

KIRKLEES COUNCIL
PLANNING SERVICE
LIST OF PLANNING APPLICATIONS TO BE DECIDED BY
PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

03-Sep-2015

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND PAPERS

**There is a file for each planning application containing
application forms, plans and background papers.**

Simon Taylor - 01484 221000

In respect of the consideration of all the planning applications on this Agenda the following information applies;

PLANNING POLICY

The statutory development plan comprises:

The Unitary Development Plan (UDP). These reports will refer only to those polices of the UDP 'saved' under the direction of the Secretary of State beyond September 2007.

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The LDF core strategy approved by the Council in March 2012 was submitted to the Secretary of State on 2nd April 2013 for independent examination. However, following correspondence and meetings with the planning inspector, appointed by the Secretary of State, the council resolved to withdraw the core strategy on 23rd October 2013. Until such time as revised core strategy proposals have been submitted for examination they will have no significant weight in the determination of planning applications.

National Policy/Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, the Planning Practice Guidance Suite (PPGS) launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

REPRESENTATIONS

The Council adopted its Statement of Community Involvement (SCI) in relation to planning matters in September 2006. This sets out how people and organisations will be enabled and encouraged to be involved in the process relating to planning applications.

The applications have been publicised by way of press notice, site notices and neighbour letters (as appropriate) in accordance with the Statement of Community Involvement and in full accordance with the requirements of regulation, statute and national guidance.

EQUALITY ISSUES

The Council has a general duty under section 149 Equality Act 2010 to have due regard to eliminating conduct that is prohibited by the Act, advancing equality of opportunity and fostering good relations between people who share a protected characteristic and people who do not share that characteristic. The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- religion or belief;
- sex;
- sexual orientation.

HUMAN RIGHTS

The Council has had regard to the Human Rights Act 1998, and in particular:-

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Right to peaceful enjoyment of property and possessions.

The Council considers that the recommendations within the reports are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

PLANNING CONDITIONS AND OBLIGATIONS

Paragraph 203 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations,

The Community Infrastructure Levy Regulations 2010 stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests.

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The National Planning Policy Framework and further guidance in the PPGS launched on 6th March 2014 require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.

Recommendations made with respect to the applications brought before the Planning sub-committee have been made in accordance with the above requirements.

Application No: 2014/92101	8
Type of application: 62 - FULL APPLICATION	
Proposal: Change of use from public house to 4 no. apartments, alteration to roof, 2 no. A3 units and new parking facilities to rear (within a Conservation Area)	
Location: Post Office Hotel, 11, Market Street, Milnsbridge, Huddersfield, HD3 4ND	
Ward: Golcar Ward	
Applicant: Qamar Akhtar	
Agent: Manjinder Chattha	
Target Date: 11-May-2015	
Recommendation: FC - CONDITIONAL FULL PERMISSION	
Application No: 2015/90507	21
Type of application: 60m - OUTLINE APPLICATION	
Proposal: Outline application for residential development (within a Conservation Area)	
Location: Land off, Carr Top Lane, Golcar, Huddersfield, HD7 4JB	
Ward: Golcar Ward	
Applicant: T Smith	
Agent: Michael Townsend, Townsend Planning Consultants	
Target Date: 26-May-2015	
Recommendation: OASD - CONDITIONAL OUTLINE APPROVAL SUBJECT TO DELEGATION TO OFFICERS	
Application No: 2015/91523	39
Type of application: 62 - FULL APPLICATION	
Proposal: Engineering works to form public area	
Location: Woodhouse Farm, Woodhouse Lane, Holmbridge, Holmfirth, HD9 2QR	
Ward: Holme Valley South Ward	
Applicant: Holmfirth Vineyard Ltd	
Agent: Mr Gary Crossfield, Bauhaus Architectural Consultants	
Target Date: 15-Jul-2015	
Recommendation: FC - CONDITIONAL FULL PERMISSION	
Application No: 2015/91434	51
Type of application: 62 - FULL APPLICATION	
Proposal: Erection of detached garage and extension to existing dwelling	
Location: 16, Bayfield Close, Hade Edge, Holmfirth, HD9 2QX	
Ward: Holme Valley South Ward	
Applicant: D Frank	
Agent:	
Target Date: 08-Jul-2015	
Recommendation: FC - CONDITIONAL FULL PERMISSION	

Application No: 2014/92101

Type of application: 62 - FULL APPLICATION

Proposal: Change of use from public house to 4 no. apartments, alteration to roof, 2 no. A3 units and new parking facilities to rear (within a Conservation Area)

Location: Post Office Hotel, 11, Market Street, Milnsbridge, Huddersfield, HD3 4ND

Grid Ref: 411620.0 415860.0

Ward: Golcar Ward

Applicant: Qamar Akhtar

Agent: Manjinder Chattha

Target Date: 11-May-2015

Recommendation: FC - CONDITIONAL FULL PERMISSION

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/business/planning/advicenotes/PublicSpeakingCommittee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

RECOMMENDATION: FULL CONDITIONAL APPROVAL

The application proposes the redevelopment of the former public house to form 4no. apartments and 2no. Class A3 units. The proposal is considered, on balance, to be acceptable, and would bring back into use an existing redundant building in a sustainable location. The proposal would have an acceptable impact on the Milnsbridge Conservation Area, and would not be detrimental to highway safety nor the amenity of future occupiers and surrounding residents.

2. INFORMATION

The application was deferred from the last Huddersfield Planning Committee on Thursday 23 July 2015, to allow the applicant additional time to address concerns raised by the Highways in relation to the parking and access arrangements for the site. Further information has now been submitted which has been assessed in the main body of the report.

The application is brought before the Huddersfield Planning Sub Committee at the requests of Cllr Iredale, the request is set out below.

I would like to request a site visit and a committee decision with regards to this application. My reasons are I think the property which is in a conservation area is too small to warrant 4 apartments and a 2 A3 units with parking facilities for 8 vehicles I think that this will out of keeping with the surrounding area.

The Chair of Sub-Committee has confirmed that Cllr Iredale's request is valid having regard to the Councillor's Protocol for Planning Committees.

3. PROPOSAL/SITE DESCRIPTION

Site

The application site represents a former two storey public house constructed from natural stone, located on the southern edge of Milnsbridge centre. Vehicular access to the site can be gained from the east off Market Street along a private lane, which leads to the rear of the site, and which also serves a number of other properties. Surrounding the site to the east is a car sales area, to the west is a takeaway and café, to the rear (south) are a number of industrial units, to the north are a row of bungalows.

Proposal

The application seeks to change the use of the building to form 4 apartments, and 2 A3 café/restaurant units. The proposed works include the installation of one new window and 4 new roof lights on the front elevation, and the installation of 7 roof lights on the rear, and alterations to the existing windows. Access to the proposed A3 uses would be via the existing opening which would be shared.

Access to the apartments would be via pedestrian walkway which leads from Market Street along the eastern side of the building to the rear. A new galvanised footbridge with centrally positioned stair would provide direct access to the apartments. Two apartments would be located on the first floor and 2 in the roof space. No vehicular parking would be provided by the development

All new windows are proposed to be white Upvc, the existing roof would be replaced with 'Marley Garsdale of similar approved slate 'look-a-like' roof tiles. The new shopfronts would be aluminium and it is proposed that there would be security shutters to the shop units finished in brown. It appears that these would project in front of the face of the building and would be obscured by new signage. The plans also show the existing chimneys to be removed.

4. BACKGROUND AND HISTORY

2008/93753 - Conversion and 2 storey extension of public house to form offices with associated car park (within a Conservation Area) – Refused on design and ecology impact.

http://www2.kirklees.gov.uk/business/planning/application_search/detail.aspx?id=2008%2F93753

5. PLANNING POLICY

The site is unallocated on the Kirklees UDP Proposal Plan.

Kirklees Unitary Development Plan

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE5** – Development within a Conservation Area
- **BE12** – Space About Dwellings
- **BE18** – Security Shutters
- **H9** – Living Over the Shop
- **D2** – Development on Land without Notation on the UDP Proposals Map
- **T10** – Highway Safety
- **T17** – Cycling Facilities
- **T19** – Parking Standards
- **EP4** – Sensitive Locations
- **EP6** – Development and Noise

National Planning Policy Framework (NPPF)

- **NPPF2**: Ensuring the vitality of town centres
- **NPPF6**: Delivering a wide choice of high quality homes
- **NPPF7**: Requiring good design
- **NPPF8**: Promoting healthy communities
- **NPPF11**: Conserving and enhancing the natural environment
- **NPPF12**: Conserving and enhancing the historic environment

Other Policy Considerations:

- National Planning Practice Guidance (NPPG)

6. CONSULTATIONS

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- **KC Highways DM** – awaiting final comments on the amended scheme
- **KC Environmental Services** – no objections subject to conditions
- **KC Conservation and Design** – no objections
- **KC Environment Unit** - no objections subject to conditions

7. REPRESENTATIONS

Publicity Expired – 15/8/2014 2 representations received, a summary of the points raised is set out below:

- The un-adopted access road is of a substandard construction, and experiences congestion, any intensification of use should not be supported without improvements.

8. ASSESSMENT

Background:

A scheme for the redevelopment of the site submitted in 2008 but was refused on its adverse impact on the conservation area, its overall design and its impact on local ecology. Two other applications were subsequently submitted however both of these were invalid due to ownership issues. The current application represents a significantly reduced size scheme to that refused in 2008.

Principle:

The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment. The site is however located within the Milnsbridge Conservation Area.

The application represents the re use of an existing building, which is currently redundant and in a deteriorating condition, for both residential and a café use.

The proposed café units would provide new employment space located within the centre of Milnsbridge, which would compensate for the space lost when the former A4 public house closed. The café units could also be used as A1 retail and A2 professional service uses under permitted development if required by the applicant. The principle of forming the café units is therefore considered to be acceptable.

In relation to the residential use proposed, the Council is currently unable to demonstrate a five year supply of deliverable housing sites. Relevant information in this respect is provided in the annual monitoring report published on 31 December 2013. In these circumstances, in accordance with NPPF paragraph 49, “relevant policies for the supply of housing should not be considered up to date”. Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. This requires proposals which accord with UDP to be approved without delay or where the UDP is silent or out-of-date to grant planning permission unless the adverse impacts of doing so would ‘significantly and demonstrably’ outweigh the benefits in the NPPF. The provision of 4 apartments would support the provision of housing within the district, and aid in meeting the 5 year land supply of housing.

The principle of providing the apartments is therefore considered to be acceptable, subject to an assessment of the impact of forming residential uses above the café units. Policy H9 provides guidance in respect to this

matter, where consideration is required in relation to parking and access arrangements, and the impact on the visual character and quality of the building. These matters will be considered in detail later in this report.

Design and Heritage:

The NPPF provides guidance in respect of design in 'core planning principles' and in paragraph 56, both are set out below:

- *always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;*

56. *The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*

Kirklees UDP Policies D2, BE1, BE2 and H9 are also relevant, along with Policy BE5 due to the site's location in the Milnsbridge Conservation Area. 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, and preserves or enhances the character or appearance of the Conservation Area. Furthermore the site is within a conservation area the preservation or enhancement of which must be given special attention in accordance with the statutory duty set down in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The design of the proposed redevelopment of 11 Market Street is considered to be acceptable in principle, and is a significant improvement on the previously refused scheme. The Council's Conservation Officer has assessed the proposal and supports the overall design of the development, which would utilise the existing openings for the shop fronts on the front elevation, and use conservation area roof lights to make use of the roof space. The proposed loss of chimneys are on balance considered to be acceptable given that the roof space would be utilised to form two of the apartments. To the rear of the site amenity space would be provided for future occupiers which is considered to be acceptable in design terms.

The proposed use of aluminium shop windows and upvc windows for the apartments, given the site's location within the Milnsbridge Conservation Area, would require the submission of design details to be conditioned as part of the recommendation. Similarly details of the proposed security shutters would be required to ensure that the design and colour of the shutters, together with the shutter box housing was appropriate in the conservation area. This would normally require the shutter box housing to be set within the fabric of the existing building to comply with Policy BE18.

To ensure that the proposed roofing material is of an appropriate design and appearance a sample will be conditioned to be submitted before works commence. Final design details for the external render are also conditioned

to ensure that the Conservation Area is preserved by the development. To ensure that all new heads and cills are of natural stone, this is also conditioned.

Subject to the conditions set out above the proposal would be of an acceptable design, would preserve the appearance of the conservation area and would accord with Policies BE1, BE2, BE5, BE18 and H9 of the UDP, and Policies in the NPPF.

Highways:

The highway impact of the development has been assessed in relation to Policies T10, T17 and T19 of the UDP, and the scheme has been considered by the Highways Officer.

Concerns were previously raised by Highways in relation to the proposed use of a private shared access route to the rear of the site, and potential for conflicts between existing and proposed users of this access. The update to the previous committee report set out the Officers considered that the use of the private access should be removed from the scheme to prevent potential future conflict.

The applicant has amended the layout of the site in accordance with these comments, removing the use of the rear access and parking area. The amended scheme now provides no off street parking, with access to the apartments via a pedestrian walkway which leads from Market Street along the eastern side of the building to the rear. The previously proposed car park now forms amenity space for the development.

Whilst no off street parking would be provided by the development, Officers consider that the site is located within the centre of Milnsbridge, which has a reasonably frequent bus service, local shops, and general amenities to serve the future occupiers. In addition it is considered that the local highway network in adjacent streets has the capacity to accommodate additional on street parking if required. The amended layout is therefore considered to be acceptable. To encourage the use of cycling for the future occupiers of the apartments and in accordance with Policy T17, a condition will be attached to the decision notice to provide bicycle storage facilities within the site.

Subject to the conditions set out above the proposal is considered to have an acceptable impact on highway safety and would accord with Policies T10, T10 and T19 of the Kirklees UDP.

Amenity:

The impact of the proposal on amenity needs to be considered in relation to residential amenity of existing occupiers of land or buildings and future occupiers of the building including air quality and noise. The application has been assessed by Environmental Services, and in relation to Policies BE12, D2, EP4 and EP5 of the UDP and Policies in the NPPF.

Space About Dwellings

In terms of space about dwellings Policy BE12 is relevant which seeks to protect the amenity of existing and future occupiers from issues such as overlooking.

The closest adjacent residential properties to the application site are no.s1-9 Bridge Croft to the north which are a row of bungalows, and which are 19 metres away at their very closest. Policy BE12 advises that a separation distance of 21 metres should be achieved between habitable room windows. While the separation to Bridge Croft falls slightly less than the 21 metres advised in BE12, the impact is on balance considered to be acceptable. The relationship between the properties is existing, and there would have been a same relationship between Bridge Croft and the former living accommodation of the Public House; furthermore the relationship between the site and Bridge Croft is across Market Street and the affected windows are clearly in view from the footway along Market Street.

In terms of distances to other properties in the surrounding area all of which are located in excess of the 21 metres advised in Policy BE12, and the impact on these is considered to be acceptable.

In terms of noise the applicant has submitted a noise report which has been assessed by Environmental Services. The noise report has considered sources of noise which could potentially affect the development, the highest sources of noise were from the road to the north, Market Street, with highest levels experienced from queuing traffic at rush hour. Other sources of noise in the surrounding area were identified from adjacent commercial uses, though noise from these sources was less than that of the road.

The findings of the noise report have been accepted, and the principle of forming the mixed use development in the building is considered to be acceptable, with the amenity of the future occupiers of the apartments sufficiently protected. However to ensure that appropriate mitigation and controls are included in the development, details of extract ventilation, mitigation measures to protect residents from the A3 use, and an hours of use condition will be attached to the decision notice. Any extract ventilation system provided would need to be designed to protect both residential amenity and the character and appearance of the Conservation Area.

The mitigation measures are also considered to be sufficient to protect the flexible operation of surrounding commercial uses from the formation of residential space at the site.

Air Quality

In terms of air quality, concerns were initially raised due to the site's close position to the Market Street, Yates Lane, and Morley Lane junction which can be busy with queuing traffic which increases potential for poor air quality. The applicant has submitted an Air Quality Assessment (AQA) at the request of Environmental Services, pursuant to Chapter 11 of the NPPF, which has been

assessed. The findings of the AQA raise no issues in relation to the development as the air quality levels are modelled in the surrounding area are acceptable. It is also not considered that the flexible operation of the surrounding commercial uses would adversely affect by the formation of residential space at the application site given the acceptable levels currently achieved.

Conclusion on Amenity

In conclusion the proposal is considered to have an acceptable impact on local amenity, subject to appropriate conditions, and would comply with the requirements of Policies BE12, D2, EP4 and EP5 of the UDP and Policies in the NPPF.

Ecology:

The ecology impacts of the development have been assessed in relation to Policies set out in Chapter 11 of the NPPF, and a Bat Survey has been submitted at the request of the Council's Ecologist. The submitted bat survey advised that there are no constraints with the development and the findings of the survey have been accepted. Given the age of the building, and potential for use by bats, a condition is attached to the decision notice requiring a new survey if work is not commenced within 2 years. The provision of a bat box is also conditioned to ensure sufficient mitigation and enhancement measures are included in the development. To ensure that contractors are aware of a potential for bats, a note is attached to the recommendation.

Subject to the conditions and notes attached to the recommendation the proposal is considered to have an acceptable impact on local ecology and would meet the requirements in Chapter 11 of the NPPF.

Representations:

2 representations received, a summary of the points raised is set out below with a response:

- The un-adopted access road is of a substandard construction, and experiences congestion, any intensification of use should not be supported without improvements.

Response: As set out above in the 'Highways' section this unadopted road is not now proposed to provide vehicular access to the site as no parking spaces are being proposed/provided. Whilst this does not preclude anyone with a right of access using this track this would be a private legal matter outside the scope of this planning application.

Conclusion:

In conclusion the proposed redevelopment of the site for 4 apartments and 2 A3 units is considered, on balance, to be acceptable, and would bring back into use an existing redundant building in a sustainable location. The proposal would preserve the Milnsbridge Conservation Area, and would not have an adverse impact on highway safety or the amenity of future occupiers and surrounding residents.

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.

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.

RECOMMENDATION

APPROVE

9. RECOMMENDATION

Approval subject to the following conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. The use of the building hereby permitted shall not commence until the car park shown on the approved plans has been provided, surfaced and marked out in accordance with the approved plans and the car park shall thereafter be retained for that purpose for the occupiers of and visitors to the development.
4. The development shall not be brought into use until 4 secure and sheltered cycle parking spaces have been provided in accordance with details that have been submitted to and approved in writing by the Local Planning Authority, the approved facilities shall thereafter be retained free of obstructions and available for cycle parking thereafter.
5. The A3 restaurant and café use hereby permitted shall not begin until details of the installation and/or erection of any extract ventilation system, including details of the methods of treatments of emissions and filters to remove odours and control noise emissions have been submitted and approved in writing by the Local Planning Authority and the works specified in the approved scheme have been installed. Such works shall thereafter be retained, operated at all times when the café/restaurant is in use and maintained in accordance with the manufacturer's instructions.

6. Before development commences a report specifying the measures to be taken to protect the residential part of the development on the first and second floors, from noise arising from the ground floor commercial part of the development shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- i. Determine the existing sound reduction index of the party structures.
- ii. Determine a suitable design target to protect the amenity of the residential part of the development from the commercial use of the development.
- iii. Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

7. No activities shall be carried out within the ground floor units, denoted as Unit 1, Unit 2 and 'store' on drawing no.1036-208 A, including deliveries to or dispatches from the ground floor units and stores, outside the hours of 0730 and 2300 on any day.

8. Prior to the occupation of any part of the development, a scheme detailing the boundary treatment for all the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the works comprising the approved scheme have been completed and thereafter retained.

9. Notwithstanding the approved plans, all roof lights to be installed as part of this permission and as detailed on the hereby approved plans shall be of a Conservation Area style designed to fit flush with the roof.

10. Notwithstanding the approved plans, before development commences detailed drawings of new windows, doors and any security shutters to be installed in the hereby approved development shall be submitted to and approved in writing by the Local Planning Authority. The drawings shall be of a scale at 1:5 for sections and 1:20 for the elevations. The details shall include the siting of the security shutters and box housing on the front elevation and the position of windows in reveal. The development shall be completed in accordance with the details approved and be retained thereafter.

11. Notwithstanding the approved plans, all galvanised steel work to be installed on the hereby approved development shall have a factory applied black finish.

12. Notwithstanding the approved plans one bat box, in the form of a Schweglar type 1FQ bat box or similar, shall be installed on the building within the site, during the construction phase. The box shall be installed on the west facing gable at least 5 metres from the ground and not located above windows or doors, the box shall be installed prior to the development being brought into use, and shall be retained thereafter.

13. All new or replacement window heads and cills shall be of natural stone.

14. Notwithstanding the approved plans or submitted details, no alterations to the roof or external rendering of the walls shall commence until samples of roof tiles to be used, and details of the colour of render to be used on the approved development has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the details so approved.

NOTE – Highway Works

The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 0800 7318765) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991

NOTE - Bats

The Council's Environment Officer has commented that a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

This recommendation is based on the following plan(s):-

Plan Type	Plan Reference	Revision	Date Received
Location Plan	-	-	3/7/2014
Proposed Site Layout Plan	207B Rev A	-	12/8/2015
Existing Plans and Elevations	204	-	3/7/2014
Proposed Plans and Elevations	204 Rev A	-	3/9/2014
Proposed Floor Plans	208 Rev A	-	3/7/204
Design and Access Statement	-	-	3/7/2014
Bat Survey	June 2014	-	6/8/2014
Noise Report	DRUK/ACC/RS/MSMHAD/2395	-	7/11/2014
Additional Noise Statement	-	-	11/5/2015
Air Quality Assessment	AQ0568	-	3/2/2015

Application No: 2015/90507

Type of application: 60m - OUTLINE APPLICATION

Proposal: Outline application for residential development (within a Conservation Area)

Location: Land off, Carr Top Lane, Golcar, Huddersfield, HD7 4JB

Grid Ref: 409711.0 415589.0

Ward: Golcar Ward

Applicant: T Smith

Agent: Michael Townsend, Townsend Planning Consultants

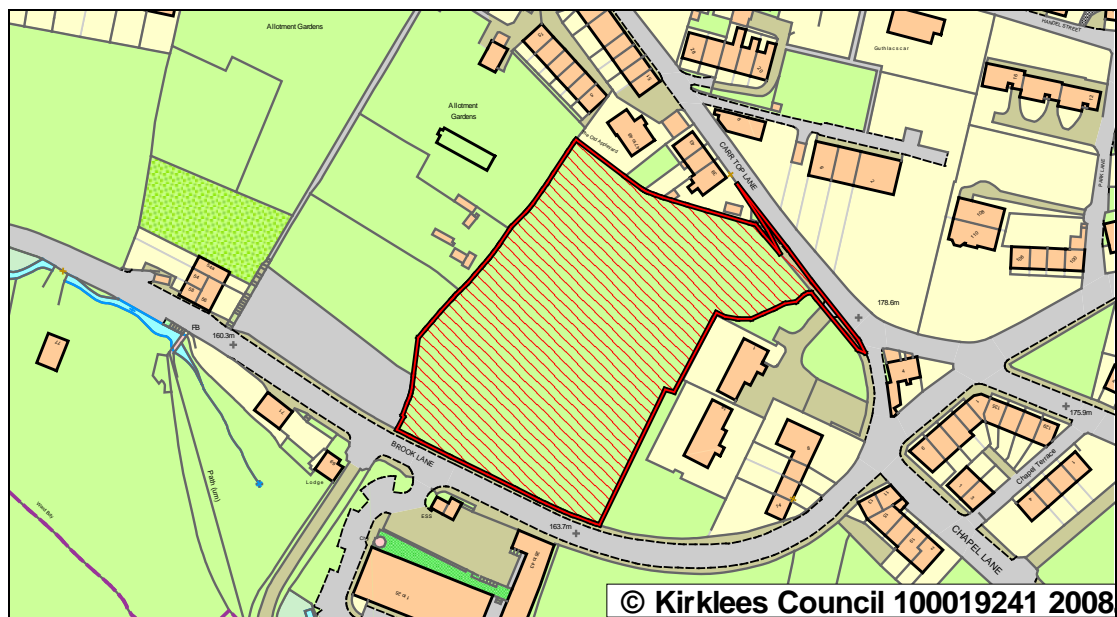
Target Date: 26-May-2015

**Recommendation: OASD - CONDITIONAL OUTLINE APPROVAL
SUBJECT TO DELEGATION TO OFFICERS**

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/business/planning/advicenotes/PublicSpeakingCommittee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

Application Details	
Type of Development	Residential
Scale of Development	0.72ha
No. Jobs Created or Retained	n/a
Policy	
UDP allocation	Provisional Open Land (POL).
Independent Viability Required	n/a
Representation/Consultation	
Individual Support (No.)	nil
Individual against	24
Petition	n/a
Ward Member Interest	No
Statutory Consultee Objections	None
Contributions	
• <i>Affordable Housing</i>	Covered by condition
• <i>Education</i>	Scale of development below threshold
• <i>Public Open Space</i>	Covered by condition
• <i>Other</i>	n/a
Other Issues	
Any Council Interest?	No
Planning Pre-application advice?	Yes
Pre-App Consultation Undertaken?	Yes
Comment on Application	Provisional open land (POL) in UDP and an undeveloped (greenfield) site. No current five year housing supply. The impacts of the development are not considered to significantly and demonstrably outweigh the benefits. There is local opposition however the principle of development is considered appropriate. Detailed issues capable of being addressed at reserved matters stage and through recommended conditions.

RECOMMENDATION: CONDITIONAL OUTLINE PLANNING PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:

- **IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS, which may include those at the end of the report**
- **ISSUE THE DECISION NOTICE.**

2. INFORMATION

This application is brought to the Sub-Committee as it constitutes a departure from the Unitary Development Plan but relates to a site where less than 60 dwellings are proposed.

3. PROPOSAL/SITE DESCRIPTION

Site Description

The application site comprises an area of approx 0.72 ha, and is a roughly rectangular shaped site located between Carr Top Lane and Brook Lane, Golcar. The site is green field and slopes down considerably from Carr Top Lane to a wooded embankment adjacent to Brook Lane. In addition to the trees along Brook Lane, which are protected by Tree Preservation Order there are a number of mature trees spread across this and the neighbouring land.

There are dwellings to the north and east of the site, and to the south on the opposite side of Brook Lane an apartment complex.

The site is located within the Golcar Conservation Area, and is also part of a larger Provisional Open Land allocation on the Kirklees Unitary Development Plan. This allocation extends to the west of the application site.

Proposal

Outline permission is sought for residential with access only applied for. The proposed access is located off Carr Top Lane, between no. 1, Brook Lane and 39, Carr Top Lane.

Additional details of the proposed access have been secured given the steep nature of the site. These show the proposed access consisting of a 5.5m wide carriageway with 2.0m wide footways either side. Facilities for pedestrians to cross the access would be provided in the form of dropped kerbs. The proposed access would include a substantial retaining wall to achieve acceptable access gradients into the site. The plan, received 13th August indicates that the retaining wall supporting the access would be up to 2.23m in height which in turn would be 3.9m the ground level to the side/rear of 1 Brook Lane.

An illustrative layout has been submitted, indicating 16 units, but permission for numbers or layout, including internal access arrangements, is not sought at this stage. The assessment of this application takes the access applied for as the point of access on the plan received 13th August and not the details of access on the 'sketch layout' scheme.

4. BACKGROUND AND HISTORY

None relevant

5. PLANNING POLICY

Kirklees Unitary Development Plan.:

D5 – Provisional open land
BE1 – Design principles
BE2 – Quality of design
BE5 – Preservation/enhancement of conservation areas.
BE6 – Infill sites
NE9 – Retention of mature trees
G6 – Land contamination
H10 – Affordable housing
H18 – Provision of open space
T10 – highway safety
EP11 – ecological landscaping

National Planning Policy Framework

Part 4 Promoting sustainable transport
Part 6 Delivering a wide choice of high quality homes
Part 7 Requiring good design
Part 8 Promoting healthy communities
Part 10 Meeting the challenge of climate change, flooding and coastal change
Part 11 Conserving and enhancing the natural environment
Part 12 Conserving and enhancing the historic environment

Other Guidance

SPD2 Affordable Housing

6. CONSULTATIONS

KC Highways - Additional information has been received regarding the access. Access is acceptable and conditions are recommended in the event of approval.

KC Environmental Health - Recommend conditions which cover remediation and air quality.

KC Conservation and Design - The parcel of land to which the application relates was included within an amended conservation area, to ensure that should the land be developed it should be designed in a way that it would not detrimentally affect the character of the conservation area. As this is an outline application with layout or appearance not applied for at this stage, there is no objection at this stage.

KC Environment Unit - An ecological report has been submitted which establishes the site has some ecological value. There are a number of trees present, but do not have any bat roost potential. The retention of the trees along the strip of land to the southern boundary is recommended, this should allow for the retention of some habitat, and no objection is raised on that basis.

KC Trees - There are a number of mature trees across this site, and the neighbouring site. These include a belt of trees along the southern boundary of the site along the embankment next to Brook Lane. A Tree Preservation Order has been served on these trees and has been confirmed.

KC Strategic Drainage - Express concerns at the indicative layout and would object to that layout, and some of the flood risk assessment contents.

If approval is to be recommended would need to impose specific conditions covering drainage, temporary drainage, surface water attenuation and flood routing.

(NB: The layout shown is illustrative, and is not being applied for at this stage).

Yorkshire Water - Recommend conditions in the event of an approval.

KC Parks and Recreation - The site is of sufficient size for Policy H18 (provision of public open space). In this instance an off site contribution towards the upgrading of any existing facilities would be acceptable.

KC Strategic Housing - There is a demonstrable need for affordable housing in this area, and as such Policy H10 and SPD2 are relevant. As the site is a Greenfield site provision of 30% floor area is the policy requirement. A condition securing affordable housing provision is appropriate.

7. REPRESENTATIONS

The application has been publicised by site notices, press notice and neighbour letters expiring 17th April 2015.

24 letters of objection have been received, the main points of concern being

1. There are significant traffic problems associated with Carr Top Lane, and the surrounding narrow road network, with sharp junctions and steep slopes, and no pavements. Carr Top Lane is not adequate to accommodate the additional traffic that this development will generate.
2. If there is to be any development on this site, then an alternative access point should be sought, and Carr Top Lane should be considered for one way status.
3. The proposal will result in the loss of valuable green open land, the only such site remaining between Golcar and Wellhouse. This will have a devastating effect on the character of the village and the Conservation Area.
4. The plans show surface water sewers crossing neighbouring land and boundaries have been inaccurately drawn.
(NB: The red line around the site is accurately drawn, and the illustrative layout is not being applied for.)

5. The siting of these buildings is will considered as they will damage the striking views of the village from Wellhouse and the Colne Valley.
6. The main Golcar facilities and amenities are accessed up from Carr Top Lane, which is insufficient to accommodate additional traffic.
7. The layout will result in a loss of privacy for neighbouring dwellings, and there are no details of height depth or sections provided(NB as with point 4 , these matters are not applied for, and would be the subject of a reserved matters application in the event of an outline approval).
8. The local schools are full and over subscribed
9. The development will prejudice the delivery of the balance of the Provisional Open Land allocation.
10. The Ecological survey has not been adequately carried been undertaken in the wrong season and for too short a period. The development will have a significantly adverse effect on the habitat and wildlife on this site
11. There are drainage problems on this site, and natural springs exist underneath it.
12. The residential amenities of occupiers of the Heritage Mills apartments off Brook Lane will be “overwhelmed “ by dwellings on this site, given the levels differences.
13. Doctors and dentists are full.

8. ASSESSMENT

General principle:

The application site is allocated as Provisional Open Land (POL), on the Unitary Development Plan, and as such subject to Policy D5. Policy D5 states *that “planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the longer term”.*

The weight that can be attached to Policy D5 in determining applications for housing must be assessed in the context of NPPF paragraphs 215 and 49.

In the context of paragraph 215, the wording of Policy D5 is consistent with NPPF paragraph 85 concerning safeguarded land. However with regard to paragraph 49 the Council is currently unable to demonstrate that it has a 5 year supply of deliverable housing sites.

The weight that can be given to Policy D5 in these circumstances was assessed in October 2013 by a planning inspector in the consideration of an appeal against the permission for housing on a POL site at Ashbourne Drive, Cleckheaton (Ref:APP/Z4718/A/13/2201353). The Inspector concluded (paragraph 42).

“The lack of a five year supply, on its own, weighs in favour of the development. In combination with other paragraphs in the Framework concerning housing delivery the weight is increased. The lack of a five year land supply also means that policies in the UDP concerning housing land are out of date. Policy D5 clearly relates to housing and so, it to, is out of date and its weight is reduced accordingly. This significantly reduces the weight that can be given to the policy requirement for there to be a review of the plan before the land can be released. In these circumstances, the Frameworks presumption in favour of sustainable development is engaged”

The presumption referred to by the inspector is set out in paragraph 14 which states that relevant policies are out of date, planning permission should be granted *“unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the framework taken as a whole or that specific NPPF policies indicate that development should be restricted”*. Footnote 9 lists examples of restrictive policies but this does not include policies concerning safeguarded land.

The NPPF identifies the dimensions of sustainable development as economic, social and environmental roles. It states that these roles are mutually dependent and should not be undertaken in isolation; *“economic, social and environmental gains should be sought jointly and simultaneously through the planning system”* (paragraph 8). The ‘economic’ role includes providing support for growth and development requirements, while the ‘social’ role states the need to support communities by providing housing to meet the needs of present and future generations. The ‘environmental’ role includes contributing to protecting and enhancing the natural, built and historic environment’.

As such, in the absence of both a five year housing supply and any significant and demonstrable adverse impacts that can be evidenced and substantiated and which outweigh the benefits when assessed against the policies in the framework taken as a whole, the principle of developing this site is considered to be acceptable in this instance.

There have been strong views expressed about the adverse impacts of this development contained within representations opposing the application. The following sections detail these issues and conclude that development, at this scale, does not give rise to significant material planning harm which can be substantiated as a reason for refusal. In addition, although the NPPF encourages the effective use of previously developed (brownfield) land, the aforementioned policies make it clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply.

This site is part of a larger POL allocation, notwithstanding the principles of allowing these sites to be delivered at this stage, any development of part of a site should not prejudice the comprehensive development of the whole. The current application is for access only (taken as the point of access in the context of this application) with no siting or layout being considered. However the suitability of the proposed access point to serve the entirety of the POL allocation has been considered and is satisfactory in this respect should this be required in the future to serve a larger development. As such the current proposal would not prejudice the development of the balance of the POL in the longer term. The subsequent details of layout, including internal access arrangements, would be considered at reserved matters stage. This would include whether the layout allowed for the comprehensive development of the wider POL site.

Given the size of the site and potential housing numbers that could be accommodated policies relating to both Affordable Housing (Policy H10 and SPD2) and Provision of Public Open Space (Policy H18) are relevant in this case.

Affordable Housing. As a green field site the policy requirement for affordable housing is 30% of gross floor area. This can be secured by Grampian condition, with a Section 106 agreement to discharge the requirements of the condition prior to development commencing.

Public Open Space. Policy H18 requires the provision of 30sqm per dwelling or an off site contribution towards improvements of nearby facilities, on sites in excess of 0.4ha. Kirklees Recreation and Parks have indicated that an off site contribution to improvement a specific facility would be appropriate in this case. This can be secured by Grampian condition with a Section 106 agreement to discharge the requirements of the condition prior to commencing.

Highways Issues:

This application seeks outline approval for residential development at land off, Carr Top Lane, Golcar, Huddersfield. Access, proposed from Carr Top Lane, is the only matter to be considered with all other matters reserved. The highway assessment undertaken includes the suitability of the access to serve the adjacent POL land to the north west of the application site.

Carr Top Lane is a residential street which is approximately 180m in length connecting with Brook Lane and James Street to the southeast with Church Street via Deal Lane and Town End to the north. Town End is approximately 250m northwest of the proposed site access, and forms part of the main route through Golcar village centre.

Carr Top Lane joins Brook Lane and James Street to the south via a raised junction plateau, which also joins with the Station Road to the southeast. This raised junction reduces traffic speeds along Brook Lane and James Street to speeds below 30mph. Carr Top Lane takes the form of a Y junction with a segregated left turn ingress on its west side from Brook Lane, which is located opposite the Chapel Lane junction.

Brook Lane and James Street form part of a local access road providing access between Golcar and the neighbouring settlement of Wellhouse eventually leading to Slaithwaite to the southwest. Carr Top Lane is a two way single carriageway road over its whole length, and contains a footway along its southwest side for the first 75m spanning the site frontage. In the vicinity of the proposed site access Carr Top Lane is 6m in width and the footway is 1.8m wide.

The applicant's highways consultants "PAH consulting Engineers" have now provided an amended Transport statement, which is summarise as follows:

Accidents

The personal injury accident records for the last six years (between 1 January 2009 and 26 January 2015) along Carr Top Lane and its junctions with Clay Well, Brook Lane, and James Street.

There were 3 reported injury accidents within the study area over this period. One incident occurred during 2009, one during 2010, and one during 2011. All three of these incidents were recorded as serious.

The incident during 2009 occurred at the James Street/ Brook Lane junction. A vehicle turned right out of Carr Top Lane across the path of an on-coming vehicle on James Street.

The incident during 2010 occurred at the Brook Lane/ Chapel Lane junction and involved a foreign motorcyclist forgetting to ride on the left side of the road.

The final incident occurred during 2011 at the Brook Lane/ Station Road junction and involved a vehicle travelling along Station Road past the give way markings into the path of an oncoming car travelling along Brook Lane. Only one incident relates to vehicle manoeuvres from Carr Top Lane onto Brook Lane/ James Street, which occurred prior to the installation of traffic calming measures.

Public Transport

The site is considered to be in a reasonably sustainable location being within approximately 400m walking distance of bus services, and local shops, and services within the centre of Golcar.

The nearest bus stop is located on Station Road approximately 90m southeast of the proposed site access. There are also bus stops on Brook Lane that contain timetable information, and bus stops located on Town End, and Church Lane that contain a mix of passenger shelters, timetable information, bus stop clearway markings, and raised boarding kerbs allowing for easy pedestrian access.

Traffic generation

The anticipated traffic generation from the new development, has been estimated using information taken from the national TRICS database. The proposed development (taken as 16 dwellings as a baseline) including a potential 12 dwellings on the adjacent site is anticipated to generate approximately 18 two way trips during the morning peak and evening peak hours. It is estimated that the development would generate a daily trip rate of around 168 two way vehicle movements.

AM Peak 5 vehicles in and 13 vehicles out

PM Peak 11 vehicles in and 7 vehicles out

During the busiest peak hour the development could be expected to experience one vehicle arriving at it every 5 and a half minutes on average, and one vehicle departing every 4 and half minutes, on average.

Highways DM have reviewed the information and consider the impact on the surrounding highway network to be acceptable.

Proposed access

Speed survey have been undertaken by the applicants which demonstrate that the wet weather 85th percentile speeds are 22mph and 21mph southbound and northbound respectively along Carr Top Lane in the vicinity of the site. The stopping sight distance requirements within Manual for Streets require a distance of 28.5m to the north, and 26.5m to the south at the proposed access point. Therefore the proposed visibility splay provision is considered to be acceptable.

The new access to the site would consist of a 5.5m wide carriageway with 2.0m wide footways either side. Facilities for pedestrians to cross the access would be provided in the form of dropped kerbs. Visibility splays would be provided at the site access along Carr Top Lane in accordance with Manual for Streets guidance.

Acceptable gradients are proposed for the proposed access road and longitudinal sections have been produced which show a 1 in 20 gradient at the junction with Carr Top Lane and a maximum gradient of 1 in 10 within the development. Substantial retaining walls and vehicle restraint barriers are required retain the proposed roadway to achieve these gradients.

Conclusions

Access geometry and visibility at the site access with Carr Top Lane accord with current guidance and is considered acceptable to serve a development of the indicative scale proposed.

Given the above, Highways have no wish to resist the granting of planning permission subject to conditions. The development would comply with Policy T10 of the Unitary Development Plan.

Impact on Amenity:

Residential Amenity

This application is an outline, with layout not applied for. The site is flanked by dwellings to the north and SE, the site slopes considerably from north to south ie away from dwellings on Carr Top Lane. These are within sufficiently close proximity to be potentially affected by the development in terms of either close overlooking, loss of light or privacy. However it is considered that there are no insurmountable reasons why a suitably designed housing layout cannot successfully achieve adequate separation distances and privacy/light safeguards, in accordance with the provisions of UDP Policies BE2 and BE12.

To the south the tree belt along Brook Lane is to be retained (indeed it is the subject of a Tree Preservation Order). As such the Heritage Mill conversion on Brook Lane opposite the site will be somewhat obscured from the application site.

It is considered that the position of the proposed access and the level of traffic that will be generated by this scheme, and possibly on the neighbouring POL, would not cause a material loss of amenity through noise or overbearing impact. The proposed point of access, although above the ground level of the adjacent property at 1 Carr Top Lane, sweeps away from the rear of the property on rising land and the separation between the remaining internal access, layout and scale is controlled by 'reserved matters'.

Visual Amenity including the character and appearance of Golcar Conservation Area.

The site is within the extended Golcar Conservation Area. The conservation area now extends to the south west of Heritage Mills on Brook Lane. A Conservation Area appraisal has been prepared and this explains that the extension includes 'an area of high quality open countryside which frames the settlement. The hillside acts as a buffer to prevent the settlements of Golcar and Wellhouse from merging; thus protecting the character and setting of both areas'. This open space is annotated separately to Provisional Open Land designations within the Conservation Area appraisal.

It is considered in principle that development could be undertaken on the site of a layout, appearance, scale and with landscape proposals that would maintain the significance of the conservation area. Such details would be required to have regard to the character and appearance of the conservation and to draw reference to the conservation area appraisal. As has been set out in the consultation response from the Conservation and Design team there is no objection to the principle of development, and all matters other than access, are reserved.

The proposed access from Carr Top Lane would require an engineered solution to provide a safe access overcoming the steep topography at the entrance to the site. This includes a significant retaining structure which would be most visible looking northwards from Brook Lane and west from Carr Top

Lane. Although this structure would extend to around 2.23m in height, which in turn would be 3.9m above the ground level to the side/rear of 1 Brook Lane provided it had a natural stone external leaf it would not detrimentally affect the character of the conservation area. Boundary walls of predominantly stone/drystone construction, including retaining structures are existing features close to the site, for instance on the other side of Carr Top lane.

The proposed retention and protection of the tree belt to the south is a positive factor in safeguarding the future character of the Conservation Area and assisting in maintaining separation between the settlements of Golcar and Wellhouse.

The development is considered to comply with Policy BE5 of the Unitary Development Plan and Chapter 12 of the NPPF.

Bio diversity

UDP Policy EP11 requires applications for planning permission to incorporate landscaping which protects/enhances the ecology of the site, while NPPF Paragraph 118 states that Local Planning Authorities should aim to conserve and enhance biodiversity when determining planning applications. UDP Policy NE9 relates to development proposals affecting trees.

An ecological report has been submitted which indicates that the site has some habitat value, and that it is used by a range of species of birds, including some are Species of Principle Importance. The recommendations of this report include for the retention of the trees along the southern and western boundary together with an associated strip of land to the south (this is actually a steep embankment). This in turn would allow for the retention of a substantial part of that wildlife habitat. The trees are already protected by Tree Preservation Order and the recommendations of the ecological report are accepted by the Environment Unit.

The development would comply with Policy EP11 and the NPPF subject to appropriate details of landscape at reserved matters stage together with a management plan for the retained area of wildlife habitat as well as the inclusion of new bat and bird roost enhancement opportunities within any new buildings.

Flood Risk/Drainage

The site is located within Flood Zone 1, ie the area least likely to flood. Even though the site is less than 1 ha a Flood Risk assessment has been submitted. There is an existing foul sewer across the site that connects into an existing system in Brook Lane.

The site is currently green field and also quite steep. As such surface water attenuation will be needed to ensure a green field run off rate equivalent to the existing field, and this will need to be conditioned. Given the steepness of the slope then an over reliance on soakaways is not advisable. It is considered

that the site can be satisfactorily drained up to an appropriate level based upon a 1 in 100 year event with allowance for climate change, without any adverse impact off site.

The proposal is outline only, and no layout is applied for. The details of drainage submitted are considered to be illustrative only. As such conditions are recommended which will cover the provision of both foul and surface water drainage, temporary drainage during construction and potential flood routing within a future layout, given the steepness of the slope. Subject to conditions the development would comply with Chapter 10 of the NPPF.

Environmental Issues (Contamination/ Remediation; Air Quality)

Contamination/Remediation- The site is not on a recorded contaminated site, however given the proposal is for residential a sensitive end user, conditions requiring site investigation together with any necessary remediation are recommended to render the site fit to receive new development.

*Air Quality:-*NPPF Paragraph 109 states that “ the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of...air...pollution”

In order to promote green sustainable transport which would have mitigation measures with specific benefits to air quality officers request that the following condition be imposed:

- Installation of 1 vehicle charging point per unit (dwelling with dedicated parking) or 1 vehicle charging point per 10 spaces (unallocated parking).

Subject to these conditions the development would comply with Chapter 11 of the NPPF and Policy G6 of the UDP.

Objections

Responses to the objections received, insofar as they have not already been addressed in the assessment above:

- Dentists and doctors full and over-subscribed.

The provision of facilities such as doctors and dentists are a matter for the Local Health Authority and not an issue over which the Local Planning Authority has any control nor does it have any control over whether the facilities are NHS or private. This is not a material planning consideration.

- Schools are full

Kirklees Council Policy Guidance: ‘Providing for Education Needs Generated by New Housing’ states that “the need for the provision of additional school places will be a material consideration when planning applications for new housing developments are considered”. The threshold for consideration is 25

dwellings. Although this application is outline the illustrative details provided indicate the development would be below the threshold for education contribution.

Conclusion

The site is allocated as Provisional Open Land in the Council's Unitary Development Plan. The National Planning Policy Framework places emphasis on the ability of Local Authorities to demonstrate a five year supply of housing. It is well documented that the Council cannot currently demonstrate this.

NPPF paragraph 14 states that where relevant policies are out-of-date, planning permission should be granted "unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted".

Footnote 9 lists examples of restrictive policies but this does not include land allocated for housing, or greenfield land.

Officers have considered whether other material considerations would significantly and demonstrably outweigh the benefits of delivering new housing. These are set out within the assessment above. It is considered that, on balance, there are no other material considerations that would significantly and demonstrably outweigh the benefits of delivering new housing and that balancing all these considerations the development proposed, including the detailed access proposals, are considered acceptable

9. RECOMMENDATION

RECOMMENDATION: CONDITIONAL OUTLINE PLANNING PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:

- **IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS, which may include those listed below**
- **ISSUE THE DECISION NOTICE.**

1. Approval of the details of the layout, scale, appearance, and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the layout, scale, appearance, and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.

3. Application for approval of any reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

4. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

5. No material operation as defined in section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of public open space to serve the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:-

- a) the layout and disposition of the public open space.
- b) the timescale for the implementation and completion of the works to provide the public open space;
- c) the mechanism for ensuring that the public open space will be available for public within perpetuity.
- d) maintenance of the public open space in perpetuity.

6. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of affordable housing have been submitted to and approved in writing by the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, the arrangements shall cover the following matters:-

- a) the number and type of affordable housing units to be provided.
- b) the layout and disposition of the units affordable housing to be provided.
- c) the timescale for the implementation and completion of the affordable housing units;
- d) the mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers

7. Development shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.

8. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 7 development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the local planning authority.

9. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 8 development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall

include a timetable for the implementation and completion of the approved remediation measures.

10. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 9. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

11. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

12. No development shall commence until a scheme detailing the layout, construction and specification of the proposed Carr Top Lane / Site Access junction (with reference to drawing number 907A 01 Rev D) and all associated highway works, and the appropriate Road Safety Audit, has been submitted to and approved in writing by the Local Planning Authority. Before any building is occupied, the highway works shall be completed in accordance with the approved scheme and thereafter retained.

13. Development shall not commence until a scheme detailing construction access provision to and from the site for construction traffic (including routing and timing), and arrangements to be made for restricting such vehicles to approved points of access and egress, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be operated throughout the period of construction work.

14. No development shall take place until the design and construction details for all temporary and permanent highway retaining structures within the site have been approved in writing by the Local Planning Authority. The details shall include a design statement, all necessary ground investigations on which design assumptions are based on, method statements for both temporary and permanent works together with structural calculations and all associated safety measures for the protection of adjacent public highway and retaining

wall. All highway retaining structures shall be designed and constructed in accordance with the approved details and shall be so retained/maintained.

15. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and thereafter retained throughout the lifetime of the development.

16. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

17. There shall be no pumped discharge of surface water to local drainage networks (public or private sewers and drains or watercourses).

18. Development shall not commence until a scheme restricting the rate of surface water discharge from the site to a maximum of 5 litres per second has been submitted to and approved in writing by Local Planning Authority. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 30 year storm event as a minimum requirement. Volumes in excess of those generated by the critical 1 in 30 storm event, up to and including the critical 1 in 100 year storm event, with an appropriate allowance for climate change, shall be stored on site in areas to be approved in writing by the Local Planning Authority. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

19. Development shall not commence until an assessment of the effects of 1 in 100 year storm events, with an additional allowance for climate change, blockage scenarios and exceedance events, on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area, in both directions, has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter.

20. Development shall not commence until a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:

- the phasing of the development and phasing of temporary drainage provision.
- the methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.

21. The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

22. Prior to occupation of the dwellings, in all residential units that have a dedicated parking area and/or a dedicated garage, an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. In residential units that have unallocated parking spaces then before occupation of these units at least one electric vehicle recharging point per ten properties with the above specification shall be installed.

NOTE: The removal of vegetation and buildings should be undertaken outside of the bird breeding season, March to August inclusive. If any clearance work is to be carried out within this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.

This recommendation is based on the following plan(s):-

Plan Type	Reference	Version	Date Received
Location Plan	0159-01-A	A	24/2/15
Topographical Survey	1805/001		24/2/15
Indicative layout (illustrative purposes only and not approved)			24/2/15
Design and Access Statement			24/2/15
Transport Statement	907		Feb 2015
Statement of significance			24/2/15
Arboricultural Implications Statement	AIA/SW/SI		24/2/15
Flood Risk Assessment	E14/6330/FRA 001		24/2/15
Proposed Access	907A-01	D	13/08/2015

Application No: 2015/91523

Type of application: 62 - FULL APPLICATION

Proposal: Engineering works to form public area

Location: Woodhouse Farm, Woodhouse Lane, Holmbridge, Holmfirth, HD9 2QR

Grid Ref: 412646.0 406459.0

Ward: Holme Valley South Ward

Applicant: Holmfirth Vineyard Ltd

Agent: Mr Gary Crossfield, Bauhaus Architectural Consultants

Target Date: 15-Jul-2015

Recommendation: FC - CONDITIONAL FULL PERMISSION

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/business/planning/advicenotes/PublicSpeakingCommittee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

RECOMMENDATION: CONDITIONAL FULL PERMISSION

The application seeks for retrospective planning permission for engineering works within the Green Belt described as forming a 'public area' by the applicant.

The engineering operations to form the 'public area' are considered to not to represent inappropriate development in the Green Belt subject to conditions being imposed and enforced to ensure the openness of the green belt and the visual character of the area is preserved. Under these circumstances the application would accord with the NPPF and Policies BE1 and BE2 of the Kirklees Unitary Development Plan.

2. INFORMATION

The application is brought before the Huddersfield Planning Sub Committee due to the level of representation.

3. PROPOSAL/SITE DESCRIPTION

Site

The application site is located on Woodhouse Lane, approximately 2.5km to the south west of Holmfirth, and forms part of the Holmfirth Vineyard, an agricultural/viticulture enterprise located within the Green Belt. Access to the site is via Woodhouse Lane with a parking area located adjacent the entrance. A winery with wine shop and tasting room is located to the east adjacent the car park. A visitor centre/accommodation with 7 apartments is located to the west of the site. The land around the application site is planted with vines.

To the east of the site is Woodhouse Farm which is the residential property associated with the vineyard, and Lower Woodhouse Farm which is a separate residential property and associated farm.

Proposal

The application seeks planning permission for engineering works to form a level platform which will be used as a public area. The proposal will hereafter be referred to as the 'public area' in the report.

The 'public area' is a 16 metre wide circular piece of land with associated banking which has been formed by building up land levels on the natural slope of the hill side. At its greatest, land levels have increased by 1.9 metres. The levels have been built up by using imported hard-core, with the western elevation and level area covered in grass/vegetation. The public area has been formed by the part removal of a section of dry stone wall. Electricity

has been provided to the area along with new access paths constructed from hard-core.

4. RELEVANT BACKGROUND AND HISTORY

2015/93547 - Engineering works to form public area – Withdrawn

2009/93461 – Extension to existing agricultural building to form wine shop and tasting room with formation of new access and additional parking provision. Erection of sedum-roofed eco lodge in existing quarry containing 7no. units, 1no. wind turbine on a 9m mast, 2no. septic tanks and 2no. air source heat pumps – approved and implemented

2009/90895 -Agricultural notification for prior approval of details for erection of building – Details Approved

5. PLANNING POLICY

The site is designated Green Belt on the Kirklees UDP Proposal Plan.

Kirklees Unitary Development Plan

- **BE1** – Design principles
- **BE2** – Quality of design

National Planning Policy Framework (NPPF)

- **NPPF7**: Requiring good design
- **NPPF9**: Protecting Green Belt Land

6. CONSULTATIONS

None undertaken

7. REPRESENTATIONS

46 representations have been received in objection and 2 in support; a summary of the points raised is set out below:

Support

- Business attracts tourism and raises money for charity through events

Against

- Failure to give notice of the application
- Work carried out without planning permission
- Land is intended to be used for the erection of permanent marquee
- Noise and disruption from events

- Noise from construction of the public area
- The site is not agricultural in use
- Harm to green belt and rural landscape
- Harm to visual amenity
- Enforcement notice requires public area to be removed
- Visual appearance of domed marquee
- Formation of paths to the “public area”
- Area built without planning permission
- Impact upon highway from visitors to the site
- Disabled access

8. ASSESSMENT

Principle:

Background

The following provides some background context for the development which has taken at the site of the works, given that the application has been submitted retrospectively.

The works to form the ‘public area’ were initially carried out in the summer of 2014 to facilitate the siting of a marquee at the site for the ‘Tour de France - Grand Depart’ celebrations in July 2014.

The marquee on the site has now been removed after formal enforcement action by the Local Planning Authority (LPA), but the raised ground level (the engineering operation) which is subject to this application, remains.

The marquee and changes in ground levels initially formed a temporary development. Such temporary developments can be permitted development provided the use does not exceed a period of up to 28 days in any given year. The applicant however exceeded this 28 day time limit, and the LPA took formal enforcement action to have the marquee removed, and the ground levels returned to their previous state. The Enforcement Notice was dated 4 September 2014, and it came into effect on 13 October 2014.

The applicant removed the marquee from the public area, but has opted to apply for the retention of the public area by virtue of this application.

Case Put Forward by the Applicant

The applicant has put forward that the ‘public area’ provides one position where visitors to the site can view the vineyard in a ‘modicum of comfort’ on a flat area when vineyard tours are taking place, which occurs throughout the year. The applicant does not consider that the proposal causes a substantial harm to the openness of the Green Belt given the limited size of the area, given that the area has been landscaped, and given that soil from within the site has been used in the formation of the works.

The applicant has also argued that the work undertaken causes less than substantial harm to the openness of the Green Belt, and constitutes work that could have been undertaken without planning permission on an agricultural holding, if it had been undertaken for the purposes of agriculture (i.e. the planting of vines in this instance) rather than as an area for visitors.

It is considered by the applicant that there is no harm to visual amenity, as the only views of the area, are long distance views, where the applicant considers the impact is diminished.

The further information states the following:

- The vineyard offers award winning wine and vineyard tours 7 days a week throughout the year, including in winter, which generates 25,000 visitors per year.
- The vineyard employee's 14-20 staff at any one time with 4 full time dedicated vineyard tour guides.
- Visitors are predominantly the older generation of 54-65+ who struggle with the steepness of the slopes of the vineyard.
- The 'public area' forms a much needed resting/viewing area, where whole views of the site can be gained from, and allows tours to be inclusive too all who cannot normally reach the vines themselves.

Green Belt Policy

The application site is located within the green belt and the formation of a 'public area' represents an engineering operation in the green belt. Such developments need to be considered in relation to policies set out in Chapter 9 of the National Planning Policy Framework (NPPF), and in particular paragraph 90 which is most relevant. Paragraph 90 states:

90. *Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:*
- *mineral extraction;*
 - *engineering operations;*
 - *local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
 - *the re-use of buildings provided that the buildings are of permanent and substantial construction; and*
 - *development brought forward under a Community Right to Build Order.*

The most relevant sections of the paragraph 90 have been underlined, and as can be seen, engineering operations within the Green Belt are not inappropriate, provided they preserve the openness of the green belt, and do not conflict with the purposes of including the land in the green belt.

The five purposes of including land in the green belt referred to in paragraph 90 are set out in paragraph 80 which can be seen below.

80. Green Belt serves five purposes:

- *to check the unrestricted sprawl of large built-up areas;*
- *to prevent neighbouring towns merging into one another;*
- *to assist in safeguarding the countryside from encroachment;*
- *to preserve the setting and special character of historic towns; and*
- *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

Assessment of green belt Impact

To consider whether the 'public area' forms an exception to inappropriate development, as set out in paragraph 90 of the NPPF, an assessment of the impact of the development on the openness of the green belt, and any encroachment into the countryside is required.

Officers consider that the 'public area' represents a substantial engineering operation with a material change in land levels at the application site. Ground levels have increased by a maximum of 1.9 metres across its 16 metres diameter, with retaining banking formed adjacent the steepest sections to the west.

The prominence of the 'public area' in the local landscape is further increased by its detached location from the main building or other buildings at the vineyard which are approximately 77 metres away.

The public area is sited in a prominent location within a typical setting in the Holme Valley, which can be seen from a number of vantage points on the opposite valley side. The public area is visible from views outside of the vineyard, particularly from Green Gate Road and a number of residential areas adjacent to Woodhead Road along the valley bottom which are respectively 600 metres and 1600 metres from the site. Closer views of the public area are limited by virtue of the steep sloping valley side and surrounding trees.

Openness

By reason of the public area's location and size the impact upon the openness of the green belt is largely restricted to views from distance, principally from the opposite valley side. The public area is visible at distance by reason of the change in ground levels in contrast to the slope of the valley side. Officers consider that the change in ground levels does create an unnatural land form on the otherwise typically rural valley side and consequently the formation of the public area does impact upon the openness of the green belt.

It is considered, however, that since the public area was first formed, the vegetation growth on the sloping sides and grassing of some of the top

surface has reduced the impact upon the openness of the green belt and has softened the stark appearance of this unusual landform.

It is also considered that the lightly coloured crushed stone paths formed above and around the public area continue to significantly accentuate the presence of the works to form the public area.

The retention of the landscaping on the public area and treatment or removal of the surrounding paths would assist in allowing the raised area to “blend” into the surrounding vines and fields. Officers consider that this would mitigate the visual appearance and presence of the public area sufficiently to protect the appearance of the wider rural setting. In such circumstances the openness of the green belt would be preserved and the formation of the public area would not be considered inappropriate development in the green belt.

National Planning Policy Guidance note “Use of Planning Conditions” states

“When properly used, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development”

As such it is considered the use of conditions to ensure landscaping is carried out, which includes soft landscape to the sloping sides of the area and works to mitigate the appearance of hard surfaces and paths, and maintained in the future would mitigate the impact upon the openness of the green belt and therefore enable the public area to accord with NPPF 9.

Encroachment into the countryside

The development is in a prominent location and the creation of the public area does add to the “built” form when viewed from a distance. However, as stated above the appearance of the public area can be mitigated by landscaping in order for it to “blend” into the area. As such it is not considered the resulting feature significantly erodes the openness of the green belt nor does it therefore constitute as encroachment into countryside.

Design and appearance:

The design of the ‘public area’ has been considered in relation to Policies BE1 and BE2 of the UDP and Policies in Chapter 7 of the NPPF.

NPPF 7 places substantial weight upon good design and identifies it as a key aspect of sustainable development. NPPF 7 para 60 seeks to promote or reinforce local distinctiveness whilst encouraging good quality innovative design. UDP policy BE1 seeks to create or retain local identity whilst BE2 seeks to ensure that new development should be designed to be in keeping with surrounding development taking into account the topography of the site.

As set out above in the Green Belt assessment, the 'public area' is considered to form an unnatural feature which is visible at distance. However, as stated above the landscaping of the feature softens the visual appearance of the raised land levels to the degree whereby it does not adversely impact upon the green belt.

Whilst the raised ground levels is a unique feature within the appearance of the valley side the principal harm to visual appearance by virtue of design would be the stark appearance of an untreated "mound" of material. As above, where planning conditions can be used to ensure visual appearance and design are acceptable, the formation of the public area can be considered to accord with NPPF 7 and Policy BE1 & BE2.

Other Matters to Consider:

Highways

The 'public area' would not directly impact on the highway safety in the local area, as it is stated it would be used ancillary to the main operation at the vineyard, and supports tours of the vineyard.

Residential Amenity

The 'public area' is not considered to be detrimental to residential amenity as its use would be ancillary to the main operation at the vineyard, and supports tours of the vineyard. The previously erected marquee which could have impacted on amenity greater has been removed and does not form part of this application.

Disabled Access

Concern is raised that the public area is not open to disabled visitors. The public area is sited on a steep sloping valley side where access already appears difficult. Other areas within the site are available to all visitors which may be more appropriate to guests with mobility difficulties. Consequently little weight is given to this matter.

Use of the public area

It should also be noted as set out in the 'Background' section of this report, that the 'public area' has been used for other uses/events in the past outside the main use of the site as part of the vineyard operations. However, to clarify the purpose of this application is solely to regularise the engineering operations that have taken place on the site. If planning permission was granted it may be possible to control the use of this area to an open viewing platform only. It is also possible to remove 'permitted development rights' for the temporary buildings, structures and uses on the 'public area' if it was considered that such restrictions met the 6-tests for the imposition of conditions.

Conditions:

Paragraph 206 of the NPPF states "*planning conditions should only be imposed where they are: necessary; relevant to planning and; to the*

development to be permitted; enforceable; precise and reasonable in all other respects.”

Green belt

As stated above it is considered necessary to preserve the openness of the green belt by imposing a condition to ensure landscaping is carried out and maintained. Whilst the paths adjacent to the development of the public area do not form part of this application, they are relevant to the development as they provide access to and from the public area. It is considered providing details of how these paths are formed and maintained, as part of a wider landscape scheme for the public area, is reasonable in this case.

Design and appearance

As above.

Restricting use of the public area for viewing platform only

A number of concerns were received regarding the erection of a domed marquee on the public area. As stated above the marquee was erected pursuant to “permitted development rights” and subsequently was retained beyond the permitted time allowance. Enforcement action was pursued on this basis which led to the removal of the marquee. The enforcement notice continues to have effect on the land and remains in force. Should the marquee structure be re-instated beyond the time limit controlled under permitted development rights, the enforcement notice would continue to be enforceable.

However, this does not preclude implementation of the temporary allowance of 28 days in any one calendar year granted under permitted development rights. It is possible to remove permitted development rights for this temporary period by conditions, although such a condition would need to be reasonable in all respects.

In removing the right to exercise permitted development rights, the local planning authority must have reason to object the principle of development carried out under permitted development rights.

National Planning Policy Guidance states :”*Conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances.*”

As stated above the site is in a prominent Green Belt and can be viewed from a number of vantage points. The presence of a large temporary structure, for instance the previously erected domed marquee structure, is capable of significantly harming the visual appearance and openness of the Green Belt resulting in an encroachment of development into the countryside even if only erected for short periods of time. The resulting visual harm and erosion of the openness of the Green Belt if such permitted development rights were

exercised is therefore considered to be exceptional circumstances by which to remove permitted development rights are justified. Under these circumstances future control of the use of the 'public area' for temporary buildings and uses set out within Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 is considered necessary. Such control may be provided by imposing a condition.

Representations:

A summary of the other points raised is set out below, with a response to each one in turn:

- Failure to give notice of the application

The application was publicised in accordance with the Council's notification procedures.

- Work carried out without planning permission

Whilst the application is retrospective, this is not a material consideration and cannot be used as a reason for refusing to determine the application.

- Land is intended to be used for the erection of permanent marquee

This is addressed in the report

- Noise and disruption from events

This is addressed in the report

- Noise from construction of the public area

Noise from construction works would not fall to be considered where the development is complete

- The site is not agricultural in use

Officers have no reason to believe that the activities at the site are currently unlawful

- Harm to green belt and rural landscape

This is addressed in the report

- Harm to visual amenity

This is addressed in the report

- Enforcement notice requires public area to be removed

The application seeks to remedy the requirement to remove the works as stipulated in the enforcement notice

- Visual appearance of domed marquee

The application seeks permission for the raised ground levels only

- Formation of paths to the “public area”

This is addressed in the report

- Impact upon highway from visitors to the site

This is addressed in the report

- Disabled access

This is addressed in the report

2 representations were received in support of the application.

- Business attracts tourism and raises money for charity through events

The nature of the business would not fall to be considered in this application

Conclusion:

The engineering operations to form the ‘public area’ are considered to not to represent inappropriate development in the Green Belt subject to conditions being imposed and enforced to ensure the openness of the green belt and the visual character of the area is preserved. Under these circumstances the application would accord with the NPPF and Policies BE1 and BE2 of the Kirklees Unitary Development Plan.

9. RECOMMENDATION

Approval subject to conditions

Proposed conditions:

1. Unless a landscaping scheme is submitted to the local planning authority within 1 month of the date of permission hereby approved the engineering works shall be removed. The landscaping scheme shall including details of landscaping for the public area hereby approved and finished treatment of the existing paths to and adjoining the public area as shown hatched on the site block plan. Within 1 month of the local planning authority giving written approval the landscaping scheme shall be fully completed and thereafter maintained and retained in accordance with the approved details.

2. Notwithstanding the provisions of Schedule 2, Part 4 Classes A and B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) the public area outlined in red on the location plan shall not be used for any temporary material change of use and no building shall be erected upon it.

This recommendation is based on the following plan(s):-

Plan Type	Plan Reference	Revision	Date Received
Location Plan	3276/03	-	20/05/2015
Site Block Plan – Engineering Operation	3276/02	-	20/05/2015
Site Block Plan – Enforcement Notice Hatched Area	3276/01	-	20/05/2015
Site Sections	PD3276/03 'A'	-	20/05/2015
Planning Statement	November 2014	-	20/05/2015

Application No: 2015/91434

Type of application: 62 - FULL APPLICATION

Proposal: *Erection of detached garage and extension to existing dwelling*

Location: 16, Bayfield Close, Hade Edge, Holmfirth, HD9 2QX

Grid Ref: 414631.0 405606.0

Ward: *Holme Valley South Ward*

Applicant: *D Frank*

Agent:

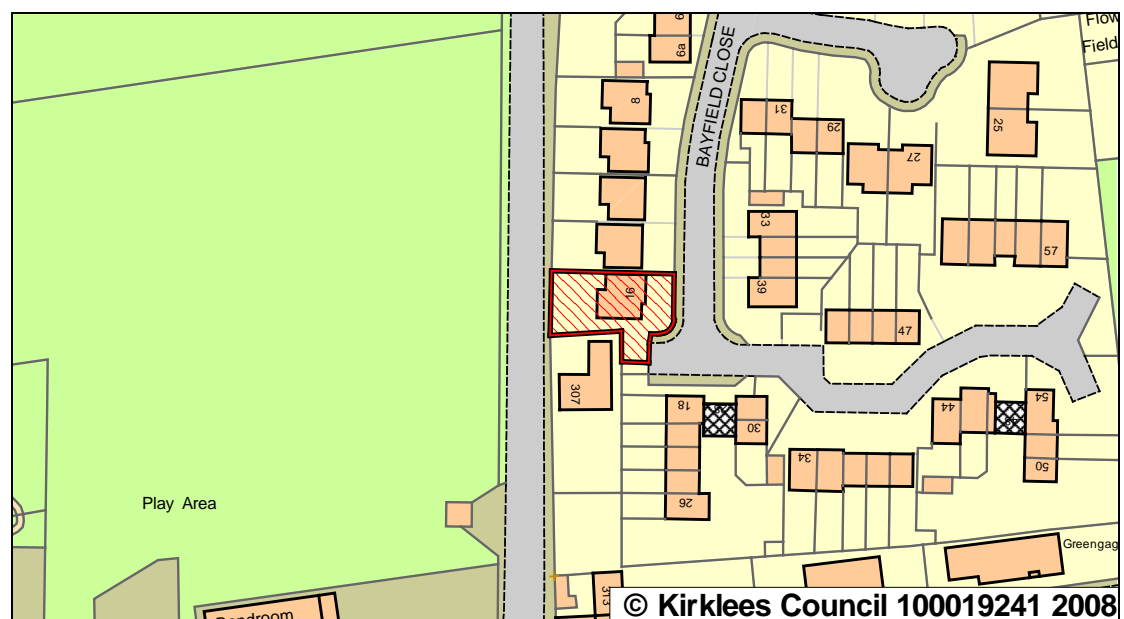
Target Date: *08-Jul-2015*

Recommendation: *FC - CONDITIONAL FULL PERMISSION*

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/business/planning/advicenotes/PublicSpeakingCommittee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

1. SUMMARY OF APPLICATION

This application seeks permission for the erection of a detached garage and extension to the existing dwelling.

The principle of the development is considered acceptable.

Officers recommend approval of the scheme.

RECOMMENDATION: CONDITIONAL FULL APPROVAL

2. INFORMATION

The application is brought to the Planning Sub-Committee at the request of Councillor Donald Firth. The reason for the request reads:

“Need more parking space rather than less. If this gets the go ahead it will cause problems.”

The Chair of the Sub Committee has confirmed that Councillor Firth’s reason for making this request is valid having regard to the Councillors’ Protocol for Planning Sub Committees.

3. PROPOSAL/SITE DESCRIPTION

Site Description

16 Bayfield Close is a relatively modern detached property located within a larger housing estate in Hade Edge.

The property is two storeys in height with a single storey garage and utility room attached. It is constructed from stone with a concrete tiled roof with uPVC windows and doors. The property is set up from the roadside with a single width driveway leading to the integral garage.

There is a small garden to the front of the property with a larger garden to the rear.

The application site also encompasses an area of land to the south of the dwelling. This is beyond the residential curtilage of the site and separated from it by a boundary fence. This area is presently used for car parking.

Proposal

Permission is sought for the erection of a detached garage and an extension to the existing dwelling. It is also proposed to extend the width of the existing driveway to the front of the property however this element of the scheme does not require Planning Permission.

Extension to dwelling

The proposed extension would be to the first floor of the property, being located sited above the existing garage and lying flush with its existing front, side and rear elevations. The eaves and ridge height would be raised and would be a continuation of the existing eaves and ridge of the existing dwelling. The integral garage would be converted into a study with the utility room retained at ground floor and at first floor a bedroom with en-suite would be created. The proposed construction materials would be coursed natural stone for the walls, grey/brown concrete tiles for the roof with uPVC for the windows.

Detached garage

The proposed garage would be located to the south of the property within an area which is currently a dedicated parking area.

The proposed garage would be set in from the western boundary by 0.2 metres and set in from the southern boundary by 1.2 metres with the garage being a width of 3.4 metres and a depth of 5.4 metres. The eaves height would be 2.3 metres rising to 3.3 metres at the ridge of the pitched roof.

The proposed materials of construction would be coursed natural stone for the walls and concrete tiles for the roof.

4. BACKGROUND AND HISTORY

1989/03194 Outline application for residential development
Refused

1990/05080 Outline application for residential development
Conditional Outline Permission

1991/05929 Erection of residential development
Approval of Reserved Matters

2014/93776 Erection of first floor extension, conversion of garage and erection of detached garage
Withdrawn/Invalid

2015/90265 Erection of two storey side extension and detached garage
Invalid

5. PLANNING POLICY

Kirklees Unitary Development Plan

The application site is allocated for housing in the Unitary Development Plan. As this allocation has been built out it is now considered as 'unallocated land' for the purpose of this application.

D2 – Unallocated Land
BE1 – Design principles
BE2 – Quality of design
BE13 – Extensions to dwellings (design principles)
BE14 – Extensions to dwellings (scale)
T10 – Highway safety
T19 – car parking

National Planning Policy Framework

Part 7 Requiring good design

6. CONSULTATIONS

Below is a summary of the consultation responses received; where appropriate these are expanded upon in the assessment section of this report:

K.C. Highways Development Management – no objection subject to condition

Holme Valley Parish Council – object to the application on the grounds of over-intensification of the site

7. REPRESENTATIONS

9 letters of objection have been received. The main planning points raised are summarised as follows:

- When properties were purchased told by Conroy and Booth sales team said that the parking spaces were for residents/visitors
- Garage will be built onto the road and public footpath making it unsafe for school children
- Garage would reduce visibility when operating a vehicle, parking spaces are open at the moment with good visibility all round and no restricted access or egress
- Would also reduce the number of parking spaces available
- Having studied land registry plan it is noted that two parking spaces are not within the red boundary of the property
- Parking on the estate is at a premium and reducing the available parking will have a detrimental effect on the estate and the Parish Council have acknowledged over intensification of the area
- Parking bays are not for the sole use of No. 16
- Residents have rights to use these bays and no solid structure should be built on the spaces
- Area directly in front of garage will have an impact in the roads turning circle which is used on a regular basis for motor vehicles
- No objection to house extension as long as it does not have an impact on the residents parking area

- Objection to uprooting hedge to create extended driveway as it provides privacy; offers protection for several insects and birds; adds a rural feel to the estate which is of paramount importance to the community as it is in keeping with the area
- Widening driveway would offer limited access for the neighbouring occupiers to access side path which leads to back yard
- Garage will result in serious road safety implications
- Applicant does not park car in existing garage
- Building will be intrusive and result in overlooking
- Parking space is designated on the deeds as a shared parking area and therefore no one should be able to build any structure on this area of land
- Based on the deeds stating that the area is a shared parking space, should not be allowed to apply for Planning Permission
- Applicant does not own the land where he is wanting to build garage

ASSESSMENT

General Principle / Policy:

The application site is allocated for housing development in the UDP. As this allocation has been built out it is now considered as 'without notation' on the UDP Proposals Map where Policy D2 (development of land without notation) applies. This states "planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]". All these considerations are addressed later in this assessment.

The general principle of extending and making alterations to a property including the construction of garages are assessed against Policies BE1, BE2, BE13, BE14 and T10 of the Unitary Development Plan and advice within Chapter 7 of the National Planning Policy Framework regarding design. These require, in general, balanced considerations of visual and residential amenity, highway safety and other relevant material considerations. As the application would also affect an area of land currently used for car parking it is also considered that Policy T19 is relevant.

Impact on Amenity:

Policy BE1 of the Unitary Development Plan states that new development should be of good quality design that is both visually attractive in its own right and which creates or retains a sense of local identity. Policy BE2 states that the design of new development should ensure that it is in keeping with surrounding development in respect of design, materials, scale, density, layout, building height and mass. Policy BE13 states that extensions to dwellings should respect the design features of the existing and adjacent buildings and Policy BE14 states that extensions will normally be permitted provided that they, amongst other things, do not have a detrimental effect on

visual amenity. This includes the proposed development not creating an undesirable terracing effect.

The proposed house extension would be located on the north side elevation of the property. It is considered that this would be in keeping with the host building in terms of design, fenestration details and materials of construction. In terms of a terracing effect, although the dwelling is defined as being 'closely spaced' in terms of its relationship with the neighbouring property at no.14 Bayfield Close, it is considered that the proposed development would not create a terracing effect as there would be a clear separation between the side elevation walls with a similar relationship to other properties within the immediate area. A number of similar extensions have been previously granted on the estate with some of these retaining garaging and some removing garages.

With regards to residential amenity it is proposed that the garage door would be replaced by a window within the front elevation and a bathroom window proposed at first floor and to the rear elevation a first floor bedroom window. As the extension would lie flush with the ground floor elevations, established separation distances would not be reduced so maintaining an acceptable level of privacy. There are no proposed openings within the side elevation with no openings within the side elevation of the adjacent neighbour. The application site is set on a slightly higher ground level than the neighbouring property however it is not considered that the proposal would cause significant harm to residential amenity in terms of overbearing.

In terms of the proposed detached garage, this would be sited to the south of the dwelling and outside of the defined domestic curtilage of the property within part of an area which is currently occupied by 3 no. parking bays. Although this is outside the domestic curtilage of the property it is within the ownership of the applicant. The proposed garage would be constructed from natural coursed stone with a tiled roof which would match the host and surrounding development. It is considered that in principle the siting, scale and appearance of the garage would not be detrimental to residential or visual amenity.

Highway Safety:

Policy T10 of the UDP states that new development will not normally be permitted if it will create or materially add to highway safety problems. Policy T19 sets out the maximum number of car parking spaces required for new developments. These policies were not in force when planning permission was granted for the estate.

The proposed development would result in the loss of the integral garage that serves the application property. The submitted plans indicate that this would be replaced by the creation of a new parking space (4.8m x 2.4m) within the existing front garden of the property. This could be formed utilising 'permitted development rights' provided it complied with the conditions set out in the Town and Country Planning (General Permitted Development) (England)

Order 2015. This would then provide 2 parking spaces for the 4-bedroomed property created by the extension. Policy T19 of the UDP states that houses of less than 140 sq m in area should provide a maximum of 2 parking spaces. As such the development would provide sufficient parking to accord with the UDP without taking into account the proposed new detached garage.

A number of representations have been received and the impact on parking provision and highway safety, through the construction of the garage, is the principal issue of concern.

The estate of which this application site forms part was granted under application no 1991/05929. The approved site layout for this development, Drawing number 2467/7/G, indicated that the area to the south of the 16 Bayfield Close was intended for casual parking. The existing layout of the area is that 3 spaces are provided. The proposed garage would result in the loss of 2 parking spaces and, due to its limited internal depth of 4.8 metres, it is unlikely it could itself be used for vehicle parking. An internal depth of 6m is normally required for new garages. The submitted plans also appear to indicate that the garage would have an 'up and over' door which would open on to the public highway. This would not be in the interests of highway safety but could be rectified by condition requiring a roller shutter door instead.

In terms of the parking arrangements that currently exist on this land the provision of casual/visitor parking is beneficial to the wider estate. It provides additional parking for the use of residents. However, in terms of this application the ownership of the land and the 'permitted development' rights which exist must also be afforded some weight. The land in question is in the ownership of the applicant. The fallback position is that the applicant could erect a means of enclosure around this land [in accordance with the Town and Country Planning (General Permitted Development) Order 2015] as permitted development that would effectively prevent the use of this land for casual parking – the same impact as the erection of the garage. The garage would not encroach onto the adopted section of Bayfield Close – subject to the control of the type of door – and therefore, the structure would be sited on private land entirely within the ownership of the applicant.

It is therefore considered that whilst there would be loss of parking provision within the estate, which is of a disbenefit to the wider estate, given the above, it would be difficult to substantiate a reason for refusal based on the loss of casual parking spaces in principle. There may be other private/civil law issues that would affect the landowners ability to prevent casual parking or erect a garage/boundary treatment but these are not material to the consideration of the planning application.

Having assessed the principle of development the impact of the erection of the garage on highway safety has also been considered. A single casual parking space would remain south of the application site together with the parking spaces for no. 18 Bayfield Close. The garage would restrict visibility when using the remaining casual space but given the low numbers of vehicles and traffic speeds the impact is not considered severe. Highways

Development Management have been formally consulted as part of the application process and have concluded that whilst concerns were raised in terms of the loss of existing communal parking spaces given the issues addressed above in relation to land ownership, it is considered that there are no objections to the proposal based upon highway safety or parking standards.

To conclude it is considered that two off-street parking spaces would be available to serve the extended dwelling within the original curtilage of the existing dwelling even if the proposed garage could not provide an additional parking space. The finely balanced consideration of the fallback position against the loss of the casual parking spaces has been assessed and it is considered that the proposal is acceptable with regards to highway safety and parking provision.

REPRESENTATIONS

9 letters of representation have been received with the following comments and Local Planning Authority response:

- When property was purchased told by Conroy and Booth sales team that the parking spaces were for residents/visitors

Response: Noted

- Garage will be built onto the road and public footpath making it unsafe for school children

Response: The garage is proposed to be constructed on land which is under the ownership of the applicant. A condition shall be attached to the decision notice ensuring that the door is of a roller shutter type door so as not to project onto the public highway.

- Garage would reduce visibility when operating a vehicle, parking spaces are open at the moment with good visibility all round and no restricted access or egress

Response: This has been considered as part of the Highway Safety section of this report

- Would also reduce the number of parking spaces available

Response: This has been considered as part of the Highway Safety section of this report

- Having studied land registry plan it is noted that two parking spaces are not within the red boundary of the property

Response: The layout of the parking area on the Land Registry plan is not a matter for consideration. The applicant owns a section of this area which is a measurement of land and not the number of parking spaces.

- Parking on the estate is at a premium and reducing the available parking will have a detrimental effect on the estate and the Parish Council have acknowledged over intensification of the area

Response: This has been considered as part of the Highway Safety section of this report

- Parking bays are not for the sole use of No. 16

Response: This has been considered as part of the Highway Safety section of this report

- Residents have rights to use these bays and no solid structure should be built on the spaces

Response: Should the residents have documentation with their deeds that they have the legal right to use the land under the ownership of the applicant, this is a civil matter and not a material planning consideration.

- Area directly in front of garage will have an impact in the roads turning circle which is used on a regular basis for motor vehicles

Response: This has been considered as part of the Highway Safety section of this report and a condition shall be attached to the decision notice ensuring that the door is of a roller shutter type door so as not to project onto the public highway.

- No objection to house extension as long as it does not have an impact on the residents parking area

Response: Noted

- Objection to uprooting hedge to create extended driveway as it provides privacy; offers protection for several insects and birds; adds a rural feel to the estate which is of paramount importance to the community as it is in keeping with the area

Response: The submitted plans do not indicate that the hedge would be removed however Planning Permission would not be required to carry out the removal.

- Widening driveway would offer limited access for the neighbouring occupiers to access side path which leads to back yard

Response: Private rights of access are not a matter that the Local Planning Authority can assess.

- Garage will result in serious road safety implications

Response: This has been considered as part of the Highway Safety section of this report.

- Applicant does not park car in existing garage

Response: This is not a material planning consideration.

- Building will be intrusive and result in overlooking

Response: This has been considered as part of the Impact on Amenity section of this report.

- Parking space is designated on the deeds as a shared parking area and therefore no one should be able to build any structure on this area of land

Response: This has been considered as part of the Highway Safety section of this report.

- Based on the deeds stating that the area is a shared parking space, should not be allowed to apply for Planning Permission

Response: This has been considered as part of the Highway Safety section of this report and the deeds clearly denote that the applicant owns the area of land subject to this application

- Applicant does not own the land where he is wanting to build garage

Response: Land Registry documentation clearly shows that the land is under the ownership of the applicant.

Conclusion:

On balance it is considered that the proposal satisfies relevant planning policies and there will be no unduly adverse impact in terms of residential or visual amenity. It is further concluded that the loss of the casual parking spaces as a result of the garage proposal is acceptable taking into account, amongst other things, the rights of the landowner (under planning legislation) to erect a means of enclosure around land.

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.

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.

9. RECOMMENDATION

CONDITIONAL FULL APPROVAL

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

3. The external walls and roofing materials of the extension and garage hereby approved shall in all respects match those used in the construction of the existing building.

4. Notwithstanding the details shown on the approved plans, the garage door hereby approved shall be first installed as a 'roller shutter' type that, when opening and fully open, does not project over the adjoining footway or adjoining highway. Thereafter notwithstanding the provisions of Section 55 the Town and Country Planning Act 1990 the garage door shall be retained as a 'roller shutter' type that, when opening and fully open, does not project over the adjoining footway or adjoining highway.

5. Prior to the development being brought into use, the new vehicular parking area to the front of the dwelling shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained.

NOTE: Link to Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens' published 13th May 2009 (ISBN 9781409804864):

www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 414700) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution

This recommendation is based on the following plan(s):-

Plan Type	Reference	Version	Date Received
Existing elevations and floor plans	Dwg No 1 of 3		13 th May 2015
Proposed elevations, floor plans and sections	Dwg No 2 of 3		13 th May 2015
Location plan, proposed site plan, proposed garage elevations and floor plans	Dwg No 3 of 3		13 th May 2015