

# KIRKLEES METROPOLITAN COUNCIL

## PLANNING SERVICE

### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

20 SEPTEMBER 2018

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Planning Application 2018/90912

Item 16 – Page 47

**Reserved matters application pursuant to outline permission 2015/91093 for erection of residential development (17 dwellings) (within a Conservation Area)**

**Land Off, Hollyfield Avenue, Quarmby, Huddersfield**

**Updated consultation response:**

Lead Local Flood Authority - Has confirmed that surface water drainage arrangements are satisfactory and flood routing proposals are acceptable.

**Representations:**

Since the publication of the committee report two further letters of objection have been received. These continue to maintain objections previously submitted and considered in the report in respect to:

- The proposal's impact on the Grade II listed building and Conservation Area
- Loss of privacy, loss of light and overbearing effects for residents bordering the site, particularly for the residents of 1-4 Holly bank Court
- The potential for this proposal to exacerbate existing flooding problems
- Potential damage to an existing drystone retaining wall which may destabilise adjacent land

The representations comment that the change to the position of plot 14 has not addressed previous concerns raised. One of the objectors has stated that the change has exacerbated the impact of the elevation of the dwelling in relation to the listed building 2-4 Holly Bank Court and the Conservation Area.

**Response:** The change to the position of plot 14 has not altered the finished floor level of this plot, it has only moved the dwelling further away from the listed building.

A further issue raised relates to how this proposal would prevent current access to maintain the rear of existing properties on the boundary of the site.

**Response:** Whilst occupiers may currently be able to access their properties from the application site, there is no right to access third party land to maintain property. The owner of third party land would have to grant permission to allow this. This proposal would not change this situation, albeit another landowner would need to allow such access.

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**Reserved Matters application for erection of 2 dwellings pursuant to outline permission 2015/92993 for erection of residential development**

**land off, Butt Lane, Hepworth, Holmfirth, HD9 1HT**

**Clarification on Number of Dwellings**

Planning Officers would seek to confirm that the number of dwellings proposed by the development is 2, and not the 3 indicated in the agenda to the committee meeting.

**Representation**

A further representation has been received from a local resident which is set out below along with a response to the points made:

*The reduction in numbers of properties is obviously a vast improvement.*

**Response:** Noted

*The impact on visual amenity of the extensive retaining wall and the removal of trees along the wildlife corridor is still an issue. If the developers are committed to only building two properties then they could go a long way to complying with the UDP by adjusting the location of the properties to run alongside Butt Lane. This would remove the need for the extra infrastructure for emergency vehicle/refuse collection access. Also any retaining wall needed would run east to west across the site rather than north to south along the dike so the severity of the visual impact would be reduced and trees would not need to be removed. The houses themselves would have a much improved outlook facing down the valley rather than into adjoining properties lounges and being looked down on by those properties.*

**Response:** The above comments are noted, however the applicant has sought the layout set out on the submitted plans which has to be assessed. In this instance the proposed layout is considered to be acceptable for the reasons set out in the published committee report. The submitted sections demonstrate that the retaining walls would be of an acceptable scale and it is considered that they would not be detrimental to visual amenity. In terms of outlook to adjacent properties acceptable space about dwelling distances would be achieved which is considered to be acceptable to Planning Officers.

**Highway Safety**

*Construction Management Plan* - Further to the details set out in the published committee report, whilst the site is considered to be large enough to accommodate construction traffic and materials, on further review it is considered appropriate to require the submission of a construction management plan to provide detail prior to construction work commencing to ensure that the arrangements and routing is appropriate

*Bin Collection* – Whilst it is noted on the submitted plans that there is sufficient space for internal turning in order to support the operational requirements of bin collection, it is considered more efficient that the bin collection point is located adjacent to Butt Lane. Therefore a condition requiring the submission of bin collection point details is attached to the recommendation.

### **Additional Conditions**

- Construction management plan
- Details of bin collection point

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**Planning Application 2018/90827**

**Item 18 – Page 81**

### **Erection of detached dwelling**

**adj 14, The Fairway, Fixby, Huddersfield, HD2 2HU**

### **RECOMMENDATION**

The period of publicity for the amended plans expires on 20<sup>th</sup> September. As such the recommendation to members has been revised to:

Delegate the refusal of this application, for the reason set out in the committee report, and the issuing of the decision notice to the Head of Strategic Investment on expiration of the period of publicity.

Should any new material considerations be raised in representations received before the expiration of the publicity period, then the application shall be reported back to the next meeting of the sub-committee so that these matters can be assessed by members.

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**Planning Application 2018/90978**

**Item 19 – Page 93**

### **Erection of two storey and single storey extensions**

**Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN**

#### **2.0 SITE AND SURROUNDINGS:**

- 2.1 *Correction.* The plot measures approximately 39m from north to south and 30m west to east.
- 2.2 As a point of clarification, the existing dwelling was built under a permission granted for the erection of a detached dwelling in what was originally part of the garden of no. 402. This dwelling is now numbered 408. (reserved matters approved, 2004/91771, 16-Sep-2004).

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

### **5.1 All amended are additional plans are listed below:**

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; site plan modified to reflect actual dimensions and layout.

09-Jul-2018: Height and roof design of two-storey side extension amended.

16-Jul-2018: Detached double garage deleted from site plan. Proposed section and streetscene elevations added.

23-Jul-2018: Garage deleted from section / streetscene elevation.

07-Aug-2018: Amended location plan incorporating the adjacent part of the access road.

29-Aug-2018: Modification to site plan showing existing gate entrance retained as turning space.

31-Aug-2018: Further minor changes to proposed new entrance.

04-Sep 2018: The proposal to move the access point southwards from its present position was deleted. The proposal now intends to retain the access as existing.

## **7.0 PUBLIC/LOCAL RESPONSE:**

### **7.1 Final publicity period expired 18-Sep-2018.**

### **7.2 Within the final publicity period, 8 representations were received. Of these 6 were objections and 2 in support although again it is noted that the latter did not provide full postal addresses. The concerns raised are summarised below.**

#### **Summary of concerns raised:**

- There is no proven Right of Way over the access road for no. 402 and the walls are in separate ownership. This means the construction management plan is not viable.
- The plot is still shown inaccurately when compared with a site survey done by a specialist aerial surveyor. Dimensions of 20 x 15m are not correct.
- Overdevelopment of the plot.
- The house is already bigger than approved.
- The tree loss will make it appear even more out of keeping.
- Overlooking of (objector's) garden and bedroom from side extension, causing loss of privacy.
- It will encroach on the lane, reducing its width.

- More traffic on lane.
- No swept path analysis.
- Cumulative pressure on local services like doctors and schools.
- 2002/94079 Planning permission for the erection of one dwelling refused. 'It is considered that vehicular access to the site cannot be achieved satisfactorily and therefore would be contrary to Policies D2 and T10 of the Unitary Development Plan.' This is important as it was the changes in the Sanderson report that identified a means of safely having a house there.
- The timeline in "History of Negotiations" does not include all of the changes to the plans over the last 6 months. By our reckoning there have been 6 changes with 6 different consultation dates: 20/4, 3/5, 22/5, 27/7, 29/8, 18/9.
- The site notice had to be replaced twice. Neighbour notification notices went one residential property and as far as we can establish nobody else. So the period for responses had to be extended by a fortnight. According to the guidance, those with property adjacent to the development are statutory consultees, which would include ourselves, the church and the lane owners.
- There were 78 responses over the entire period, with 61 opposed and 17 in favour. In at least one case, two individuals living at the same address wrote in separately but have only been counted as one. The Report's summary of the number of objectors therefore appears to understate the level of objection compared to support.
- There should be a full report from Highways Services, not just a one line statement.
- The report does not calculate the house to plot size ratio for 400, 404 and 406 and omits to state that 404 and 406 are bungalows and not 2 storey buildings.
- Can you confirm whether removal of the wall will still be necessary now that the existing gateway is to remain?
- Would the removal of permitted development rights under the 2004 application apply to boundary walls as well, and would condition (9) – 'The realigned boundary wall shall be constructed as a traditional dry stone wall with hand dug foundations.' – still be enforceable?

- Condition 9 of the same permission states: 'The realigned boundary wall shall be constructed as a traditional dry stone wall with hand dug foundations.' This condition should therefore be unaffected by the current application and should still be enforceable. This is important because an owner of the property in the future may just decide to change the access arrangements and the drystone wall, and we want to sure that if they did, then enforcement action would be available.
- Although only 6 bedrooms are shown in the proposed plans, if the study and gym were to revert to bedrooms as shown in sales literature, and the playroom were to become a bedroom, 9 bedrooms are possible.
- In addition, a number of counter-claims are made about the accuracy and validity of some of the comments made in support.

### **Summary of supporting and other comments:**

- People who cannot get a big enough house by extending may have to leave the region, which is a loss to the economy.
- The Highways and Trees Officers do not object to the proposals.
- The extensions would be in keeping with their surroundings.

## **10.0 APPRAISAL**

### Urban Design issues

- 10.1 The approximate plot coverage has been calculated, using Council maps, for each of the following dwellings as requested by an objector, so as to provide an indication of how intensively built up each plot utilising is:

No. 402 Birkby Road 17% of a site area of 1200 sq m  
 No. 408 Birkby Road 17% of a site area of 1100 sq m  
 No. 404 Birkby Road 16% of a site area of 1600 sq m  
 No. 406 Birkby Road 12% of a site area of 1400 sq m  
 No. 400 Birkby Road 6.3% of a site area of 4000 sq m

It should be noted in addition that two of the above houses, nos. 404 and 406, are single-storey.

## Representations

The concerns expressed in the most recent representations are summarised below with officer responses:

There is no proven Right of Way over the access road for no. 402 and the walls are in separate ownership. This means the construction management plan is not viable.

**Response:** These are considered to be private civil matters and not material planning considerations. The submission of a construction management plan is not a standard requirement for householder or minor development.

The plot is still shown inaccurately when compared with a site survey done by a specialist aerial surveyor.

**Response:** A specialist aerial surveyor's plan was submitted to the Council on 22-May-2018. The surveyor's comments were, in brief, that the applicant's site plan was significantly flawed. The case officer, on the basis of his own observations of Council plans and aerial photographs, advised the applicant's agent that the site plan was not completely accurate in terms of dimensions and in response to this the agent submitted an amendment, Revision B on 04-Jul. It is considered that the current amended plan is sufficient to allow a full assessment to be made.

Dimensions of 20 x 15m are not correct.

**Response:** The dimensions stated in paragraph 2.1 of the report are incorrect; this is acknowledged in part 2.0 of the update.

Overdevelopment of the plot.

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

The house is already bigger than approved.

**Response:** This is noted and has been acknowledged in the main report, but is not in itself a reason to refuse all further development within the site.

The tree loss will make it appear even more out of keeping.

**Response:** No trees would be felled as part of the development. The loss of trees on the site frontage as a result of the proposed highway improvement scheme might affect the character of the site but it is considered that the extensions would not be detrimental to visual amenity in any case.

Overlooking of (objector's) garden and bedroom from side extension, causing loss of privacy.

**Response:** The garage has been deleted from the proposal and it is considered that the distance from the side extension to other dwellings is too great for significant overlooking to occur.

It will encroach on the lane, reducing its width.

**Response:** The plans indicate otherwise – the lane is shown retained at its existing width.

More traffic on lane.

**Response:** As the proposal is for a scheme of domestic extensions it is considered it would not represent a material intensification in the use of the lane.

No swept path analysis.

**Response:** This is not a standard requirement for a householder application, but applying swept path overlays, manoeuvring and turning within the site would not be problematic.

Cumulative pressure on local services like doctors and schools.

**Response:** As the proposal is for extensions rather than a new dwelling, it is considered that no material weight can be placed on this factor.

2002/94079 Planning permission for the erection of one dwelling refused. 'It is considered that vehicular access to the site cannot be achieved satisfactorily and therefore would be contrary to Policies D2 and T10 of the Unitary Development Plan.' This is important as it was the changes in the Sanderson report that identified a means of safely having a house there.

**Response:** The current proposals do not involve any changes to access arrangements, and so the previous refusal was omitted from the report as it was not considered to be relevant.

The timeline in "History of Negotiations" does not include all of the changes to the plans over the last 6 months. By our reckoning there have been 6 changes with 6 different consultation dates: 20/4, 3/5, 22/5, 27/7, 29/8, 18/9.

**Response:** Various revised plans were submitted 08-May, 04-Jul, 09-Jul, 16-Jul, 23-Jul, 07-Aug, 29-Aug, 31-Aug, 04-Sep. New consultation on amended plans was undertaken: 09-May, 18-Jul, 31-Aug and 04-Sep. In the interests of completeness, the list of amendments has been modified to include all of the amendments in 5.0 – "History of Negotiations" in this update.

The site notice had to be replaced twice. Neighbour notification notices went to one residential property and as far as we can establish nobody else. So the period for responses had to be extended by a fortnight. According to the guidance, those with property adjacent to the development are statutory consultees, which would include ourselves, the church and the lane owners.

**Response:** The Council is required to publicise a planning application in accordance with the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) [DMPO] either by posting one or more site notices in the vicinity of the site, or by individual notification letters.

Kirklees undertakes both types of publicity in accordance with its Development Management Charter. According to the Council's own records, 4 residential properties plus the Church of Jesus Christ of Latter Day Saints, were notified by letter in the initial phase of consultation (beginning 26-Mar-2018).

Owners of property adjacent to the development do not fall within the definition of “statutory consultee”.

There were 78 responses over the entire period, with 61 opposed and 17 in favour. In at least one case, two individuals living at the same address wrote in separately but have only been counted as one. The Report’s summary of the number of objectors therefore appears to understate the level of objection compared to support.

**Response:** It is noted that in one instance two individuals living at the same address wrote in separately but the report correctly states that representations were received from 9 different residential addresses. All comments against or in favour of the application have been assessed and responded to impartially in part 10 of the main report.

There should be a full report from Highways Services, not just a one line statement.

**Response:** The development does not involve any changes to highway access or parking arrangements and as previously stated it is considered it would not give rise to a material intensification of the use of the lane.

The report does not calculate the house to plot size ratio for 400, 404 and 406 and omits to state that 404 and 406 are bungalows and not 2 storey buildings.

**Response:** This has been noted and is included in the update.

Can you confirm whether removal of the wall will still be necessary now that the existing gateway is to remain?

**Response:** The construction management plan proposed temporary removal of part of the wall.

Would the removal of permitted development rights under the 2004 application apply to boundary walls as well?

**Response:** The removal of permitted development rights did not apply to those conferred by Part 2, Class A of the T&CP General Permitted Development Order (gates, fences, walls, etc).

Condition 9 of the same permission states: 'The realigned boundary wall shall be constructed as a traditional dry stone wall with hand dug foundations.' This condition should therefore be unaffected by the current application and should still be enforceable. This is important because an owner of the property in the future may just decide to change the access arrangements and the drystone wall, and we want to sure that if they did, then enforcement action would be available.

**Response:** Condition (9) did not require the boundary wall to be retained at all times and so it would still be possible to carry out modifications to the boundary wall under Permitted Development rights. Officer observations on the previous conditions on highways access can be found in paragraphs 10.17-10.18 in the report. The question of whether these conditions would prevent the formation of a new private access, or the closure of the existing one, has not been conclusively resolved, as this depends on the interpretation of the wording of each condition.

Although only 6 bedrooms are shown in the proposed plans, if the study and gym were to revert to bedrooms as shown in sales literature, and the playroom were to become a bedroom, 9 bedrooms are possible.

**Response:** The internal layout and allocation of space within a dwelling is assessed as shown on the plans. The sales literature does not form a material consideration in the assessment of the application.

In addition, a number of counter-claims are made about the accuracy and validity of some of the comments made in support.

**Response:** It has already been noted that several of the supporting comments made in the earlier publicity periods are either subjective, or not material planning considerations, and have accordingly been given no weight in the assessment.

*Supporting and other comments, with officer responses:*

People who cannot get a big enough house by extending may have to leave the region, which is a loss to the economy.

**Response:** This is a subjective claim and is therefore afforded no weight in the assessment.

The Highways and Trees Officers do not object to the proposals.

**Response:** All highway safety and trees issues have been examined in detail in the main report.

The extensions would be in keeping with their surroundings.

**Response:** Officers' assessment is that the extensions would harmonise with their surroundings subject to matching materials being used, which can be conditioned.

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