology, geology and bio diversity, the applicant states a blanket 'no' response. The applicant should provide applicable reports for public scrutiny so that the 'no' responses can be verified;

Officer note: The Council's Ecology officer was consulted on the proposals; their comments can be seen under the consultation responses section of this report.

- Pollution from a number of vehicles starting their engines at such a close proximity to neighbouring dwellings;

Officer note: The Council's Environmental Health officers were consulted on the proposals; their comments can be found under the consultation responses section of this report.

- The applicant (and many comments) assume that the new pubs clientele will be for families. However, there is already local competition for this same demographic. The local cricket club and 2 garden centres are all less than 1 mile away. The agents document makes no mention of the investments needed to reach this demographic (e.g. kitchens, kitchen staff, menus etc.). nor does it mention marketing plans, kitchen apparatus, play equipment etc;

Officer note: Noted.

- The proposed 1.8m fence would be built on the boundary of dwellings located on Ravens Way which will result in a significant loss of light to these properties;

Officer note: Noted. Residential amenity is discussed in more detail under the privacy and amenity of neighbouring properties section of this report.

- There is only one entrance with no permanent access for disabled and no toilet facilities for disabled people. Additionally there is no mention of additional toilets and washroom facilities, it can therefore be expected that some people may use fence corners, bike stands etc. rather than walking back up to the public house to find the facilities;

Officer note: Given the nature of the proposals it is not required necessary for the applicant to provide additional toilets or handwashing facilities in this instance.

- The proposals will have a negative impact on ecology, this natural habitat is home to a number of wildlife species which will be effected by this development;

Officer note: The Council's Ecology officer was consulted on the proposals; their comments can be found under the consultation responses section of this report.

- The application relies on the effect of COVID-19, although there will be a point when the pandemic is under control and existing measures cease however, the proposed development will still be here and its negative environmental factors will still be felt;

Officer note: Noted.

- There is no proper fire exit route except down steep stone steps through the beer cellar with a door which is locked during opening hours;

Officer note: As the proposals relate to the external area of the public house, this would not be deemed to be relevant to the current application and therefore will not be addressed within this report.

- Electric Vehicle Charging Points should be installed within the new car park;

Officer note: The Council's Highways and Environmental Health team have been consulted on the proposals and did not deem this necessary as a requirement in this instance.

- The proposals could increase the possibility of drink driving;

Officer note: This would fall outside of the planning remit and therefore cannot be addressed within this report.

- Trees have been cut without authority which will no doubt have a preservation order on them;

Officer note: From looking on the Council's planning systems the site is not located within a Conservation Area and there are no trees with a TPO on them. In addition to this the Council's Tree Officer was consulted on the proposals and raised no objections to the proposals. His comments can be found under the consultation responses section of this report.

- The Companies House public documents lead to reasonable doubt that the project can be funded and concluded. A very unwelcome result would be a part-started, but uncompleted project that constitutes a public eyesore;

Officer note: Whether the scheme itself could be funded or not would fall outside of the planning remit and therefore cannot be assessed within this report.

- A noise assessment report should be required before determining the application;

Officer note: The Council's Environmental Health officers were consulted on the proposals and their comments can be found under the consultation responses section of this report.

- The seating area should be located closer to the bar;

Officer note: Noted.

- The proposed works have already started on site including a delivery of the outside furniture before the application have even been approved;

Officer note: Noted, planning enforcement are aware of the changes at the site that are currently ongoing.

- It is no surprise that the pub patrons will be in support of this application, many of these people will not live locally and would not be affected by the inevitable increase in noise/disruption to the local residents;

Officer note: Noted.

- The car park exit is already dangerously obstructed on a busy junction, to increase cars going in and out of the car park would be dangerous;

Officer note: The Council's Highways Development Management team have been consulted on the proposals and raise no objections. Their comments can be found under the consultation responses section of this report.

- The planning application at the post office has many of the same problems e.g. carparking and road congestion, the solutions cannot be double-counted. The planning applications would benefit from being considered together as companion applications so a full and fair decision can be reached;

Officer note: Each application is based and assessed on its own merits and therefore cannot be considered together.

- There is enough external seating already and the outside noise level is ridiculous already, extending this would increase the noise levels to an unbearable state.

Officer note: The Council's Environmental Health officer was consulted on the proposals; their comments can be found under the consultation responses section of this report.

Comment –

- The Boot and Shoe is a brilliant pub, the landlord and land lady do so much for the village and a lot for charity. The beer garden and car park is an excellent idea;

Officer note: Noted.

- In respect to the proposals taking value of neighbouring properties, the pub was here long before most houses in the area and a good community pub puts more value on property nearby, if a village loses a pub value drops;

Officer note: Unfortunately, this would fall outside of the planning remit and therefore it cannot be addressed within this report.

- The number of cars has doubled and with another 130 houses going up down the road it will be terrible, the pub has done more for the village over the years and deserves a lifeline;

Officer note: Noted.

- The change to the rear of the pub would provide a more enjoyable experience rather than standing out on the front spilling to the pavement and road. The Boot and Shoe Public House are the hub of the village and continually provide community spirit that would be sorely missed if they were unable to continue to trade;

Officer note: Noted.

- Understand that the application is proposed to address the special circumstances affecting the pub due to COVID-19 restriction, however as this is not an application for a temporary change of use it is hoped that if the development is deemed to be appropriate that conditions would be imposed to control operations in both the short term and to ensure that the use continues as proposed by the current licenses as outlined in the planning application;

Officer note: Noted.

- A number of comments are providing character references of the landlord and landlady, character references are not relevant for a planning application.

Officer note: Noted, this would fall outside of the planning remit and therefore will not be assessed within this report.

- The new access ramp and parking area don't appear to be highly visible from either the pub or the houses on St Georges Road, the submitted details refer to partial enclosure by fencing in places for both privacy and noise mitigation for the houses on Ravens Way but it is understood that the licensees are more inclined to use planting to achieve this in keeping with retaining the openness of the green belt;

Officer note: Noted.

- Residents have been assured by the licenses that the area of green belt is only to be used for seating for pub patrons and would not be used for music events or have playground furniture or any other permanent structures placed on it;

Officer note: Noted.

- The plans show only part of the area within the red line laid out for seating, and that it is intended to leave the remainder as a field or garden where it extends beyond the post and wire fencing that will divide that part of the site;

Officer note: Noted.

- The submitted plans show an existing gated access on the northern boundary of the field, it is understood that this will not be available for pub customers to use and so will not reduce foot traffic on the access road. Planning application 2020/90943 has been submitted for 5 one bedroomed apartments at the Post Office, this application will use the same means of pedestrian and vehicle access;

Officer note: Noted.

- Rear access for residents and staff of the pub is available via the internal staircase from the cellar into the pub but this is not available to customers. The post office and shop can be accessed from the rear by owners and staff but their tenant currently uses the access road for vehicular and pedestrian access at the front of the premises, as would further tenants if approval is granted for planning application 2020/90943. As there is only one route in and out the increased foot traffic into and out of the pub combined with the continued use by staff and residents could be hazardous to pedestrian users;

Officer note: Noted.

- A significant number of the on-line supporting comments on this application are assuming that the 10 extra car parking spaces will be used for amenity parking to replace the spaces that were lost to the village when the nearby former club premises was developed into housing, however from speaking with the applicants this would not be the case and the spaces would only be available for pub use only. Therefore, the additional spaces may not resolve any inadequacy of parking in the vicinity;

Officer note: Noted.

- No opening hours are specifically referred to in the planning application but the Design Access and Planning Statement says that the seating area would be operated from 1st April to the end of September and from the opening of the pub until 9pm each evening. The applicants stated in discussions that their intention is that the seating area would be operated only on weekends and Bank Holidays in the Spring and Summer and only until 8pm once COVID 19 restrictions are lifted;

Officer note: Noted.

- If the application is approved a condition should be added which limits the use of the outside area to specific hours allowing nearby residents the freedom and privacy to use their own outside facilities whilst making this public area available to families, walkers etc;

Officer note: Noted.

- With regard to noise from pedestrians using the access road, it is possible to attach a condition requesting prominent signage about noise/considering residents as seen in other establishments;

Officer note: The Council's Environmental Health officer was consulted on the proposals; their comments can be found under the consultation responses section of this report.

- The planning application references use of the current mains drainage systems but there is no mention of any additional toilet or hand-washing facilities for the outside seating area being provided. A port aloo and hand sanitiser station has been provided as a temporary measure since the pub reopened 4th July 2020. Assuming that this is not a suitable permanent arrangement, if facilities cannot be made available closer to the new outside seating area, the lack of direct access from the back of the pub to the toilet and hand washing facilities inside would lead to an increase in foot traffic both across the ramp and car park and on the access road at the side of the pub;

Officer note: Given the nature of the proposals it is not required necessary for the applicant to provide additional toilets or handwashing facilities in this instance.

- There is also a risk of anti-social behaviour.

Officer note: Noted.

Holme Valley Parish Council – Comments received 15th July 2020. Support the proposals subject to appropriate mitigation measures being included to limit the effect of noise on neighbouring properties.

8.0 CONSULTATION RESPONSES

8.1 **KC Highways and Development Management** – Comments received 18th June 2020. Access to the site is taken to the side of the public house via an existing access shared with the adjacent property leading to a shared car park. The area of parking provision associated with the public house is for circa 5 vehicles. The existing point of access onto St Georges Road is less than ideal in terms of its width and visibility, however given that it is located directly on the junction with Paris Road, any approaching vehicles are travelling at low speeds (as observed on site), in addition the access is an established one that appears to work without any issues in terms of highway safety. There is also sufficient visibility for vehicles wishing to exit the car park at the bottom of the ramp to see any vehicles coming down the side of the public house and give way accordingly. With regard to the on street situation to the front of the public house, there is on street parking provision for approximately 4 vehicles in total in front of both premises, but given its location in relation to the existing adjacent shop, and the vicinity of the junction it is not considered to be ideal in particular given the existing road width. As such any additional off-street parking provision provided, would be considered a benefit in terms of highway safety. Overall the proposal is considered acceptable from a highways perspective with no specific associated conditions required.

Officer note: Following on from the submission of amended plans KC Highways provided additional comments shown below.

'Further to my previous consultation response on this, having looked at the submitted revised plans, it appears there is a reduction on the proposed parking to accommodate some noise attenuation. Given the proposal still provides additional parking facilities to the current situation the reduction on proposed parking is considered acceptable from a highways perspective. The other observations mentioned previously still stand, with the proposal considered acceptable overall in terms of a benefit to highway safety.'

8.2 KC Ecology Unit – Comments received 7th July 2020. No ecological information has been submitted with the application; therefore the following assessments are based on the limited information available to the officer. The site appears to have been recently cleared of vegetation and the land regraded reducing its ecological value, although previously this area appeared to consist of an area of rough semi-natural grassland with scattered shrubs. The site is also included within the bat alert layer indicating that the general area is suitable for commuting and foraging bats. As the site has been cleared of vegetation previously consisting of semi-improved grassland, and the proposed development will only reinstate half of the area as grassland the application will result in a net loss of biodiversity. In order to accord with Local Plan policy LP30 the proposals should demonstrate a net gain for biodiversity. A condition is therefore suggested which requires an Ecological Design Strategy to be submitted to and approved in writing by the local planning authority prior to any development taking place.

Officer note: Following on from the Council receiving amended plans the Ecology officer states that their previous comments still stand and that they have no additional comments to make as no ecology information has been submitted.

8.3 KC Trees – Comments received 10th July 2020. The proposals do not affect any protected trees and no trees on the site are worthy of protecting with a new TPO or would be significantly affected by the proposals. The plans do not contravene policy LP33 and therefore there are no objections to the proposals.

8.4 KC Environmental Health – Comments received 21st July 2020. The introduction of a noise source into such a quiet area would be noticeable and thus cause disturbance and loss of amenity, Environmental Health officers therefore do not support the application in this instance.

Additional comments were received on 27th August following amended plans. The officer states:

'The applicant has provided a data sheet for the proposed fencing from JCW Acoustic Supplies. Any solid fence, acoustic or otherwise, would prove ineffective unless it completely encloses a noise source and as the applicant only proposes to install it to part of the boundary, this will prove ineffective. The point still remains that any fence does not address the issue of noise to the upper floors of neighbouring properties. Simply raising the height of it will lead to further loss of amenity (light) to those properties. We maintain our position that the introduction of a noise source into such a quiet area would be noticeable and thus cause disturbance and loss of amenity and so we cannot support this application.'

Officer note: Discussions were also had with the applicant's agent and Environmental Health in regards to the possibility of reducing/removing the car parking area however, Environmental Health considered that it is simply people using the seating area that would generate noise which would be of most concern, and that from their experience this cannot be controlled via controlling hours of use and noise mitigation conditions despite what the management of the premises say within their written submission.

8.5 KC Policy – Comments received 8th September 2020. The officer states:

'This application proposes a material change of use to form a car park and pub garden involving engineering operations to regrade the slope on land behind the Boot and Shoe Inn at Scholes Holmfirth. The site is located within the Green Belt as designated on the Kirklees Local Plan and as such Green Belt policy applies. Paragraph 146 of the National Planning Policy Framework states that certain forms of development in the Green Belt are not inappropriate so long as they preserve openness and do not conflict with the purposes of including land within it. Criterion b) of paragraph 146 includes engineering operations, which are proposed to regrade the land to allow for safe access, surfacing and seating. Criterion e) includes making a material change in use of the land, which in this case would be a change from grazing land to pub car park and garden. The site is a field located on the edge of the village of Scholes. It forms part of the sloping pastoral valley of Jackson Bridge dike and is part of a wider countryside landscape. The proposed engineering operations involve re-grading the slope to provide safe access, parking and a seating area. This by itself would have little impact on openness as the regrading does not significantly change the degree of slope, particularly at the top closer to the building. Further down the slope is made somewhat flatter to accommodate the seating area but this does not change the overall character of the valley side. No new retaining walls or other built structures are proposed as part of the regrading. By themselves the engineering operations would therefore have little impact on openness or on the purposes of including land in the Green Belt. A material change in use from field to car park and pub garden will however impact on openness to a significant degree, as well as conflicting with the purposes of including land in the Green Belt. Openness is not judged solely on impact from built development but from the erection of fences or other enclosures, visual intrusion, intensity of use, disturbance from noise, light and general activity which would occur during the day and into the evening. It would be expected that the degree of disturbance and activity associated with a pub car park and beer garden would be significant. The proposed 1.8m high close boarded fence on the boundary of the site and other proposed fences within the site will introduce enclosures that themselves impact on openness, particularly the high close boarded fence on the boundary which will prevent views across the site. The purposes of including land in the Green Belt include safeguarding the countryside from encroachment and preventing sprawl. Despite being on the edge of the village this field is an integral part of a countryside landscape and the proposal would result in the encroachment of urban form and activity into the countryside. The location and configuration of this proposal would result in the sprawl of development on the sloping valley of Jackson Bridge Dike. This proposal would have a significant impact on the openness of the Green Belt in this location and be contrary to the purpose of including land in the Green Belt which is to safeguard the countryside from encroachment and to prevent sprawl. It is therefore considered to be inappropriate development. NPPF paragraph 143 and 144 state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other circumstances.'

9.0 SUMMARY OF PRINCIPAL PLANNING ISSUES

- 1) Principle of development
- 2) Scale, design and visual impact of the proposed development
- 3) Impact of the proposed development upon the privacy and amenity of neighbouring properties
- 4) Impact on highway safety
- 5) Other matters

Principle of Development:

9.1 The site is located within the Green Belt in the Kirklees Local Plan (KLP). As such the proposal will be assessed having regard to NPPF Chapter 13 paragraph 144 which advises that planning authorities should ensure that “substantial weight” is given to any harm to the Green Belt and that inappropriate development should not be approved unless very special circumstances can be demonstrated. Under paragraph 145 there are a number of exceptions to this none of which apply in this instance. Under paragraph 146 there are a number of other forms of development that can be deemed as being appropriate in the Green Belt as long as they do not impact on its openness or conflict with the purposes of including land within it. These include engineering operations and material changes in the use of land, all of which are relevant to this application. Engineering works are required to regrade the land to allow for safe access, surfacing and seating for customers. There is also to be a material change in the use of the land from grazing land to pub car park and beer garden. It is therefore considered that the proposals could be acceptable in principle as long as they would not impact on the openness of the Green Belt or conflict with the purposes of including land within it.

Engineering works

9.2 Given the nature of the proposals the Council’s Policy team were consulted on the application. They confirmed that the application site forms part of the sloping pastoral valley of Jackson Bridge dike and is part of a wider countryside landscape. They also consider that the proposed engineering operations which involve regrading the slope to provide safe access, parking and seating area to have little impact on the openness of the Green Belt as the regrading would not significantly change the degree of the slope and would not change the overall character of the valley side. Furthermore, no new retaining walls or other built structures are proposed as part of this regrading work.

Material change of use of the land

9.3 The Policy team also made comment on the proposed change of use of the grazing land to the rear of the Boot and Shoe Inn. They consider that this change from grazing land to pub car park and beer garden would impact on the openness of the Green Belt to a significant degree, and note that openness is not judged solely on impact from built development but from the erection of fences or other enclosures, visual intrusion, intensity of use, disturbance from noise, light and general activity which would occur during the day and into the evening. It would be expected that the degree of disturbance and activity associated with a pub car park and beer garden would be significant.

Officer note: It is also important to note here that the Council's Environmental Health team were consulted on the proposals and raised objections and concerns in respect to the introduction of a noise source into such a quiet area, which they believed would be noticeable and thus cause disturbance and loss of amenity. It was discussed that controlling hours of use and other noise mitigation conditions would not be sufficient in this instance and therefore Environmental Health do object to the proposals.

9.4 Furthermore, the policy officer highlighted that the proposed fence on the boundary of the site will introduce enclosures that themselves would impact on the openness. The purpose of including land in the Green Belt includes safeguarding the countryside from encroachment and preventing sprawl. Despite the site being on the edge of the village this field is an integral part of a countryside landscape and the proposal would result in the encroachment of urban form and activity into the countryside. In addition, the location and configuration of this proposal would result in the sprawl of development on the sloping valley of Jackson Bridge Dike. It is considered that the proposal would have a significant impact on the openness of the Green Belt in this location and be contrary to the purpose of including land in the Green Belt which is to safeguard the countryside from encroachment and to prevent sprawl.

9.5 In conclusion, the proposals are therefore considered to be inappropriate development as defined within the NPPF paragraphs 143 and 144 as harmful to the Green Belt and should not be approved except in very special circumstances.

Special Circumstances

9.6 As previously discussed, the application site relates to the Boot and Shoe Inn which is a public house located within Scholes. As seen from the substantial amount of representations received from local residents in support of the proposals, the Boot and Shoe Inn is recognised within the area as playing an important role for the local community. As highlighted within the submitted Design & Access Statement the public house prior to the current COVID-19 Pandemic was a successfully operating commercial enterprise. Due to the current pandemic the public house has been closed/operating at a limited capacity since March 2020. As such the proposals if approved would allow the public house to operate at a larger capacity as the external seating would provide a means for customers to socially distance with the possibility of table service. It is important to note that the application is not for temporary permission and therefore would still operate as such after the Pandemic. The submitted Design & Access statement discusses this as it states that beyond the current situation the public house would be able to attract a new demographic with outdoor seating which would be a welcoming environment for families and those enjoying outdoor pursuits. This would help to generate new income to alleviate the pressure and losses incurred during the pubs long closure. The proposals would also help to solidify the future of the public house and ensure it remains an asset to the local community.

9.7 Local Plan Policy LP48 of the Kirklees Local Plan relates to community facilities and services. The policy states that proposals will be supported for development that protects, retains or enhances provision, quality or accessibility of existing community, education, leisure and cultural facilities that meet the needs of all members of the community. In this instance the proposals have been submitted to protect and enhance provision at the Boot and Shoe Inn, and whilst it is acknowledged that other Local Plan Policies need to be taken into consideration

such as the LP57, it is considered that given the current climate and the impacts of COVID-19 on local communities and their facilities and services should be protected, supported and enhanced wherever possible.

9.8 In this instance the planning balance needs to be considered. The Council's Policy team do raise concerns in respect to the material change of use of the site however, it is important to note that they have no concerns in respect to the regrading of the land to create the ramped access, car park or seating area. Concerns raised over the material change of use of land relate to erection of fences, visual intrusion, intensity of use, disturbance from noise, light and general activity. In respect to the proposed fencing, it is in officers opinion that the introduction of a timber fence to the southern boundary and the post and wire fence within the middle of the site would not cause a significant impact on the openness of the Green Belt given its location, adjacent to the built up area, and that similar timber fencing can be found at properties located next to the site. In addition to this, the existing dry-stone walls which separate the different parcels of land appear to be of a poor standard and deteriorating.

9.9 In respect to the proposed seating area, no permanent structures are to be placed within this portion of the land, with no physical changes being made other than the introduction of outdoor tables and chairs being dotted around the site. It is therefore considered that this alteration would not cause a significant and detrimental impact on the openness of the Green Belt. It is also important to note that given the sites location it is somewhat tucked up against the built area and is not in a position which is isolated and openly visible from the surrounding area. It could therefore be argued that the site could result in a degree of 'rounding off'.

9.10 Concerns raised over disturbance from noise, light and general activity may be able to be mitigated through conditions and informatives. Finally, the proposed car park has been reduced in scale and size with the inclusion of landscaping, the surfacing proposed has also been amended to be more sympathetic and in keeping with the area and its location, and whilst there are concerns over the material change of use of the land as a whole due to its potential to impact on the openness of the Green Belt, it is considered that the special circumstances outlined above would in this instance outweigh the harm to the Green Belt by reason of inappropriateness, and therefore the proposals are deemed to be acceptable in principle.

9.11 The proposals now need to be assessed in terms of their impacts on visual and residential amenity, highways and other matters.

Impact on Visual Amenity:

9.12 Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

9.13 Local Plan Policy LP24 states that all proposals should promote good design by ensuring the following:

'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape' and that 'extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers'.

- 9.14 The application site is located to the rear of an existing public house, just off St. Georges Road in Scholes. To the north west, south and west are residential dwellings, a public house and Post Office. To the east are open fields, which area also located within the Green Belt. This parcel of land is not openly visible from the public highway. The host property and its associated curtilage are of a sufficient size to support the proposed car park and seating area without amounting to overdevelopment. Therefore, the scale of the proposals are considered to be acceptable in this instance. Furthermore, the materials proposed to undertake the change of use of land and create an access ramp, car parking area and seating area are considered to be appropriate in this location, and that they would not appear incongruous in this location.
- 9.15 On this basis, the proposals are considered to accord with the requirements of policies LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Impact on Residential Amenity:

- 9.16 The National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings. This is echoed within Kirklees Local Plan Policy LP24 which states that: -

'proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary'.

Impact on surrounding residential properties on St. Georges Road:

- 9.17 The nearest residential dwelling on St. Georges Road is located approximately 10m away from the proposed car park. Given the close proximity of residential dwellings to the application site it was considered necessary to consult the Council's Environmental Health officers who raised objections to the proposals as a whole given the proposed increase in noise from the change of use of land to car park and seating area for the Boot and Shoe Inn. It is therefore considered that the proposals would cause a significant and detrimental impact on the residential amenity of these neighbouring properties on St. Georges Road.

Impact on no. 1 Whitegate Cottage:

- 9.18 This neighbouring property is located to the south of the site adjacent to the existing access to the rear car park of the Boot and Shoe Inn. This access will see a slight increase in vehicles accessing the rear of the public house and an increase in traffic flow of visitors wanting to access the bar, toilet facilities etc. within the pub itself. As discussed above the Council's Environmental Health team object to the proposals given the increase in noise pollution adjacent to residential properties located within close proximity to the Boot and Shoe Inn.

Impact on surrounding residential properties on Ravens Way:

9.19 The nearest residential dwelling with the potential to be impacted by the proposals to the rear of the pub is no. 16 Ravens Way. This dwelling backs on to the application site, with a separation distance of approximately 2.5m (taken from the rear elevation to the southern boundary of the application site). This neighbouring property is 2 storeys in height and given the topography of St. Georges Road no. 16 sits at a much lower ground level than the application site. It is important to note that there are a number of windows within the rear elevation of no. 16, most specifically bedroom windows at first floor level. As discussed above this difference in ground levels does mean that these rear bedroom windows would look straight out across the application site (with the separation distance of just 2.5m). Given this small separation distance between no. 16 and the southern boundary of the application site, this does mean that this dwelling's garden amenity area is located to the side of the property, to the east. This would mean that the garden and amenity area of this property would be located adjacent to the proposed beer garden/seating area. There are therefore significant concerns in respect to overlooking and impact on residential amenity given the introduction of a new noise source in regards to a new car parking area and seating area for customers visiting the Boot and Shoe Inn.

9.20 Amendments were made to the submitted plans to try and incorporate mitigation measures to try alleviate some of the noise and overlooking concerns these included an acoustic embankment along the southern boundary of the site adjacent to no. 16, and a 1.8m timber boarded acoustic fence and planting. The fence is to be erected along part of the southern boundary of the application site. It is to begin at the start of the new car park and end where the residential curtilage of no. 16 finishes. The remaining boundary would include the existing dry-stone wall which is to be retained. Whilst the amendments are welcomed it was concluded by the Council's Environmental Health officers that:

'Any solid fence, acoustic or otherwise, would prove ineffective unless it completely encloses a noise source and as the applicant only proposes to install it to part of the boundary, this will prove ineffective. The point still remains that any fence does not address the issue of noise to the upper floors of neighbouring properties. Simply raising the height of it will lead to further loss of amenity (light) to those properties (what windows are affected). We maintain our position that the introduction of a noise source into such a quiet area would be noticeable and thus cause disturbance and loss of amenity and so we cannot support this application'

Officer note: Whilst no calculations or evidence has been provided by the Environmental Health officer in respect to his comments on loss of light from the proposed acoustic fence, it is considered that from a planning perspective we would be minded to agree with this statement. This is due to the close proximity of windows within the rear elevation of no. 16 to the proposed 1.8m acoustic fence, this fence given its scale, size and location would block both views from, and light into the rear of no. 16 and would significantly impact on this properties residential amenity.

9.21 Given the advice from Environmental Health (Pollution & Noise Control) Officer's the acoustic fence proposed would be inadequate in mitigating against noise pollution generated from the proposed car parking area and seating area. In addition to this, the proposed fence would also cause concerns in respect to the

loss of light into the rear windows of no. 16 Ravens Way. It is therefore concluded that the amendments proposed would not help to alleviate the concerns raised in respect to noise pollution and the loss of residential amenity to no. 16 Ravens Way.

9.22 In conclusion, taking the above into account it is considered that the proposals would result in a significant and detrimental impact on the privacy and amenity of neighbouring dwellings surrounding the application site, and that the concerns in respect to noise could not be mitigated against in this instance with the use of planning conditions. The proposals would therefore not comply with policy LP24 of the Kirklees Local Plan (b) in terms of amenities of neighbouring properties and paragraph 127 of the National Planning Policy Framework.

Impact on Highway Safety:

9.23 The application site currently benefits from off-street car parking for 5 vehicles to the rear of the Boot and Shoe Inn. As the proposals would see additional car parking provided, the Council's highways officers see this as a benefit in terms of highway safety given the lack of on street car parking to the front of the public house. It is also considered that the existing access point onto St Georges Road, whilst being less than ideal in terms of width and visibility would be acceptable in this instance as any approaching vehicles would be travelling at low speeds and there is sufficient visibility for vehicles wishing to exit the car park at the bottom of the ramp to see if any vehicles are coming down the side of the public house.

9.24 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

9.25 It is therefore concluded that the scheme would not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21 and LP22, and the guidance contained within the National Planning Policy Framework.

Other Matters:

Biodiversity

9.26 Given the nature of the proposals the Council's Ecologist was consulted on the proposals. The officer states that the site appears to have been recently cleared of vegetation and the land regraded reducing its ecological value, the proposed development would only reinstate half of the area as grassland the application would result in a net loss of biodiversity. Therefore, in order to accord with Local Plan Policy LP30 the proposals should be able to demonstrate a net gain for biodiversity. A condition is therefore recommended by the officer, if the application is approved, for an Ecological Design Strategy to be submitted and approved by the Local Planning Authority.

9.27 There are no other matters for consideration.

10.0 CONCLUSION:

10.1 The proposed development would introduce a new noise source into a quiet area of Scholes, this noise source would be particularly harmful to the living conditions of occupants of existing properties given the close proximity to neighbouring residential dwellings and the nature of the use of the site (for vehicles and customers visiting the public house). This noise source would therefore cause disturbance and loss of amenity to neighbouring properties, and therefore would be contrary to Policy LP24(b) of the Kirklees Local Plan, and Paragraph 127 of the National Planning Policy Framework.

Background Papers:

Application and history files

Available at: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/91542>

Certificate of Ownership

Certificate B signed.