
Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 16-Sep-2021

Subject: Planning Application 2020/91055 Variation of conditions 2 and 6 and removal of conditions 5 on previous permission 2019/93524 for provision of 3 parking spaces and landscaping works to provide amenity space 102, Dunford Road, Holmfirth, HD9 2DT

APPLICANT

H Acumen

DATE VALID

02-Apr-2020

TARGET DATE

28-May-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: No

Public or private: Public

RECOMMENDATION: Approve Variation of Condition

DELEGATE approval of the application for the variation of condition 2 and 6 and the removal of condition 5 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 before the Huddersfield Sub-Committee for determination under the terms of the Delegation Agreement on account of there having been significant local objection to the proposal.

2.0 SITE AND SURROUNDINGS:

2.1 The application red line comprises a triangular shaped plot. Dunford Road runs parallel to the east boundary and an unadopted road Swan Bank Lane runs parallel with the west boundary. This also carries the route of public right of way no. HOL/108/20. Topography of the site is such that it slopes down from east to west with a retaining wall along Dunford Road. The site was previously covered in trees, but these were removed fairly recently. Refurbishing/renovation works have also recently been carried out on the existing properties within the application red line.

3.0 PROPOSAL:

3.1 The application seeks to vary conditions 2 (approved plans) and 6 (landscaping) and the removal of condition 5 (highway improvements) on previous permission 2019/93524 for provision of 3 parking spaces and landscaping works to provide amenity space.

3.2 The amendments to the approved plans reflect what has been constructed on site. The proposal would provide a parking area that is 9.3 metres wide by 5.2 metres deep. A drystone retaining wall would be erected to the rear of the parking bays with a double height gabion basket retaining wall above and a single height gabion basket retaining wall above with terraced garden areas in between. A stepped access would be provided to the north of the site linking the parking area to the properties off Dunford. Screening planting would be provided to the south of the site.

- 3.3 Condition 5 to be removed sought to improve the access between Dunford Road and access to Swan Bank Lane. The condition is detailed below.
5. Prior to development commencing on works to improve the access of Swan Bank Lane with Dunford Road, a detailed scheme for the provision of a widened access from Swan Bank Lane, with improved sight lines onto Dunford Road shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, signing and surface finishes. Thereafter all of the approved works shall be implemented before any part of the development is first brought into use and be retained thereafter.

Reason: *To ensure the adequate sightlines can be provided to serve the development given the challenging topography and the junction of Swan Bank Lane with Dunford Road in the interests of highway safety and to achieve a satisfactory layout and to accord with Policy LP21 of the Kirklees Local Plan.*

- 3.4 The submitted application states that the highway improvements are not financially viable, as the work to provide the approved parking spaces alone do not yield a financial benefit for the applicant; they simply improve the parking provision for the existing dwellings on Dunford Road. The applicant considers that the provision of 3 parking spaces still provides significant highway safety improvements by reducing levels of on-street parking on Dunford Road.
- 3.5 Condition 6 required the submission of a landscaping scheme for the application site. A plan has been provided which details various native shrubs will be planted at the site along with areas of turfing. The plan details that the shrubs will grow to be between 1-2 metres in height.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2019/93524 - Provision of 3 parking spaces and landscaping works to provide amenity space – Approved
- 4.2 2018/93148 - Outline application for erection of residential development and on site parking for nos. 100, 102 and 104 Dunford Road – Refused, dismissed at appeal

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

- 5.1 The Case Officer secured amended plans to accurately reflect the development constructed on site.

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
 - **LP21** – Highway safety and access

- **LP22** – Parking
- **LP24** – Design
- **LP30** - Biodiversity & Geodiversity
- **LP35** – Historic environment

6.3 Supplementary Planning Guidance / Documents:

- Kirklees Highways Design Guide

6.4 National Planning Guidance:

- **Chapter 2** – Achieving sustainable development
- **Chapter 12** – Achieving well-designed places
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

Neighbourhood Development Plans Neighbourhood Development Plans

6.5 The Holme Valley Neighbourhood Development Plan has reached an advanced stage of preparation and the independent Examiner's Report has been received. Although the plan has yet to be subject to a referendum in the affected area, it is a material planning consideration in decision making and weight has been attributed in accordance with NPPF (July 2021) paragraph 48. The most relevant policies to this application being:

1. Protecting and enhancing the landscape character of the Holme Valley
2. Protecting and enhancing the built character of the Holme Valley and promoting high quality design
3. Conserving and enhancing Local Heritage Assets (Recommendation 8A)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Final publicity date expired: 23 Nov 2020 (publicity by neighbour notification letter, site notice and press advert). In Total 17 representations in objection have been received. A summary of the comments received are set out below:

- The proposed parkin spaces are not workable and would be detrimental to the users of Swan Bank Lane which is a private lane maintained by a management company.
- The proposal would lead to an intensification of the access which is also a public right of way to the detriment of highway and pedestrian safety.
- Are the parking spaces of sufficient dimensions to serve as parking spaces as the spaces appear small in depth?
- Land outside of the application site will have to be used for parking.
- It is not clear how the parking spaces will be surfaced, additional run off would be detrimental to the operation of the Swan Bank Lane.
- The widening of the lane should still go ahead as it provides a wider highway benefit condition 5 should therefore not be removed.
- Further work in the local area causes additional disruption to local residents.
- The terraced garden areas have the potential to overlook windows in the adjacent property.
- Works have been undertaken at the site without following the planning permission and the first set of plans submitted were inaccurate.

- The design of the works would be detrimental to the character of the local area.
- The landscaping details submitted are unclear and do not provide sufficient detail to address this condition.
- Amended plans for the application have not been re-advertised to residents and they still do not accord with what has been built on site. The landscaping plan sets out that all areas will be turfed but the landscape plan a mix of turf and shrubs, which will it be. The flagged patio area does not appear on the site layout plan.
- A 'corral' fence has been installed at the site instead of the stone wall, which was passed - and which has now disappeared off Plan G (you will note that the current corral fencing is also not included on the latest plan).
- The current plan does not show the intentions of the developer at the area where the junction improvements were to be located.

7.2 Holme Valley Parish Council – object to the removal of condition 5

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** none necessary

8.2 **Non-statutory:** none necessary

9.0 MAIN ISSUES

- Principle of development
 - Background
- Amendments to the Approved Plans
 - Design and Heritage
 - Highway Safety
 - Residential amenity
- Removal of Condition 5
- Condition 6 landscaping
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The application site is unallocated on the Local Plan and therefore Policies LP1 and LP2 are relevant which support sustainable development. Since the decision on the original planning permission the Holme Valley Neighbourhood Development Plan has been through examination and has gained weight and will be considered alongside policies in the Local Plan, the Highways Design Guide SPD and National Policies in the NPPF.
- 10.2 The proposal is a Section 73 application which seeks to vary conditions and plans of the approved scheme. The key considerations for the application whether the proposed changes and removal of condition 5 are of an acceptable design, have an acceptable impact of the adjacent Underbank Conservation Area adjacent listed buildings, have an acceptable impact on residential amenity, highway safety, ecology and all other material planning considerations and representations received.

Background

- 10.3 The site has previously gained planning permission for the formation of 3 parking spaces under application 2019/93524 and this application seeks to amend what has been previously approved, to that described in section 3 of this report, remove the requirement to provide highway improvements and has provided detail in respect to the landscaping at the site. The principle of forming 3 parking spaces has therefore been granted and this application solely focus on the amendments to the scheme and the variations to the planning conditions.

Amendments to Approved Plans

- 10.4 The key consideration with regard to the amendments to the approved plans are design, heritage and highway safety.

Design and Heritage

- 10.5 General design considerations are set out in Policy LP24 of the Local Plan, 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 further supported by Chapter 12 of the NPPF and the National Design Guide which supports good design that functions well and adds to the overall quality of an area and retains a strong sense of place.
- 10.6 Due to the site's location adjacent the Underbank Conservation Area and a Grade II listed building at nos.106 and 112 Dunford Road, which is located to the south east. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 need to be considered. Policy LP35 of the Local Plan is also relevant which sets out criteria to be considered for applications which impact on heritage assets. Chapter 16 of the NPPF considers heritage matters and advises that new development should make a positive contribution to local character and distinctiveness. When harm is caused this needs to be weighed against the public benefits of the proposal.
- 10.7 The changes to the approved plans have led to the proposed parking area being approximately 1 metre wider than that previously approved, but around 2 metres shorter in depth. The other main change is the scale of the retaining structures at the site with a double height gabion basket above a drystone wall to the rear of the parking area and a higher level gabion basket structure.
- 10.8 The reduction in the depth of the parking area on design grounds makes them visually less prominent as there is an overall reduction in scale. However, the new retaining structures appear larger, as sloping elements previously proposed have been removed. The retaining structures, whilst locally prominent when viewed from Swan Bank Lane, would not be visible from Dunford Road or the wider Conservation Area and are constructed with natural stone and the use of gabion baskets in the structure has been previously approved by the 2019 permission. They are also set to the rear of the listed building at a lower level reducing any impact on the setting of the listed building.

- 10.9 When the structures are viewed in the wider context of the site, where the retaining structures to Dunford Road can be seen, they are, on balance, not considered to be incongruous. The former gate posts at the site have been repositioned at either end of the parking area as required by the 2019 permission. In addition, timber fences have been erected at the site under permitted development, all being under 2 metres high as part of the works to bring the dwellings back into use, and aid in providing a clear visible separation between the application site and the adjacent triangular piece of land to the north. Terraced areas formed by the retaining structures also aid in providing some small areas of useable garden for the occupiers of the dwellings and overall soften the different sections of retaining structures. With further softening achieved through the landscaping proposed via details submitted in respect to condition 6.
- 10.10 In conclusion on design and heritage grounds, the changes to the approved plans can be supported and they would accord with Policy LP24 and LP35 of the Local Plan and Policies in Chapter 12 of the NPPF.

Highway Safety

- 10.11 Turning to highway safety Policies LP21 and LP22 of the Local Plan are relevant which seeks to ensure that proposals do not have a detrimental impact to highway and pedestrian safety and provides sufficient parking.
- 10.12 The key consideration in highway safety terms with the amended design is whether the parking spaces remain of a sufficient size to provide 3 parking spaces and whether vehicles can appropriately enter and exit them. The depth of spaces at 5.2 metres is considered sufficient to accommodate a vehicle without it interfering with the adjacent access road to Swan Bank Court, being 0.4 metres deeper than a typical parking space which has a depth of 4.8 metres. The width of the parking area at 9.3 metres including the steps or 7.7 metres if the stepped area is discounted is also wider enough to accommodate 3 vehicles.
- 10.13 The final consideration is whether manoeuvring into and out of the spaces are workable. The agent has submitted a site layout plan with swept path analysis for one of the parking spaces which demonstrates that a vehicle can adequately reverse into one of the parking spaces then leave in a forward gear. It is noted that swept path analysis has not been provided for all of the 3 parking spaces and that the analysis for the parking space shown is positioned away from the southern wall. However, it is considered that sufficient evidence has been provided to demonstrate that the spaces are workable and can be entered and exited within the constraints that exist on site. It is noted that additional manoeuvres may be necessary to enter and exit the spaces which is not ideal, especially if different spaces are already in use, however, overall it is considered on balance that they remain workable with the amended design.
- 10.14 The provision of the spaces therefore retains a highway benefit to the local area by removing the need to park on Dunford Road for the occupiers of nos. 100, 102 and 104 Dunford Road. A condition to ensure that they are only used by the occupants of these properties will be reissued on this application along with a condition for appropriate surfacing, should the application be approved. Subject to the listed conditions, the proposal would therefore accord with Policy LP21 and L22 of the Local Plan.

Residential Amenity

- 10.15 With regard to residential amenity, Policy LP24 of the Local Plan advises that proposal should ensure that a high standard of amenity is achieved for future and neighbouring occupiers. This is also supported by Chapter 12 of the NPPF. The key assessment of the proposal is the impact the proposed parking spaces would have on surrounding dwellings.
- 10.16 It is considered that the amendments to the design of the parking layout have limited additional impact on residential amenity, the main change from the approved plans is the formation of differently sized and design terraced garden areas. These amended garden areas are not considered to lead to any additional detrimental overlooking impact on adjacent properties and the principle of having the parking spaces has been previously established. The proposal is therefore considered to have an acceptable impact on residential amenity and would accord with Policy LP24 of the Local Plan and Policies in the NPPF.

Removal of Condition 5

- 10.17 Condition 5 sought to provide highway improvements to the point of access between Dunford Road and Swan Bank Lane, which serves a number of properties off Swan Bank Court and Swan Bank Cottage. Details were conditioned in the interest of highway safety and to accord with Policy LP21 of the Local Plan.
- 10.18 The 2019 approval set out that the highway improvements secured by condition 5 combined with the provision of the parking spaces themselves, represented a highway benefit brought about by the scheme. The loss of the improvements to the point of access, whilst removing an element of highway benefit provided by the scheme, is not considered to represent the most significant highway benefit brought about by the permission.
- 10.19 Officers consider the biggest benefit being the provision of 3 off-street parking for three dwellings on Dunford Road, which is a classified B road and where there are high levels of on street parking. The improvements that could be secured to the junction were relevantly minor focusing on the slight widening of the entrance to the access to Swan Bank Lane by approximately 1.5 metres to slightly improve sight lines.
- 10.20 While the proposal would add extra vehicle movements to the point of access between Dunford Road and the access to Swan Bank Lane, on balance it is not considered that the additional movements would lead to a detrimental impact to highway safety that requires the improvements of the access, and the provision of the 3 spaces, would in total represent a bigger wider benefit to highway safety.
- 10.21 In light of the above, the removal of condition 5 can be supported by Officers provided the 3 additional spaces are only to be used by the occupiers of the properties on Dunford Road and appropriately conditioned, as previously secured by condition. Subject to these conditions the proposal would accord with Policy LP21 of the Local Plan.

Condition 6 landscaping

- 10.22 The application has sought to provide detail in respect to landscaping that was conditioned as part of the 2019 application. The reason for the condition was in the interests of the protection of residential amenity, visual amenity and biodiversity of the site and in accordance with Policies LP24, LP30 and LP32 of the Local Plan and guidance in the NPPF.
- 10.23 The submitted landscaping plan details that native shrub planting would be located adjacent to the parking area and along the southern boundary adjacent to Swan Bank Cottage with turfing proposed on the upper terrace. Specific details in relation to species and planting mix is set out on the plan. This detail has been assessed by Planning Officer's and is considered an appropriate scheme to enhance biodiversity at the site but also to aid in softening the appearance of the retaining structures at the site. In addition, it is considered that the screening will not have a detrimental impact on residential amenity but overall aid in softening the relationship between the application site and surrounding properties. A condition ensuring that the landscaping accords with the submitted plan and is maintained for 5 years is attached to the recommendation. Subject to the aforementioned condition, the proposal would accord with Policy LP24, LP30 and LP32 of the Local Plan.

Other Matters

- 10.24 *Other Conditions Attached to 2019/93524* – Given that works have commenced condition 1 (time to implement) is now no longer necessary. Condition 3 and 4 required the use of natural stone in the retaining structures and gabion baskets, condition 9 required the re-siting of the gate posts. Given that these works have been completed, these conditions are also no longer necessary.
- 10.25 *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.

The proposed parking spaces would have a limited impact in terms of climate change and it is accepted that the retaining walls would be faced in local natural stone which is a natural material with a relatively low carbon footprint.

Representations

10.26 In total 17 representations have been received which are summarised below along with a response to the points raised.

- The proposed parking spaces are not workable and would be detrimental to the users of Swan Bank Lane which is a private lane maintained by a management company.
- Are the parking spaces of sufficient dimensions to serve as parking spaces as the spaces appear small in depth?
- The proposal would lead to an intensification of the access which is also a public right of way to the detriment of highway and pedestrian safety.
- Land outside of the application site will have to be used for parking.

Response: As set out in the main body of the report the spaces are considered to be workable and of sufficient depth to accommodate a vehicle. Swept path analysis has been provided to demonstrate that they would be workable and would not interfere with the lane. It is not considered that the additional movements from the use of the parking spaces would adversely impact on the private lane or on the public right of way. It should also be noted that the principle of the parking spaces has been previously approved.

- It is not clear how the parking spaces will be surfaced, additional run off would be detrimental to the operation of the Swan Bank Lane.

Response: The spaces will be surfaced in a permeable material as required by condition 7 of the 2019 permission.

- The widening of the lane should still go ahead as it provides a wider highway benefit condition 5 should therefore not be removed.

Response: This comment is noted, however for the reasons set out in the main body of the report the removal of condition 5 can be supported.

- Further work in the local area causes additional disruption to local residents.

Response: It is considered that the majority of construction work has now been completed, any further impact would be limited. The proposal is therefore not considered to adversely impact the amenity of residents.

- The terraced garden areas have the potential to overlook windows in the adjacent property.

Response: The proposed terraced areas are not considered to lead to a detrimental overlooking impact, and the submitted layout plan aids in softening the impact between the application site and surrounding properties.

- Works have been undertaken at the site without following the planning permission and the first set of plans submitted were inaccurate.

Response: Amended plans have been received to reflect what has been constructed on site. These plans have been assessed as part of this application.

- The design of the works would be detrimental to the character of the local area.

Response: The impact of the proposed amendments on design and the character of the local area has been assessed in the main body of the report and is considered to be acceptable.

- The landscaping details submitted are unclear and do not provide sufficient detail to address this condition.

Response: Additional landscaping details have been submitted which set out the use of native planting and are acceptable to Planning Officers.

- Amended plans for the application have not been re-advertised to residents and they still do not accord with what has been built on site. The landscaping plan sets out that all areas will be turfed but the landscape plan a mix of turf and shrubs, which will it be. The flagged patio area does not appear on the site layout plan.

Response: The amended plans have sought to clarify the extent of alterations the permission is being sought for with the landscaping plan providing detail to meet the requirements of condition 6. The plans were not re-advertised as they did not increase the scale of development on site. The landscaping at the site will need to accord with that set out on the landscaping plan and this can be secured by planning condition. The paved area on the landscape plan is located within the red line boundary and is considered appropriate to include within the application.

- A 'corral' fence has been installed at the site instead of the stone wall, which was passed - and which has now disappeared off Plan G (you will note that the current corral fencing is also not included on the latest plan).

Response: Fencing erected at the site has been done so under permitted development and does not need to be included within the application.

- The current plan does not show the intensions of the developer at the area where the junction improvements were to be located.

Response: As this element of the scheme is proposed to be removed, the area will remain as existing. It is therefore not necessary to show this on a plan.

11.0 CONCLUSION

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

11.2 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 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. In accordance with the approved plans**
- 2. Landscaping to accord with submitted details and retained for 5 years**
- 3. Parking areas to be surfaced**
- 4. Parking areas only to be used by the occupiers of nos. 100, 102 and 104 Dunford Road**

Background Papers:

Application and history files.

Application Webpage - <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91055>

Original Application webpage 2019/93524 -

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93524>

Certificate of Ownership –Certificate A signed.