
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 20-Sep-2018

Subject: Planning Application 2018/90978 Erection of two storey and single storey extensions Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN

APPLICANT

Acumen Architects

DATE VALID

02-Aug-2018

TARGET DATE

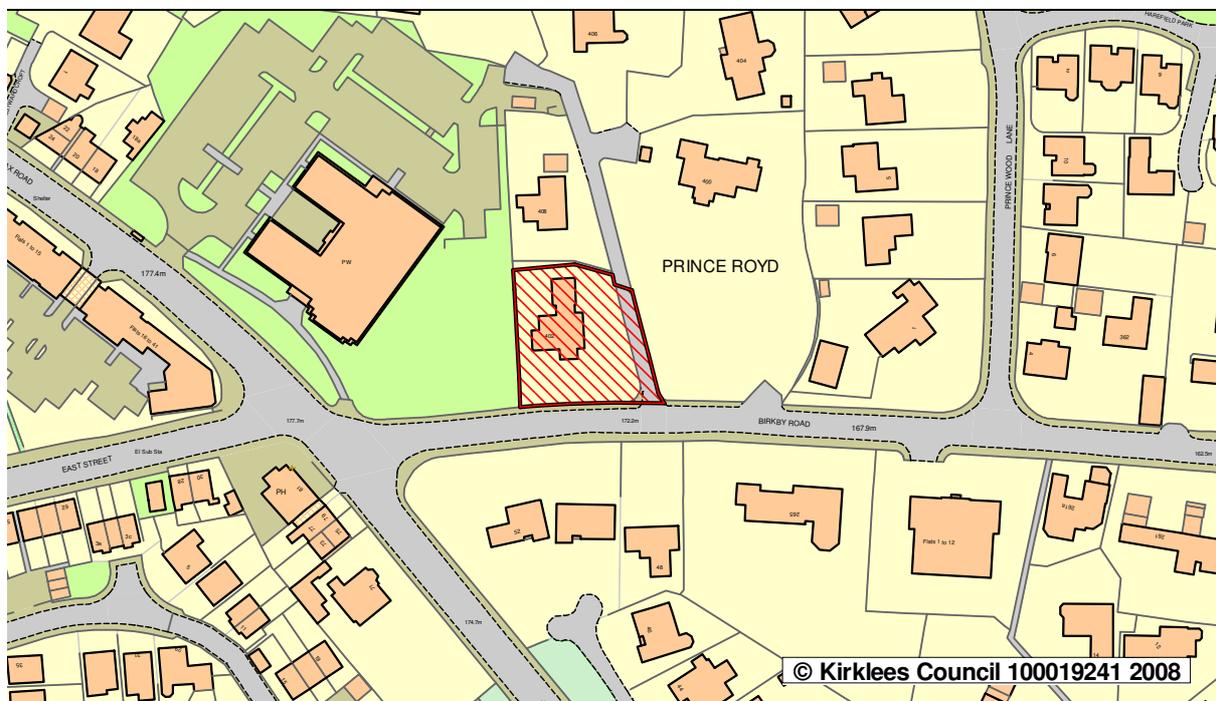
27-Sep-2018

EXTENSION EXPIRY DATE

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Lindley

No

Ward Members consulted

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 This application is brought before Sub-Committee for determination under the terms of the Delegation Agreement at the request of Ward Councillor Cahal Burke, for the following reason:
- 1.2 *I believe the size and scale of the proposal would result in the overdevelopment of the site and would be out of proportion in relation to the other properties in the area. The size and scale would be overbearing on nearby properties. The proposal for the new garage would result in significant visibility and access issues.*
- 1.3 The Chair of sub-committee confirmed that Cllr Burke's reason for making this request is valid having regard to the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 402 Birkby Road, known as Brigsteer, is a large detached dwelling situated on the north side of Birkby Road approximately 45m east of the junction with Halifax Road. Vehicular access is provided by an unadopted road adjacent to the eastern boundary of the plot which continues to serve 5 other dwellings. The plot, which measures approximately 20m from north to south and 15m (on average), is somewhat elevated above the level of Birkby Road. Vehicular access to the unadopted road is taken at the north-east corner of the site. The dwelling itself is of an asymmetrical design and layout, with an attached double garage at the northern end. Most of the amenity space is to the south and west, and there are several mature trees on the southern and eastern boundaries. To the west, the site is bounded by the Church of Latter Day Saints grounds, and to the north by no. 408 Birkby Road.

3.0 PROPOSAL:

- 3.1 The proposal is for the erection of a two-storey extension to the southern elevation of the property and a single-storey extension to the north-west corner.

- 3.2 The two-storey extension would be 5.3 by 6.0m and would be tied into the southern and part of the western elevations, projecting 2.3m to the south of the existing dining room, and would be 4.7m high to the eaves and with a gable roof.
- 3.3 The proposed single-storey extension would be 5.3 by 3.1m and would be located on the west or rear of the dwelling, tied in to the northern wall of the main dwelling and the southern wall of the garage, and with a monopitch roof.
- 3.4 There is a Council highway improvement scheme proposed nearby which would create a new lane within the carriageway of Birkby Road for southbound traffic turning right onto Birkby Road at the junction with Halifax Road, and then merge into the existing carriageway. It would take a wedge of land off the curtilage of the Church of Latter Day Saints and Brigsteer. This is dependent on the Council securing land off the relevant parties but the site plan has been drawn to reflect what the site would look like if it were carried out. This does not form part of the planning application and is not assessed in the report.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1

2003/94421 – Outline application for the erection of a detached dwelling. Approved and implemented.

2004/91771 – Reserved matters for the erection of a detached dwelling. Approved and implemented.

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

5.1

08-May-2018: Plans amended to show width of access road and position of existing trees. Extension in front of garage added in place of rear two-storey extension behind it.

04-Jul-2018: Garage extension and two-storey rear extension deleted.

16-Jul-2018: Detached double garage deleted and design of two-storey southern extension changed.

4- Sep 2018: The proposal to move the access point southwards from its present position to a point parallel with the access road, set back 1m from it to allow space for vehicles to pass was deleted. The proposal now intends to retain the access as existing.

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 48 of the National Planning Policy Framework (2018). 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 (2018), 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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2

- **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** – Parking
- **NE9** – Retention of mature trees.

Supplementary Planning Guidance / Documents:

6.3

PLP 21: Highway safety and access

PLP 22: Parking

PLP 24: Design

PLP33: Trees.

National Planning Guidance:

6.4

- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 14 – Meeting the challenge of climate change, flooding and coastal change
- Section 15 – Conserving and enhancing the natural environment.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The proposal was advertised by a site notice and neighbour notification letters, including publicising amendments to the original scheme on 4 separate occasions by neighbour notification letter (publicity period for the final amended plans expires 18-Sep-2018). Representations have been made by a total of 21 local residents, 1 by the Church of Latter Day Saints, and 1 by a planning agent acting on behalf of local residents.

7.2 Of these 9 are opposed, 2 make comments and 12 are in support (although in this category it is noted that 2 are anonymous and a further 2 fail to give full postal addresses). A summary of the concerns and comments made is given below:

Grounds of objection and concerns

- Overdevelopment. Design and scale out of keeping with its surroundings.
- Already bigger than approved.
- Moving the entrance will impede people's access to and from the lane, and result in cars blocking the lane when the gates are being opened, because of the loss of the pull-in space, which was required by the previous planning consent. Bins would block the lane on collection days. It contravenes condition (3) on the reserved matters approval.
- Overlooking of 48 Inglewood Ave from garage window and upper floor window in extension.
- Insufficient detail about the junction improvements and how the development will affect them, in particular visibility at junction with Birkby Road.
- Visitors to church sometimes use the lane after large events as a means of egress.
- It will become more difficult for the owner to access his own garages because of the changes in internal layout. No swept path analysis
- Loss of trees.
- Hard landscaping affecting run-off and drainage
- Dry stone wall must be maintained.
- No measurements on the plans.
- Access difficulties during construction.
- The lane is not in the applicant's ownership and any alteration to lane requires joint permission of all owners.
- Garages could be added at a later date. PD rights must be removed for all further extensions
- The dry stone boundary wall is not in the same ownership as the house and so the developer would need the consent of third parties to carry out the access works. No proven right of access over the lane.
- The lane does not have a shared turning area with legal access rights, contrary to the swept path analysis shown on the 2004 approval.

Supporting and general comments

- Considers the application should be determined as soon as possible
- In keeping with street scene
- Some of the trees are dying and should be removed.
- Replacement planting can be done if necessary
- Will not affect road safety or visibility, it is a quiet street anyway, might even improve it
- The road widening will improve highway safety
- The country is facing a housing crisis and we cannot run the risk of driving people and their businesses out of town.
- It will provide work for local tradespeople.
- Solar panels are an asset.
- There will be no impact on [the supporter's] house or view.
- The house was built as planned, the drive still incorporates a pull-in area, and the wall will be reconstructed in the same dry stone.

- Other developments in the locality have been approved and built (highlights householder developments nearby) which the writer considers in some cases are of a similar scale to that proposed
- The development would not affect the view of nearby residents
- Parking hasn't been a problem in the past even though there have been as many as 6 adults living there at one time.
- If safety really is such an issue, the Council should adopt the road and impose a speed limit.

7.3 Any further representations received in respect of the latest amended plans will be reported to Members in the update.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory: There were no statutory consultees**

8.2 **Non-statutory:**

KC Arboricultural Officer – No objection in principle;

Highways Development Management – No objection provided that sight lines at Birkby Road junction are shown correctly (i.e. after the improvements have been carried out).

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

10.1 The site is on land that is unallocated within the UDP Proposals Map and without designation on the PDL. 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]”.

10.2 Other UDP Policies of relevance include BE1 and BE2 (development should be visually attractive and contribute to a sense of local identity), BE13 (extensions should respect the design features of the existing building), BE14 (extensions should not have an adverse impact on adjacent properties or land), T10 (development should not create or materially add to highway safety problems), T19 (development should ensure that adequate parking is provided taking into account the recommendations in Appendix 2) and NE9 (mature trees should normally be retained).

- 10.3 PLP24 (c) of the Publication Draft Local Plan states: “Proposals should promote good design by ensuring that . . . extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers”. PLP21-22, which cover highway safety and parking, can in principle be given considerable weight but cover the same concerns as the UDP policies T10 and T19. Policy PLP33 (Trees) states that proposals should normally retain any “valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location, or contribute to the environment.”

Urban Design issues

- 10.5 The proposal as originally submitted contained the following two elements that have now been deleted – a two-storey extension behind the existing garage (replaced by a front extension on Revision A); a large detached garage near the south-western corner of the site. These were removed from the scheme on the advice of the case officer because of the impact they would have had on visual and residential amenity.
- 10.6 The existing house is quite large being 3-storey and with 6 bedrooms. Its immediate neighbours are all individually designed, two-storey houses on plots of varying sizes. The plot upon which Brigsteer is built is approximately 1200 sqm in area. The adjoining property, no. 408, is built on a 1100sqm plot, nos. 404 and 406 are built on plots of approximately 1600 and 1400sqm respectively. Comparing Brigsteer and no. 408, the ground covered by the dwelling as actually built (or dwelling plus garage in no. 408’s case) is roughly 210 and 190 sqm respectively, giving a plot coverage of about 17% in each case. So, taking into account the overall scale of dwelling, including both its footprint and overall bulk, it would appear that no. 402 is the most densely built up plot in terms of house size to plot size ratio, but only very marginally more so than no. 408. It is noted that the house has been built slightly larger than that which was shown on the approved plans, but this is not in itself a reason to reject all proposals for extensions – any such proposal must be assessed on its own merits.
- 10.7 The proposed two-storey extension to the southern side elevation, on the Birkby Road side, would only project 2.3m beyond the furthest extent of the existing southern elevation, and would still be 9.9m from the existing plot boundary with Birkby Road, or 6.5m if the highway improvement were to go ahead. It is considered therefore that it would not be unduly prominent.
- 10.8 The proposed rear extension would be very small compared to the existing building and would be, at its closest, 12m and 7m from the northern and western boundaries of the site respectively.
- 10.9 Given the above factors, the extensions now proposed would not amount to overdevelopment or result in the house having an overly prominent appearance, and they would result in a satisfactory amount of garden space being kept at the side and rear of the property. It is considered that this would still be the case if a small wedge of land on the Birkby Road frontage were to be lost to the proposed highway improvement. Design detail, including roof style and the positioning of window openings, would harmonise with the existing building.

- 10.10 In conclusion, it is considered that the proposed development would respect the appearance and character of the existing dwelling and surrounding development, thereby complying with the aims of Policies D2(ii), BE1, BE2 and BE13 of the UDP and Policy PLP(c) of the PDLP.

Residential Amenity

- 10.11 The two-storey extension would be 24m from the nearest point on the curtilage of another residential property (in this case, 48-52 Inglewood Avenue) and 42m from the facing rear elevation of nos. 50-52 (no. 48 is still further away) and it is considered that it would not give rise to any significant overlooking or other undesirable impacts. The single-storey extension would be approximately 7m from the northern boundary of the site and it is considered that owing to its separation distance and small size it would not affect the amenities of no. 408.
- 10.12 In conclusion it is considered that the proposal as shown on the current plans would not result in a loss of amenity to any neighbouring residential property or adjacent land, and would thereby accord with the aims of Policies D2, BE14 and PLP24(b).

Landscape issues

- 10.13 It is considered that the existing trees have only limited amenity value and do not merit a Tree Preservation Order. It is noted that whilst Policy NE9 of the UDP, the adopted plan, states that mature trees should normally be retained, PLP33 qualifies this as trees that are valuable to amenity, local character or the environment.
- 10:14 It is considered that the proposed development would have no significant impact on the wider landscape. The latest plans do not indicate the removal of any trees. Since the proposed new access has been deleted from the proposal, the development would not involve any works within the crown spread of any tree. It is noted that no trees within or on the boundaries of the site are subject to a Tree Preservation Order.
- 10.15 Several trees will, unavoidably, be lost by the proposed junction improvements to Birkby Road, but this is not part of the application. The architect has proposed a replacement planting scheme, consisting of 3 new trees on the highway frontage, silver birch and white oak, which would represent a benefit but is not considered essential and does not need to be conditioned.

Highway issues

- 10.16 The formation of a new or amended means of access to an unclassified road does not normally require planning permission. This was previously proposed as part of this application but has since been deleted.
- 10.17 It should be noted that Condition (3) on reserved matters approval 2004/91771 for the original house requires that "before the development is occupied, the access improvements shown on drawing No. 2827-07 Rev A attached to the outline approval 03/60/94421/W2 shall be provided and the sight lines shown shall be cleared of all obstructions to visibility exceeding 1.0m in height above the adjacent carriageway". (This includes sightlines at the junction of the access road with Birkby Road and the junction of the house drive with the access road).

- 10.18 The Reserved Matters condition does not stipulate that the access improvements and sightlines must thereafter be maintained at all times in the future. Condition (4) on the outline approval however requires that “the access improvements shown on the approved plan shall be...and thereafter retained as such” It is not completely clear from the wording of the condition, or the plan title “proposed junction improvements” reference 2927-07 Rev A which improvements are being referred to. But is considered on balance that the retention of the two main junctions (between the unadopted road and Birkby Road, and between the private drive and the unadopted road). This is as now shown on the latest amended plans.
- 10.19 Several local residents expressed the concern that the loss of the existing angled access with its recessed gateway, as previously proposed, would have led to obstruction of the access road resulting in highway safety problems. This element of the proposal has now been deleted and the existing private access is to be kept unaltered.
- 10.20 Existing parking arrangements would be unaffected – there would be enough space to park at least another two vehicles within the paved part of the curtilage near the southern end. Using standard swept path overlays, a car can easily undertake a 3-point turn within the site.
- 10.21 The sight lines shown at the junction of the access road and Birkby Road are based on the current configuration of the carriageway and not the proposed improvements. If they were based on the layout that would exist post-improvement, the sight line to the west would cross part of the garden. The proposed highway improvements are however completely unrelated to the current application and visibility would not be affected by the proposed extensions. It is therefore considered that notwithstanding Highways Officer’s comments it would be unreasonable to require the applicant to show post-improvement sight lines as part of this application.
- 10.22 In conclusion, the proposed development, if implemented in full accordance with the latest amended site plan, would not create or materially add to highway safety problems provided that the access arrangements as shown are retained at all times which can be conditioned, and would accord with the aims of Policies T10, T19, PLP21 and PLP22.

Representations

- 10.23 The concerns expressed are summarised below with officer responses:

Overdevelopment. Design and scale out of keeping with its surroundings.

Response: This concern has been examined in depth in paragraphs 10.5 to 10.10 of the report and it is considered it would harmonise with its surroundings.

Already bigger than approved.

Response: The “as existing” elevations on the current application have been compared with the approved elevations for 2004/91771. The overall width of the house, north to south, is now 24m, the depth (including the main living accommodation and the original double garage) 12.9m. The original approved plans show it to be 23.4m in length, 13.1 in width. The discrepancy in width is corroborated by aerial photographs held by the Council.

The internal ground floor level to eaves height on the eastern or front elevation as existing is scaled off at 5.7m, and from floor level to the roof ridge 7.9m. The equivalent scaled measurements shown on the 2004 plans are 4.9m and 7.4m. It can be observed on the plans that the proportions of the house are different, in that, for example on the south elevation as built there are several courses of stone between the lintels of the upper floor windows and the gutter line, whereas on the 2004 plans there was no clearance between the lintels and eaves.

In conclusion the dwelling seems to have been built larger than shown on the approved plans, but not drastically so. The most striking difference is not in the footprint but in the height of the walls from ground to eaves, which has allowed the inclusion of second-floor living space in what was originally approved as a two-storey dwelling. It should be noted that this in itself however is not a material planning consideration in the assessment of this application. The dwelling, it would appear, has been substantially completed for more than 10 years and there is no record of a breach of condition ever being challenged by the Council, and so any breach of condition that may have occurred relating to the design or scale is now immune from any enforcement action. Furthermore, as the operational development to construct the dwelling was substantially completed more than 4 years ago this would also preclude enforcement action being considered.

Moving the entrance will impede people's access to and from the lane, and result in cars blocking the lane when the gates are being opened, because of the loss of the pull-in space, which was required by the previous planning consent. Bins would block the lane on collection days. Contravenes condition on previous approval.

Response: The amended site plan demonstrates that the entrance will not be relocated.

Overlooking of 48 Inglewood Ave from garage window and from upper floor in the extension.

Response: The garage has been deleted from the proposal and it is considered that the distance is too big for significant overlooking to occur.

Insufficient detail about the junction improvements and how the development will affect them, in particular visibility at junction with Birkby Road.

Response: The development will not affect the junction improvements or be affected by them.

The Church has a right to use the lane and visitors to church sometimes use it after large events.

Response: This is noted but it is considered that the development would have no impact on highway safety and would cause no significant interference with existing access rights.

It will become more difficult for the owner to access his own garages because of the changes in internal layout. No swept path analysis.

Response: According to standard swept path overlays, manoeuvring and turning within the site will not be problematic.

Loss of trees.

Response: No trees on site would be directly affected by the proposed extensions. In any case they are not deemed worthy of a preservation order as their individual value to amenity is limited.

Hard landscaping affecting run-off and drainage

Response: The area to be used for parking and turning is already block-paved and so the proposal would not bring about any change.

Dry stone wall must be maintained.

Response: The drystone wall is to remain unaltered.

No measurements on the plans.

Response: This is not a mandatory requirement. The plans are scaled and can be measured. It is noted however that the site plan shows the width of the access road as an annotated measurement confirming it is to remain at 4.8m width.

Access difficulties during construction.

Response: Although not a standard requirement for a development of this nature, the architect has submitted a short paragraph explaining how construction access would be managed.

The lane is not in the applicant's ownership and any alteration to lane requires joint permission of all owners.

Response: Notice has been correctly served on the owners of the lane. The current version of the site plan makes it clear there would be no alterations to the lane.

Garages could be added at a later date. Permitted development rights must be removed for all further extensions

Response: Permitted development rights have already been removed condition (8) on the reserved matters approval 2004/91771

The dry stone boundary wall is not in the same ownership as the house and so the developer would need the consent of third parties to carry out the access works. No proven right of access over the lane.

Response: These are considered to be private civil matters and not material planning considerations.

The lane does not have a shared turning area for a bin wagon with legal access rights, contrary to the swept path analysis shown on the 2004 approval.

Response: As the development is for extensions to a dwelling it is unlikely to result in a material increase in refuse collection vehicles or other large vehicles on the lane.

10.24 General comments and those in support of the application are summarised below with officer responses:

Considers the application should be determined as soon as possible

Response: The proposal has required multiple revisions before being taken to committee in order to address concerns raised by officers.

In keeping with street scene.

Response: It is considered that it would conserve the appearance of the street scene.

Some of the trees are dying and should be removed.

Response: This claim is not supported by objective evidence, although the trees are not deemed to be of high quality.

Replacement planting can be done if necessary

Response: Some replacement planting is shown but is not considered essential.

Will not affect road safety or visibility, it is a quiet street anyway, might even improve it

Response: The latest site plan has deleted the proposal to relocate the access point to the dwelling.

The road widening will improve highway safety

Response: The widening of Birkby Road is not part of the application although the plans acknowledge it.

The country is facing a housing crisis and we cannot run the risk of driving people and their businesses out of town.

Response: The proposal would enlarge the property so as to serve the needs of the intended occupant but this factor is, in general, treated as a private interest rather than a public one and is therefore not a material consideration.

It will provide work for local tradespeople.

Response: The benefit to the local economy would be modest and only short-term so this factor cannot be given significant weight.

Solar panels are an asset.

Response: The addition of solar panels to a south-facing roof slope is shown on the plans but this is not directly related to the proposals so cannot be afforded any weight.

There will be no impact on [the supporter's] house or view.

Response: Noted.

The house was built as planned, has not been extended since, the drive still incorporates a pull-in area, and the wall will be reconstructed in the same dry stone.

Response: As previously noted, there are discrepancies between the house as approved under application 2004/91771 and as built, but it would appear there have been no extensions since. There are now no proposal to alter the drive.

Other developments in the locality have been approved and built (highlights householder developments nearby) which the writer considers in some cases are of a similar scale to that proposed

Response: Each application must be judged on its own merits.

The development would not affect the view of nearby residents

Response: This is a subjective claim and is afforded no weight.

Parking hasn't been a problem in the past even though there have been as many as 6 adults living there at one time.

Response: The plans show a very substantial area that could be used for parking in addition to the attached garages, which are to remain.

If safety really is such an issue, the Council should adopt the road and impose a speed limit.

Response: Road adoption is outside the remit of the planning system.

Other Matters

- 10.25 *Construction access.* It is important to note that a Construction Management Plan is not a standard requirement for Minor or Householder development and has not been requested by the Highways Officer. The architect has however offered the following proposals as to how construction traffic can be safely managed:
- 10.26 "In terms of the construction access plan, it is envisaged that part of the wall on the private access road will be removed to allow larger construction vehicles to access to site. There is sufficient room in the site for vehicles to park. In terms of deliveries a large delivery vehicle can stop temporarily on Birkby Road and materials transferred to the site using a hiab crane."
- 10.27 This last operation might require the consent of the Council acting as Highway Authority but again, this is outside the remit of the planning system and this control regime should not be duplicated here.
- 10.28 It should be noted that the partial demolition of a boundary wall that is not in Conservation Area or within the curtilage of a Listed Building does not normally require planning permission. Condition (9) on the reserved matters for the original house, 2004/91771, stipulates that "the realigned boundary wall shall be constructed as a traditional dry stone wall with hand dug foundations" but does not require that it be retained or maintained as such thereafter. It is assumed that the wall will be re-instated using the same materials but it would not be reasonable to condition this since the wall could be demolished and rebuilt under permitted development rights and such a condition would fail the test of being necessary and relevant to the development.

11.0 CONCLUSION

- 11.1 It is considered that the proposed development, as shown on the latest amended plans having undergone multiple major revisions, would not amount to overdevelopment and would respect the character of the existing dwelling and its surroundings. It is therefore recommended that conditional full approval is granted.

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

- 1. 3 year commencement time limit**
- 2. Development in full accordance with approved plans**
- 3. Materials to match existing**

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90978>

Certificate of Ownership – Notice served on nos. 402, 406 and 410 Birkby Road 1st
August 2018