
Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 09-Dec-2020

**Subject: Planning Application 2020/92400 Erection of detached garage
Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN**

APPLICANT

S Akhtar

DATE VALID

27-Jul-2020

TARGET DATE

21-Sep-2020

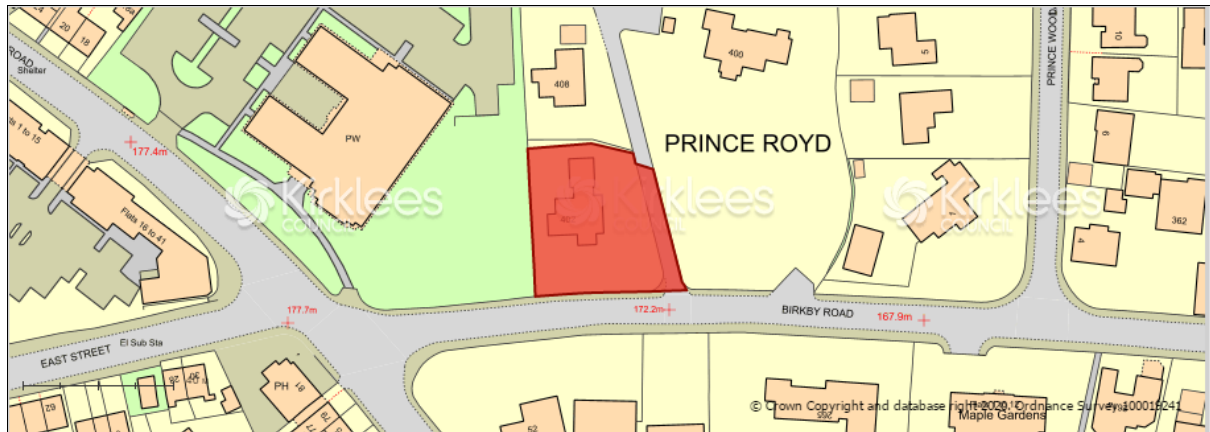
EXTENSION EXPIRY DATE

14-Dec-2020

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: Lindley

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 The application is brought to committee at the request of Cllr Cahal Burke, who has stated the reason for the request is:

Over-development of the site - particularly as the proposal is out of character in the area.

We are concerned about the proposal for a building sited in the corner of the property adjacent to the private lane and Birkby Road. Not only would it represent an over development of the plot, but It would be visually assertive and dominate the street scene. A fence large enough to conceal such a building along Birkby Road would be even more dominant and visually assertive. Any proposal that a hedge could conceal the building is unworkable since 'to grow a hedge 3.2 metres high' is not an enforceable condition.

1.2 It is also noted that the two other Ward Councillors Cllr Richard Eastwood and Cllr Anthony Smith were also included in correspondence to this request.

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

2.0 SITE AND SURROUNDINGS:

2.1 402 Birkby Road, known as Brigsteer, is a large detached dwelling situated on the north side of Birkby Road approximately 45m east of the junction with Halifax Road. Vehicular access is provided by an unadopted road adjacent to the eastern boundary of the plot which continues to serve 5 other dwellings. The plot, which measures approximately 39m from north to south and 30m west to east (on average), is somewhat elevated above the level of Birkby Road. Vehicular access to the unadopted road is taken at the north-east corner of the site. The dwelling itself is of an asymmetrical design and layout, with an attached double garage at the northern end. Most of the amenity space is to the south and west, and there are several mature trees on the southern and eastern boundaries.

2.2 To the west, the site is bounded by the Church of Jesus Christ of Latter Day Saints grounds, and to the north by no. 408 Birkby Road. To the east, on the other side of the access road, is no. 400 Birkby Road, a detached dwelling on a large plot, while to the south, on the opposite side of Birkby Road, are some modern detached dwellings on smaller plots. The wider area is characterised by detached dwellings which are mostly either individually designed or form part of small modern developments.

3.0 PROPOSAL:

3.1 The application seeks the erection of a detached double garage. The garage would be located to the front of the dwelling in the south eastern corner of the site proximate to Birkby Road. The garage would measure 6.8 metres wide by 6.6 metres deep with a maximum overall height of 2.6 metres. The garage would be constructed from natural stone with a flat roof covered in rubber membrane. The garage would be set down in the site by approximately 0.6 metres with a ramped access leading from the existing drive/parking area to the front of the dwelling.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 2020/93467 - Erection of gates and gate posts – Pending Consideration
- 2019/91842 - Erection of detached garage – Refused. Appeal dismissed.
- 2018/93226 - Erection of two storey extension – Approved by Huddersfield Planning Sub-Committee. The development authorised by this permission was not implemented due to application 2018/90978 being allowed at appeal.
- 2018/90978 – Erection of single-storey and two-storey extensions. Refused by Huddersfield Planning Sub-Committee and subsequently allowed at Planning Appeal, ref APP/Z4718/D/18/3218457. Permission Implemented.
- 2004/91771 – Reserved matters for the erection of a detached dwelling. Approved and implemented.
- 2003/94421 – Outline application for the erection of a detached dwelling (within the curtilage of the dwelling now known as 408 Birkby Road). Approved and implemented.

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

5.1 The Case Officer raised concerns with the scale of the originally proposed garage which had a pitched roof with a maximum height of 4 metres and would have been built at the existing ground level. There were concerns that this proposal would have a detrimental impact on the local street scene. The applicant submitted a number of amended plans, finally reducing the height of the garage to 2.6 metres with a flat roof and setting it down in the site by 0.6 metres to make it less prominent.

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 27th February 2019).

6.2 Kirklees Local Plan (2019):

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place Shaping
- **LP 21:** Highway safety and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 33:** Trees.

6.3 National Planning Guidance:

- **Chapter 11** - Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 15** - Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised via neighbour notification letters to addresses bordering the site in accordance with Table 1 of the Kirklees Development Management Charter.

7.2 The final public representation period for the application expired 16th October 2020.

7.3 In total 35 representations have been received on the proposals. 2 comments were received following the applicant serving notice of owners of land within the application site under Article 13 of the Town and Country Planning (Development Management Procedure) Order 2015. A total of 29 in objection and 4 comments in support of the proposal have been received, over 2 periods of formal public consultation. Comments have been summarised below:

- The 2 comments received following the applicant serving notice on land owners were received from local residents who had been served notice on due to the shared ownership of the access to the site. These comments focus on requesting the ability to comment on the planning application once validated.

7.4 The 29 comments received in objection, include multiple comments by individual local residents, these are summarised below:

- The scheme is similar to that refused and dismissed at appeal and there is no material change in circumstance to warrant supporting the proposal. The development has not addressed the concerns in the previous report or Inspectorate's decision.

- The submitted information including the street scene elevations are misleading and include elements which are not directly proposed by this scheme such as the boundary treatment and illustrated trees.
- Brigsteer was only allowed to be constructed with enhanced sightlines off a private drive, there is concern that insufficient sightlines would be delivered by this proposal.
- The proposal would represent an overdevelopment of the site and is located in a prominent position forward of the dwelling. If the highway works go ahead (highway scheme along Birkby Road) this would further reduce the available land at the site, further increasing over development concerns. There are no other garages forward of the front elevation of dwellings in the local area.
- Concerns are raised regarding the intensification of use of the access and the impact of construction works on highway safety. The other works undertaken at the site led to on street parking and disturbance.
- The proposal should include an electric car charging point and have solar panels.
- The flat roof is not in keeping with the local area.
- There are already existing garage facilities at the site which should be utilised.
- The proposed fence shown after the highway works would be visually dominant to the detriment of the street scene and was not included in any of the consultations on the highway improvements, how can this be given any weight in the decision on the application?
- The proposal would increase water run off at the site.
- The amended plans do not address the objections previously set out.
- If the garage approval is based on screen fencing then there are concerns that this could not be achieved under permitted development due to its location adjacent to a highway and no screen fencing is proposed in the application. If screening isn't proposed the garage even with a flat roof would remain prominent.

7.5 5 comments in support,

- The scheme is smaller than that refused and would not be visible in the street scene, would be constructed from matching materials and therefore accord with Policy requirements.
- There is no impact on trees nor to a conservation area and highways have no objection to the impact highway safety. The rule of 5 cars of a private drive is not relevant as the access was widened when no. 402 was built.
- The proposal does not impact on any surrounding residents.
- Some of the comments against the proposal include inaccurate calculations and were made before the application was validated.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

No consultation necessary.

8.2 Non-statutory:

No consultation necessary.

9.0 MAIN ISSUES

- Principle of development
- Background
- Design
- Residential Amenity
- Highway Safety
- Other Matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 The application site is unallocated on the Local Plan and therefore Policies LP1 and 2 are relevant which support sustainable development. The key assessment for this application will be the design of the development and its impact on the character and appearance of the local area. The impact of the development on residential amenity, highway safety and all other material planning considerations will also be assessed.

Background

- 10.2 The application represents an amended submission to the scheme refused under application no. 2019/91842, which was also dismissed at appeal. The 2019 application proposed a larger garage which would have had a maximum overall height of 4.3 metres be 8.5 metres wide by 6.8 metres long and would be set at the original ground levels in the site. The reason for refusal is set out below:

1. The proposed detached garage, by reason of its scale and position forward of the host property and adjacent to Birkby Road, and when combined with other extensions undertaken at the application site would represent an overdevelopment of the site, that would be visually assertive and out of character with, and harmful to, the visual amenity of the local area. The proposal would therefore be contrary to the aims Policy LP24 (a) of the Kirklees Local Plan and paragraph 127 of the National Planning Policy Framework.

- 10.3 The Planning Inspectorate, whilst dismissing the appeal, did not agree with the stated 'overdevelopment reason', considering that the garage "would not be disproportionate to the size of the plot". The submitted plans also included the land that would potentially be taken to implement the highway improvement scheme on Birkby Road.
- 10.4 The currently proposed garage is significantly smaller than that proposed by the 2019 application being 25% smaller in terms of volume and 22% in terms of footprint.

Design

- 10.5 General design considerations are set out in Policy LP24, which seeks to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity. This is reiterated in Chapter 12 of the NPPF. The key design considerations relate to the design of the garage itself and its impact on the character and appearance of the local area and street scene.
- 10.6 The application site has previously received permission, allowed at appeal, to be extended under application 2018/90978 and works in relation to this permission have now been completed. The key consideration for the proposal is whether the development would be in keeping with the character and appearance of the local area. The previously held concerns in relation to over development at the site were not supported by the Planning Inspectorate in considering the previous garage scheme, where it was concluded that the garage would not be disproportionate in size to the plot. This appeal decision is a material consideration afforded considerable weight in the assessment of this proposal. Taking this into account, together with the reduced footprint and volume of the garage, Officers consider that the proposal would not amount to over development of the site.
- 10.7 Turning to the impact on the character of the local area, concerns were previously raised with regard to scale of the garage and its prominence in the street scene, due to its position to the front of the property in the south eastern corner and in proximity to Birkby Road.
- 10.8 However the garage would at its very closest point be 3.8 metres from Birkby Road, and the site is currently screened by a number of conifer trees. The ground level of Brigsteer is set up above the ground level of Birkby Road, however the proposed garage would be set down within the site, being approximately 0.6 metres lower than the existing ground level which would aid in reducing its visibility in the street. The building's overall height at 2.6 metres means that with the set down of 0.6 metres that only 2 metres would be visible above the existing ground level. This limited height, combined with the garage's position away from the site boundary, is considered to ensure that the garage would not appear overly prominent from Birkby Road or in the wider local area. Furthermore the applicant proposes to retain the existing conifer edge at the site boundary which would ensure also aid in ensuring that views of the structure would be limited from Birkby Road. The impact of the development on the street scene and local area is therefore considered to be acceptable.
- 10.9 With regards to the appearance of the garage, it would appear as a simple detached outbuilding constructed from natural stone to match the host property. Two garage doors would be located in front elevation and a personnel door in the side elevation. The building would appear as a subservient outbuilding and the use of matching materials would help it to harmonise with the principal dwelling on the site. The proposed flat roof, whilst not matching the main dwelling, is on balance considered to be acceptable as it aids in reducing the prominence of the garage, and flat roofs are not an uncommon design approach for detached garage structures.

- 10.10 It is also noted that the Council are proposing to bring forward highway improvement works at the junction of Birkby Road and Halifax Road which would impact on the site. The proposals have been through a formal consultation stage, but as yet no planning application for the works has been submitted. The proposed works would lead to the loss of part of the garden area of Brigsteer and the extent of garden lost is indicated on the submitted plans. If the works go ahead they would lead to the proposed garage being closer to the potential new footway along Birkby Road, being 1.7 metres away at its very closest point. Whilst there is potential the garage would be brought closer to Birkby Road if the highway improvement works take place, given its low height and set down, and position off the site boundary it is considered that the garage would still have an acceptable impact on the street scene. This takes into account that the existing soft landscaping along the boundary would be removed and replaced with some form of boundary treatment.
- 10.11 It is noted that the submitted plans have provided a street scene elevation setting out how the applicant considers the site would appear after the highway works have been completed, showing the garage behind timber fence on top of a new retaining wall. The plans suggest the retaining wall and fence would have an overall height of between 3.5 to 4 metres when measured from the footway along Birkby Road. Whilst noting that the proposed garage would be screened behind some form of boundary treatment if the highway works take place, planning permission would be required for these works in their own right and they are not included in this application. There is also no other planning permission in place for the works; this would require an application to be submitted at some point in the future. Given this situation, no weight is afforded to the details set out on the street scene plan and a future application would have to assess the potential impact of any such boundary treatment. A note regarding this matter would be included on any decision notice for clarification.
- 10.12 It is noted that that the site is within close proximity to the Edgerton Conservation Area. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 needs to be considered which requires that special attention is paid to the desirability of preserving or enhancing the character and appearance of the conservation area. Whilst within proximity of the Conservation Area it would be set away from the boundary and within a separate residential garden. The highway provides a clear separation between the site and Conservation Area. Taking this into account it is considered that the proposal would preserve the setting of the Conservation Area.
- 10.13 In conclusion, given the limited scale of the garage and its low overall height the proposal is considered to be of an acceptable design in its own right and when considered as an outbuilding to the principal dwelling. Taking these factors into account furthermore, it would not have a detrimental impact on the character, appearance or visual amenity of the street scene along Birkby Road. The proposal would therefore accord with Policy LP24 of the Local Plan and Chapter 12 of the NPPF.

Residential Amenity

- 10.14 With regard to residential amenity, Policy LP24 advises that proposals should ensure that a high standard of amenity is achieved for future and neighbouring occupiers.
- 10.15 The proposed garage is separated from unrelated properties with the closest being those on the opposite side of Birkby Road to the south which are over 30 metres away. The closest properties to the east of the site are over 40 metres away. Given the separation distances achieved it is considered that the proposed garage would not adversely impact on residential amenity and would accord with Policy LP24 in terms of residential amenity.

Highway Safety

- 10.16 Policies LP21 and 22 of the Local Plan are relevant in terms of highway safety which seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking to serve development. The proposed garage would be accessed by an enlargement to the existing internal drive of Brigsteer which would also be sloped down into the garage. Access to the site itself via the existing private drive which leads from Birkby Road.
- 10.17 Given that the point of access already exists and it is not proposed to enlarge the property under this application with additional living space, it is considered that the erection of the detached garage would not intensify vehicular movements to and from the site. The proposed garage is of a suitable size to accommodate vehicles and access arrangements to the garage are considered to be acceptable.
- 10.18 The highway improvements works along Birkby Road referred to earlier in this report, which would lead to the loss of part of the garden, have also been considered on the submitted plans. The applicant has detailed the extent of where such improvements would extend to on the site and shown how achievable sight lines would be retained with the proposed garage in place. Such details are considered to be acceptable and demonstrate that the proposed garage would not adversely impact on the sightlines to and from the private drive that leads from Birkby Road if the highway works were undertaken. If the highway works are not undertaken the position of the garage would not impact on the existing arrangements which is considered also to be acceptable
- 10.19 In conclusion the highway arrangements for the application are considered to be acceptable and would accord with Policies LP21 and 22 of the Local Plan.

Other Matters

- 10.20 *Ecology* – As noted on the previous applications the mature trees which would be lost by the development are not worthy of a preservation order and their loss is considered to be acceptable. The site is an area of garden with no other ecological value.

10.21 *Climate Change* - On 12th November 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.

10.22 The proposed garage is a small scale addition to the site and would enhance the existing occupiers' use of the property. The use of natural stone is a durable material which could if necessary be reused at some point in the future.

Representations

10.23 In total 35 representations have been received on the proposals. 2 comments pre-consultation, 28 in objection and 4 comments in support, over 2 periods of formal public consultation. Comments have been summarised below, along with a response to the points raised.

- The 2 comments received before consultation were received from local residents who had been served notice on due to the shared ownership of the access to the site. These comments focus on requesting the ability to comment on the planning application once validated.

Response: These comment are noted, and the application was advertised by letter sent to residents in accordance with Table 1 of the Kirklees Development Management Charter.

10.24 The 29 comments received in objection, include multiple comments by individual local residents, these are summarised below:

- The scheme is similar to that refused and dismissed at appeal and there is no material change in circumstance to warrant supporting the proposal. The development has not addressed the concerns in the previous report or Inspectorates decision.

Response: The proposal is now substantially smaller than that previous refused scheme and as set out above is considered to have overcome the previous reason for refusal/reason the application was dismissed at appeal.

- The submitted information including the street scene elevations are misleading and include elements which are not directly proposed by this scheme such as the boundary treatment and illustrated trees.
- The proposed fence shown after the highway works would be visually dominant to the detriment of the street scene and was not included in any of the consultations on the highway improvements, how can this be given any weight in the decision on the application?

Response: It is noted that the street scene elevation includes elements such as the boundary treatment which do not form part of the proposal and as set out above have been given no weight in the determination of the application. A separate planning application would be required for this.

- Brigsteer was only allowed to be constructed with enhanced sightlines off a private drive, there is concern that insufficient sightlines would be delivered by this proposal.

Response: These sight lines would be retained by the development.

- The proposal would represent an overdevelopment of the site and is located in a prominent position forward of the dwelling to the. If the highway works go ahead this would further reduce the available land at the site, further increasing over development concerns. There are no other garages forward of the front elevation of dwelling in the local area.

Response: As set out in the design section of the report, the Planning Inspector's decision letter regarding the previously refused application did not consider that the last scheme represented an over development of the site. The scheme is now smaller than that previously proposed. Significant weight is afforded to the recent appeal decision in the assessment of this application.

- Concerns are raised regarding the intensification of use of the access and the impact of construction works on highway safety. The other works undertaken at the site led to on street parking and disturbance.

Response: The proposed garage would be used incidentally by the existing occupiers of the host dwelling. It is considered that it would not lead to an intensification of use of the access. There is sufficient parking on site to allow for contractor or visitor parking.

- The proposal should include an electric car charging point and have solar panels.

Response: Given that the proposal represents an outbuilding to an existing dwelling neither of these requirements are considered to be necessary.

- The flat roof is not in keeping with the local area.

Response: It is noted that flat roofs are not evident in the immediate local area, however as set out above, the inclusion of the flat roof aids in ensuring the garage is less prominent and is on balance considered to be acceptable.

- There are already existing garage facilities at the site which should be utilised.

Response: It is noted that there is an existing attached garage, however as set out above the site is considered to be of a sufficient size to accommodate an additional structure.

- The proposal would increase water run off at the site.

Response: There may be marginally increase run off from the proposal but this could drain within the site.

- The amended plans do not address the objections previously set out.

Response: Noted the previous objections have been assessed above.

- If the garage approval is based on screen fencing then there are concerns that this could not be achieved under permitted development due to its location adjacent to a highway and no screen fencing is proposed in the application. If screening isn't proposed the garage even with a flat roof would remain prominent.

Response: As set out above the assessment of the development is not reliant on the provision of a boundary fence and the impact of the proposal on the street scene is considered to be acceptable.

10.24 5 comments in support:

- The scheme is smaller than that refused and would not be visible in the street scene, would be constructed from matching materials and therefore accord with Policy requirements.
- There is no impact on Trees nor to a conservation area and highways have no objection to the impact highway safety. The rule of 5 cars of a private drive is not relevant as the access was widened when 402 was built.
- The proposal does not impact on any surrounding residents.
- Some of the comments against the proposal include inaccurate calculations and were made before the application was validated.

Response: These comments are noted.

11.0 CONCLUSION

11.1 In conclusion, the proposed detached double garage is considered to be of an acceptable visual design and scale and which would not have an unacceptable impact on the local street scene. The proposal would not adversely impact on residential amenity or highway safety.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and it is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Implement within 3 years.
2. In accordance with the plans.
3. External facing material to be natural stone.

Note – regarding the illustrative boundary treatment shown on the street scene elevation relating to the potential highway improvements which does not form any part of the planning decision.

Background Papers:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f92400>

Certificate of Ownership – Notice served on 406 and 410 Birkby Road in relation to the access to the site.