
Report of the Head of Strategic Investment**HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 17-May-2018****Subject: Planning Application 2018/90827 Erection of detached dwelling adj 14,
The Fairway, Fixby, Huddersfield, HD2 2HU****APPLICANT**

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DATE VALID

13-Mar-2018

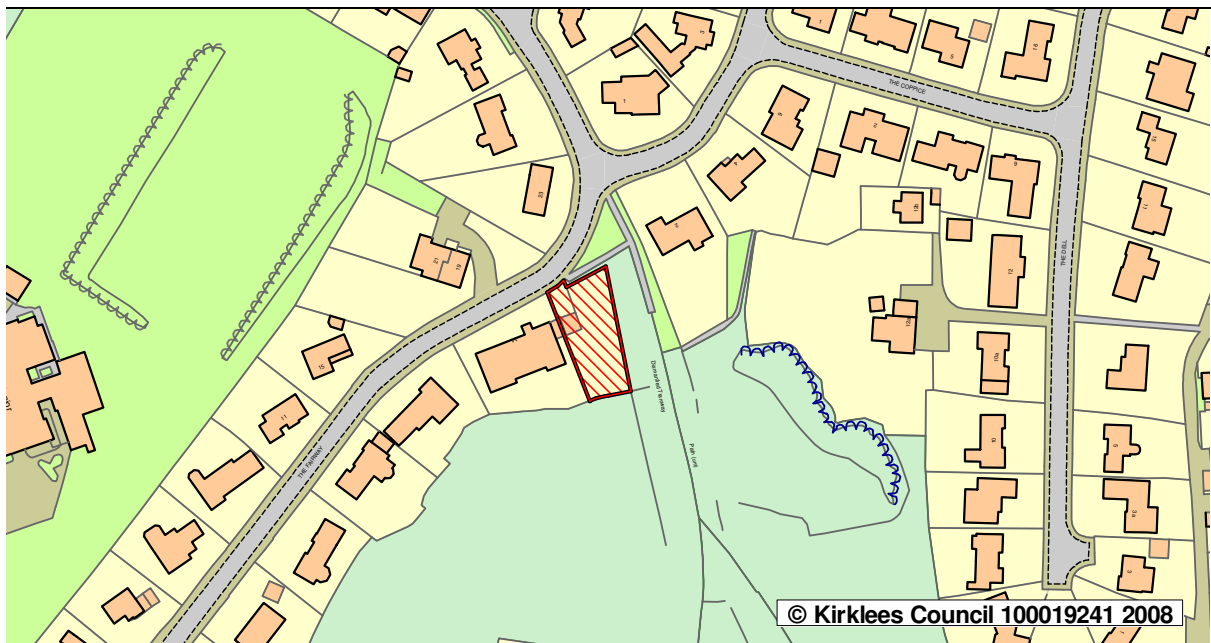
TARGET DATE

08-May-2018

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: Ashbrow

No

Ward Members consulted

RECOMMENDATION:

REFUSE: The proposed dwelling by virtue of its constrained plot size, layout, scale and design would fail to respect the predominant character of development in the area which consists of dwellings within spacious plots. It would appear cramped in the context of the low density nature of the wider estate and an uncharacteristic form of development which would be out of keeping with its surroundings, This would be contrary to Policies D2 (vi) (vii), BE1 (i) (ii) and BE2 (i) of the Unitary Development Plan, Policy PLP24 (a) of the Publication Draft Local Plan and advice within paragraph 64 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application has been brought to Sub-Committee at the request of former Councillor Jean Calver, who was a ward councillor at the time the request was made, for the following reason:
- 1.2 *"Please can the above application were you minded not to approve it be sent to the Planning Committee for them to hear please. I think that the impact of the streetscene should be considered and I feel it would be better for the committee to make a site visit so they can see for themselves before making a decision."*
- 1.3 The Chair of Committee confirmed that Cllr Calvert's reason for making the request is valid having regard to the Councillor's protocol for Planning Committees.
- 1.4 It is also confirmed that a site visit will take place.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site originally comprised part of the wider curtilage of no. 14 The Fairway, which is an extended, detached bungalow. This is now separated from no. 14 by a stone wall/fence running along the western site boundary.
- 2.2 The application site itself forms a narrow plot, sloping downwards from north (front) to south (rear) and from west to east with a woodland area beyond the eastern and southern boundaries. There is a flat roof garage structure on site which was originally associated with no. 14.

- 2.3 The surrounding area is comprised predominantly of detached residential properties set in spacious plots. No. 14 to the west is set within a large plot and faced in random stone. Slightly beyond the eastern boundary is Public Right of Way Hud/171/10.
- 2.4 Opposite the site is No. 21 The Fairway which is a Grade II listed building a mid 19th Century hammer-dressed stone dwelling with a stone slate roof. This is set on rising land off-set from the siting of the proposed dwelling.

3.0 PROPOSAL:

- 3.1 Permission is sought for the erection of a detached dwelling. This would require the demolition of the existing garage on site to accommodate the dwelling.
- 3.2 The proposed dwelling would be located east of no. 14 with approx 5.5 metres separation between the dwellings. It would be on a similar building line to it, in terms of the front elevation, with the rear elevation set slightly in from its rear elevation.
- 3.3 The property would be set in from the eastern boundary woodland by approximately 5 metres. The footprint would be 8 metres in width, 13.5 metres in depth with an eaves height varying from 2.5 metres to 6.5 metres with a maximum overall roof ridge height of 8.7 metres.
- 3.4 The proposed construction materials would be natural stone for the walls and grey concrete tiles for the roof.
- 3.5 The resultant accommodation would be a garden room at lower ground floor with a hall, WC, utility room, dining kitchen and lounge at ground floor and 3 no. bedrooms and bathroom at first floor level.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 Planning history. This relates to the current application site and the history of no. 14 to the west, as the land subject of this application originally formed part of the curtilage to that property.

2006/94239 Erection of extensions to existing bungalow to form 2 storey dwelling, detached double garage and new vehicular access (no. 14)

Conditional Full Permission

2007/92102 Part demolition of existing bungalow and erection of two storey dwelling and detached garage (no.14)

Refused – 1) insufficient information regarding bats; 2) aspects of drawings fail to provide accuracy

2007/94140 Demolition of existing bungalow and erection of two storey dwelling with basement and erection of detached garage/workshop

Refused – size, siting, design, materials and massing would appear overbearing and incongruous detrimental to both visual and residential amenity – appeal dismissed

- 2012/93340 Demolition of existing bungalow and erection of 2 detached dwellings
Conditional Full Permission
- 2013/92801 Erection of extensions and alterations with part demolition to form 2 storey dwelling
Withdrawn
- 2014/93194 Demolition of existing garage and erection of extensions (no. 14)
Conditional Full Permission
- 2015/93421 Erection of detached dwelling
Refused – layout, scale and design would fail to respect predominant character of the area and detract from the setting of the existing dwelling – also would result in a cramped form of development out of character with low density nature or wider estate and an incongruous and over-prominent appearance out of keeping with existing dwelling and streetscene
- 2016/92674 Erection of one detached dwelling (same application site and proposal as the application brought to sub-committee)
Refused – layout, scale and design would fail to respect the predominant character of the area and detract from setting of the existing dwelling – development would be out of character with low density nature of the wider estate and have an overall appearance which is out of keeping with the existing dwelling and streetscene

4.2 Enforcement history:

COMP/12/0149 Alleged untidy garden – breach not expedient

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

- 5.1 The application is the resubmission of plans which were previously refused under application no. 2016/92674. It was considered that no amendments could be sought that would overcome the previous reason for refusal. As such, no negotiations have taken place regarding the scheme.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with

the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D2 – Unallocated land
BE1 – Design principles
BE2 – Quality of design
BE12 – Space about buildings
T10 – Highway safety
T19 – Parking standards
NE9 – Retention of mature trees
R13 – Public Rights of Way

6.3 Kirklees Publication Draft Local Plan:

PLP1 – Achieving sustainable development
PLP2 – Place shaping
PLP21 – Highway safety and access
PLP23 – Core walking and cycling network
PLP24 – Design
PLP33 – Trees
PLP35 – Historic environment

6.4 National Planning Policy Framework:

Chapter 6 – Delivering a wide choice of quality homes
Chapter 7 – Requiring good design
Chapter 11 – Conserving and enhancing the natural environment
Chapter 12 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 Final publicity date expired 20th April 2018 – 4 letters of representation received objecting to the proposal with the following being a summary of comments:

Highway safety

- Already congested, close to a school
- Would increase risk of accidents
- Garage provision required as currently parking on bend/pavement
- Boundary of Public Rights of Way should be marked clearly

Visual amenity

- Loss of views to woodland
- No two houses as close to each other as proposed
- Out of character and squeezed into existing garden
- All other properties on that side of The Fairway are bungalows
- All bungalows are long buildings and garden frontages

- Due to sloping land 2/3 storey building will stand out and dominate the top of the bank
- Materials not in keeping

8.0 CONSULTATION RESPONSES:

8.1 Non-statutory:

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

K.C. Trees – previous comments still apply – no concerns

K.C. Public Rights of Way – informal comments – if consent is granted, a footnote is required relating to no interference, obstruction, prior to, during or after development works

K.C. Ecology & Biodiversity Officer – informal comments – previous comments still apply – no objection subject to mitigation measures

9.0 MAIN ISSUES

- Principle of development
- Visual amenity
- Setting of a Listed Building
- Residential amenity
- Highway safety
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 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.
- 10.2 The Council is currently unable to demonstrate a 5 year supply of deliverable housing land sufficient to satisfy the requirement of the NPPF. Paragraph 49 of the NPPF states that if a local planning authority cannot demonstrate a 5 year land supply of deliverable housing sites “relevant policies for the supply of housing should not be considered up to date”. Paragraph 14 states that where the “relevant policies are out of date” planning should be granted unless:
- *“Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the National Planning Policy Framework taken as a whole; or*
 - *Specific policies in this framework indicate development should be restricted (for example, sites designated as Sites of Special Scientific Interest; land designated as Green Belt, an Area of Outstanding Beauty.....etc”*

This is given significant weight in the consideration of the application but has to be balanced against the impacts of the development on all other material considerations

- 10.3 This particular application has been submitted following the refusal of planning permission under application number 2016/92674 which was also for the erection of one dwelling and had the following reason for refusal:

1. The proposal by virtue of its layout, scale and design would fail to respect the predominant character of the area and detract from the setting of the existing dwelling. In particular the proposal would result in a development that is out of character with the low density nature of the wider estate and have an overall appearance which is out keeping with the existing dwelling and the street scene. This would be contrary to Policies D2 (vi) (vii), BE1 (i) (ii) and BE2 (i) of the Unitary Development Plan and advice within paragraph 64 of the National Planning Policy Framework.

- 10.4 The application has been resubmitted with the same plans as previously refused with a Design and Access Statement detailing the reasons why the applicant/Agent considers the refusal to be unjustified.

Impact on visual amenity:

- 10.5 The Fairway is predominantly characterised by a variety of differently styled detached properties set within generous plot sizes and set back from the roadside with the row of properties to the south-west of the road within the vicinity of the site being detached bungalows.
- 10.6 The proposed development would result in two dwellings sitting within the original curtilage of no. 14, one being the existing bungalow and one being a two storey dwelling to the front elevation and three storeys to the rear elevation.
- 10.7 Whilst the street scene elevation submitted demonstrates that the roof line of the proposed dwelling would be slightly lower than no. 14 it is considered that by reducing the curtilage of the adjacent bungalow, which has itself been extended, and separating the site for a further dwelling would be out of keeping with the established character of the area resulting in a cramped form of development.
- 10.8 The proposed dwelling by virtue of its siting and by being a two/three storey building would also detract from the setting of no. 14 which is a large, extended bungalow. The design of the dwelling, especially to the rear is not considered to be in keeping with the adjacent property No. 14.
- 10.9 With regards to the topography of the site, the building has an awkward roof form especially when viewed from the west travelling downhill along The Fairway and would have a large mass of walling evident when travelling east upwards along The Fairway.
- 10.10 The submitted site plan indicates the trees which have been removed from the site, which the Council's Arboricultural Officer is aware of. As such, further details of the proposed boundary treatments would be required via an appropriate condition should the application be supported..

- 10.11 As part of the Design and Access Statement it is argued that dwelling would not be 'squeezed in' and that in terms of the large mass of walling referred to in the previous assessment when driving from the east upwards along The Fairway, could be screened by planting along the boundary. However, it is not considered that adequate screening could be provided to soften the mass of such height within a sloping site.
- 10.12 In conclusion, with regards to visual amenity, the proposal by virtue of its layout, scale and design would fail to respect the predominant character of the area appearing incongruous in the streetscene and having an awkward relationship with no. 14 The Fairway to the west of the site. This would be contrary to Policies D2 BE1 and BE2 of the Unitary Development Plan, Policy PLP24 of the Publication Draft Local Plan and Chapter 7 of the National Planning Policy Framework.

Impact on the Listed Building:

- 10.13 The proposal would be located within the setting of a Grade II Listed Building. When making decision on planning applications for development that affects the setting of a listed building there is a duty for local planning authorities under S66 of the Listed Buildings and Conservation Areas Act 1990 to have special regard to the desirability of preserving this setting. In this context, preservation means not harming the interests of the building as opposed to keeping it unchanged.
- 10.14 Chapter 12 of the National Planning Policy Framework states that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. The listed building is already characterised as being within an established setting of a more recent estate.
- 10.15 Furthermore, emerging Policy PLP35 of the Publication Draft Local Plan states that development proposals affecting a designated heritage asset should conserve those elements which contribute to its significance and that harm to such elements will be permitted only where this is outweighed by the public benefits of the proposal.
- 10.16 The position of the Listed Building within large grounds on rising land ensures that it retains a level of dominance within the estate. Whilst the increase in density on the application site would have some limited impact on the setting of the listed building; (the overall harm on the wider street scene having being assessed above), the impact would cause less than significant harm. On this point alone the public benefit of providing an additional dwelling would outweigh the harm to the setting of the dwelling therefore complying with Chapter 12 of the National Planning Policy Framework.

Impact on residential amenity:

- 10.17 Policy BE12 of the Unitary Development Plan sets out the normally recommended minimum distances between habitable and non-habitable room windows for new dwellings. New dwellings should be design to provide privacy and open space for their occupants and physical separation from property and land. There are four sections to Policy BE12 in terms of separation distances and the proposal will be assessed against this criteria.

- 10.18 It is recommended that 21 metres is achieved between a habitable room window of a dwelling and a habitable room window of a facing dwelling. There are habitable room windows proposed within the front elevation at ground and first floor level and within the rear elevation at lower ground, ground and first floor levels. In terms of the front elevation openings these would have a greater separation distance than 21 metres to the facing dwelling No.23 The Fairway.
- 10.19 The non-habitable rooms facing no. 14 would be separated by 5.5 metres and would be to the WC at ground floor and bathroom at first floor and could be conditioned to be obscurely glazed to prevent overlooking at close proximity.
- 10.20 There are 3 no. openings within the side elevation of no. 14 which have not been inserted as per the approved planning application to extend the property. It is noted however, that as the property is single storey these openings could be altered without the requirement of planning permission now that it is occupied.
- 10.21 It is not known whether the arrangements for internal accommodation at no. 14 are as previously approved, given the changes to window arrangements. Nevertheless, as part of the previous 2016 application for a dwelling a plan was submitted demonstrating that a 1.8 metre high boundary treatment be sited along the shared boundary. Whilst this was considered to mitigate the concerns regarding potential overlooking, this was a balanced consideration weighing up to the potential harm. The boundary treatment would potentially block light to occupiers of no. 14 rather than future occupiers of the neighbouring new dwelling. At that time it was considered that there would not be a justifiable reason for refusal based on harm to residential amenity. This is still considered to be the case as the principal windows at no. 14 are to the front and rear of the dwelling. Furthermore the boundary treatment between no. 14 and the application site has been part erected.
- 10.22 The openings within the rear elevation of the dwelling would be separated from the closest dwelling by an area of woodland and therefore there are no concerns. With regard to the side elevation facing No. 2 Viewlands the windows would be to the staircase and therefore non-habitable with a separation distance of approximately 25 metres with No. 2 set on a lower ground level than the application site and a Public Right of Way separating the two dwellings.
- 10.23 As such, in terms of the requirements of Policy BE12, the proposal would be generally acceptable, subject to appropriate boundary screening.
- 10.24 With regards to overshadowing and/or being overbearing the dwelling would have an overall height which is slightly lower than no. 14. It is not considered that there would be an unreasonable degree of overshadowing to no. 14 and due to its massing would not be particularly overbearing. Whilst the proposed dwelling would be set on a much higher ground level than the adjacent property No. 2 Viewlands the separation distance is considered acceptable for the proposal not be overly oppressive, therefore acceptable in terms of Policies D2, BE1 and BE2, Policy PLP24 of the Publication Draft Local Plan and advice within the National Planning Policy Framework.

Impact on highway safety:

- 10.25 Two off-street parking spaces are proposed from a new 4.5 metres wide drive. This is considered acceptable for a three bedroomed property and Highways DM raise no objections to the scheme. Should the application be approved it is requested that conditions are attached to the decision notice with regards to the surfacing and draining of the parking areas and also nothing to be planted or erected within a strip of land 2.0m deep measured from the carriageway.
- 10.26 Whilst noting that comments have been received with regards to parking outside the property on the bend, there are no on-street parking restrictions outside the property and therefore, this is not a matter that the Local Planning Authority can control or address.
- 10.27 Public Rights of Way – the route of public footpath Hud/471/10 runs to the east of the site beyond the woodland swathe. The erection of a dwelling would not adversely affect the setting of the footpath or its users.

Other matters:

- 10.28 The site was formally part of a former garden with a longstanding garage in situ. Given this it is unlikely to be of biodiversity interest. The Ecology & Biodiversity Officer was formally consulted as part of a previous application and following informal discussions it is considered that the comments provided at that time are relevant to this application. Should the application be approved, it is requested that mitigation measures should be used on the building in terms of a bat box and also a woodcrete sparrow terrace nest box. This would accord with Policy PLP30 of the Publication Draft Local Plan.
- 10.29 Air Quality. To encourage the use of low-emission modes of transport, if the application was to be approved, an electric/hybrid vehicle charging point would need to be provided in accordance with relevant guidance on air quality mitigation, draft policies PLP21, PLP24 and PLP51 of the emerging Local Plan, the West Yorkshire Low Emissions Strategy (and its technical planning guidance), the NPPF, and Planning Practice Guidance.

Representations

- 10.29 4 letters of representation received with the following being a summary of comments:

Highway safety

- Already congested, close to a school
- Would increase risk of accidents
- Garage provision required as currently parking on bend/pavement
- Boundary of Public Rights of Way should be marked clearly

Response: The matters relating to highway safety have been addressed above.

Visual amenity

- Loss of views to woodland

Response: The loss of views are not a material planning consideration

- No two houses as close to each other as proposed
- Out of character and squeezed into existing garden
- All other properties on that side of The Fairway are bungalows
- All bungalows are long buildings and garden frontages
- Due to sloping land 2/3 storey building will stand out and dominate the top of the bank
- Materials not in keeping

Response: These matters have been addressed within the visual amenity section of this report

11.0 CONCLUSION

- 11.1 The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90827>

Certificate of Ownership – Certificate A signed: