
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 24-Jan-2019

**Subject: Planning Application 2018/93226 Erection of two storey extension
Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN**

APPLICANT

Acumen Architects

DATE VALID

21-Nov-2018

TARGET DATE

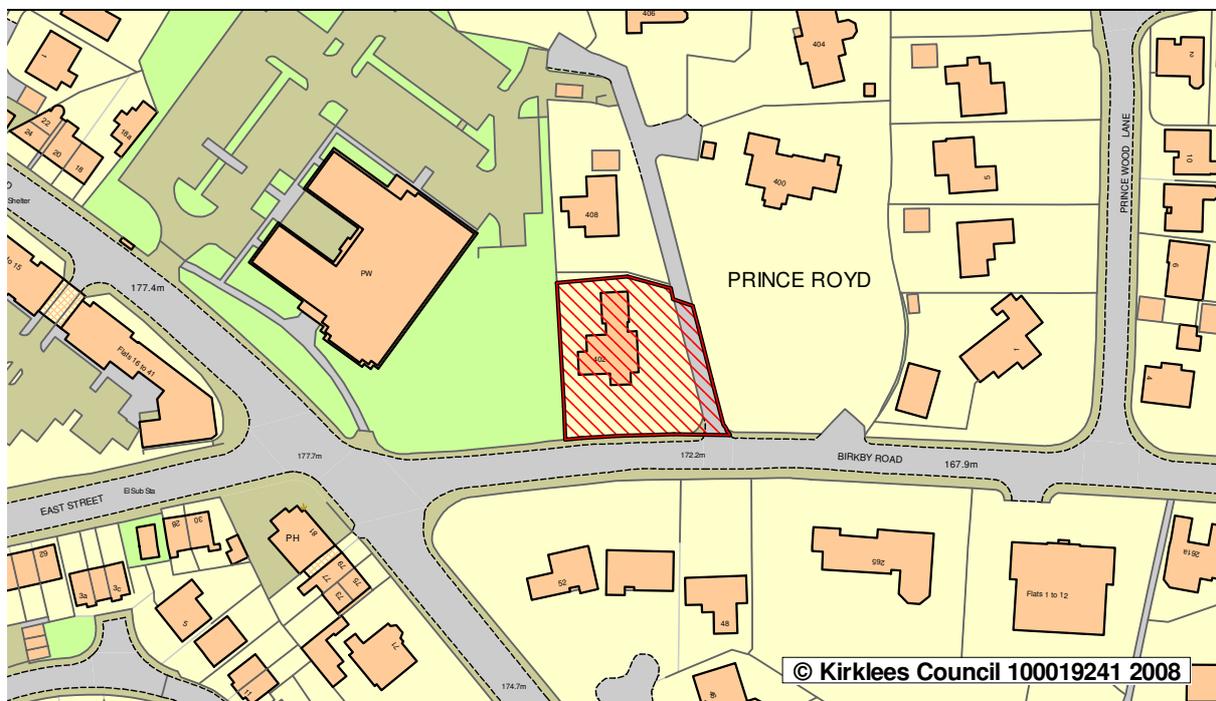
16-Jan-2019

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: LINDLEY

Y

Ward Member 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 on account of the refusal of the previous application (2018/90978) for the erection of extensions on this site, the very short time that has elapsed since this decision was made, and given that the previous reason for refusal is a material consideration in the assessment of the revised scheme.
- 1.2 The proposal was brought before Sub-Committee on 13th December last year but Members voted to defer the application, in accordance with officers' recommendation in the Committee update, in order to allow all parties a sufficient amount of time to assess the amended plans (submitted 7th December) and form a balanced view on them.

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 39m from north to south and 30m west to east (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.
- 2.2 To the west, the site is bounded by the Church of Jesus Christ of Latter Day Saints grounds, and to the north by no. 408 Birkby Road. To the east, on the other side of the access road, is no. 400 Birkby Road, a detached dwelling on a large plot, while to the south, on the opposite site of Birkby Road, are some modern detached dwellings on smaller plots. The wider area is characterised by detached dwellings which are mostly either individually designed or form part of small modern developments.

3.0 PROPOSAL:

- 3.1 The proposal is for the erection of a two-storey extension to the southern elevation of the property.
- 3.2 The extension would be 5.3m by 6.0m and would be tied into the southern and part of the western elevation, projecting 2.3m to the south of the existing dining room. It would be 4.7m high to the eaves and with a gable roof.
- 3.3 A single-storey extension, which was to have been located near the north-western corner of the dwelling, has been deleted. The proposed two-storey extension is of the same scale, siting and design as the extension that formed part of the scheme shown on the plans for application 2018/90978.
- 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 Jesus Christ 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 (within the curtilage of the dwelling now known as 408 Birkby Road). Approved and implemented.

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

2018/90978 – Erection of single-storey and two-storey extensions. Refused by Huddersfield Planning Sub-Committee. Reason for refusal:

“The proposed extensions, by reason of their scale, and in the context of and bulk and footprint of the existing dwelling relative to its plot size and those of surrounding houses, would amount to overdevelopment of the site. This would result in a visually assertive development out of character with, and harmful to, the visual amenity of the local area. This would be contrary to the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.”

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

- 5.1 04-Dec-2018: Agent submitted calculations to show that no. 408 is more densely built up than 402 in terms of footprint to plot size ratio.

5.2 07-Dec-2018. Submission of amended plans (Rev E) deleting the proposed single-storey extension and retaining the two-storey extension only. These were re-advertised (publicity period ended 07-Jan-2019).

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.

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

- **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.

6.3 Supplementary Planning Guidance / Documents:

PLP 21: Highway safety and access

PLP 22: Parking

PLP 24: Design

PLP 33: Trees.

6.4 National Planning Guidance:

- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- 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. The final publicity period expired 07-Jan-2019.

- 7.2 In addition, the applicant was required to submit an amended ownership certificate because on the originally submitted Certificate under Article 14 for the list of owners notified had not been filled in correctly. The corrected Certificate B was submitted on 21-Nov-2018. The mandatory 21-day period for notification under Article 13 therefore expired on 12-Dec-2018.
- 7.3 Representations have been made by a total of 17 local residents and other third parties. Of these, 9 are in opposition, 8 are in support. This includes the responses to the originally submitted proposal, as well as the publicity undertaken in response to the latest plans, Rev E.
- 7.4 A summary of the concerns and comments made is given below:

Grounds of objection and concerns

- Overdevelopment, and the deletion of the single-storey extension does not adequately address the reason for refusal.
- The extensions will make it the most densely developed plot, and the plot coverage will be proportionately still greater if the highway improvement goes ahead.
- The refusal of the original outline application for erection of a dwelling, 2002/60/94079/W, should be a material consideration. The subsequent application, 2003/94421, was approved even though it was not in accordance with the Kirklees Highways Directive (no more than 5 dwellings to be served by an unadopted road), and there were inaccuracies in the highway consultants' report. In particular there is no shared turning head within the lane nor has there ever been one.
- Already bigger than approved and with more bedrooms.
- Loss of privacy caused by the south-facing upper floor window in the extension.
- Insufficient parking space for the likely number of cars, and no swept path analysis.
- Loss of trees including during construction.
- No proven right of way along lane, no right of access to shared turning head, ownership of boundary walls is disputed, and it has not been demonstrated that safe access could be gained during construction.
- If vehicles cannot turn within the boundary of the property, they will be forced to reverse down the lane into Birkby Road, and this could be made more dangerous after the Halifax Road and Birkby Road junction alterations, because when vehicles turn left into Birkby Road from Halifax Road they may be travelling at a greater speed due to a filter lane. Vehicles have been observed reversing out of Brigsteer on to the lane. The other 5 current residents of the lane, 404-412, and their visitors, have no need to reverse into Birkby Road.
- There may also be more traffic to and from the property once the extension is built.
- There have been recent instances of the lane being blocked by large goods vehicles.
- The applicant is named as Acumen Architects on the form – if they really intend to occupy the property it will need a change of use to commercial, alternatively why doesn't it give the name of the current or intended occupant?

- The site plan is difficult to understand because the trees on the drawing cover what is proposed on the ground and a separate plan should be provided to make this clear.
- Covenant says that every plot must be 200 square yards, and if this had been followed Brigsteer would never have been built. It should not have been able to take the original property name and number.
- Any extensions could open the door to further permitted development – any such rights should be removed.
- The highway improvements will reduce the size of the curtilage even further and make the dwelling more prominent in the street scene.
- The report refers to '*calculations done independently by the applicant and by the case officer*' but makes no mention of the independent survey using measurements on the ground commissioned by residents. It should also include the comparative building densities of other properties that use the lane.
- Some claims made by a supporter are disputed – in particular about the resurfacing of the driveway and about neighbours being shown the plans for the new dwelling and invited to view the property.
- Error in description – it was re-advertised as a proposal for two- and single-storey extensions, which contradict the latest plans.
- The applicant has appealed the original refusal, which implies that both extensions are required after all.

Supporting and general comments

- The proposal has been reduced, would not amount to overdevelopment, and this shows the applicant's willingness to address the reason for refusal.
- The house as built was passed for the purposes of Building Regulations.
- The occupants of no. 402 have historically played an active role in maintaining the shared lane.
- Brigsteer has ownership of the boundary wall, contrary to some claims.
- The house has accommodated 4 or more cars in the past without difficulty.
- The development will not cause overlooking and would harmonise with its surroundings.
- There is a wide variety of house types and styles within the local area and many homes are built closer to the highway than the proposed extension would be.
- It would be done in matching materials.
- Plot coverage is considerably higher for no. 408.
- Replacement of trees would be a net benefit; would not involve any loss of protected trees.
- Some of the objectors' letters raise issues that are not material from a planning point of view.
- Access arrangements would be unaffected, there is minimal traffic on the lane, and a large van can easily manoeuvre in the drive.
- The neighbours cannot see the proposed extension.
- No effect on residential amenity.
- No Ward Councillors have raised any objections to the current application.
- Tree planting will help to screen it.
- Some of the existing properties served by the lane, besides Brigsteer, were originally built on garden plots so it is unfair to single out Brigsteer as being a "garden grab".

- Anyone can drive on to the lane so photographs of vehicles could belong to anyone.
- The Council should impose a speed limit and adopt the lane.

7.4 Ward Councillor Cahal Burke, who commented on application 2018/90978, was notified of the new application. Cllr Burke did not request a Committee decision but requested that if approval is given, a construction management plan must be required as a condition.

8.0 CONSULTATION RESPONSES:

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

8.2 **Non-statutory:**

No consultations were considered necessary in this instance. For application 2018/90978, Highways Development Management and the Arboricultural Officer were consulted and neither had any objection in principle.

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

- 10.4 The previous application, 2018/90978, was subject to a number of revisions during the application process, including the deletion of a detached garage near the south-western corner of the site. It was the opinion of planning officers at the time that the proposed scheme, as modified, could be recommended for approval; it was however refused by Planning Sub-Committee, the reason being that proposed extensions, by reason of their scale, and in the context of and bulk and footprint of the existing dwelling relative to its plot size and those of surrounding houses, would amount to overdevelopment of the site, thereby harming visual amenity.
- 10.5 The latest version of the plans for the new application leave the proposed two-storey extension to the south elevation unchanged, but remove the single-storey extension which was to have formed part of the scheme. On the earlier version of the plans (Rev D) this was only reduced in length slightly.
- 10.6 As before it is noted that the immediate neighbouring dwellings are all individually designed houses on plots of varying sizes. In the previous officers’ report to Sub-Committee it stated that Brigsteer and its immediate neighbour to the north, no. 408, both had a plot coverage of approximately 17%. It has subsequently come to light that this is incorrect – based on calculations done independently by the applicant and by the case officer, it would appear that no. 408 has a slightly higher degree of plot coverage. Based on the house as built, or in no. 408’s case the house plus garage as it stood when the dwelling now known as Brigsteer was built, plot coverage is approximately 17.5% for Brigsteer and 19.8% for no. 408.
- 10.7 On the basis of these calculations it can be seen that 408 is the more densely built-up plot in terms of footprint, and would appear to be the most densely built up of the houses served by this unadopted road. It is acknowledged that planning officers made an error in calculating plot sizes for the previous application, but as the recalculation only reveals a small difference between no. 402 and its neighbour in terms of plot coverage (2.3%), this would not, in itself, be a sufficiently strong factor to justify an approval.
- 10.8 It is considered, however, that the latest change to the plans, namely the deletion of the single-storey extension, amounts to a significant change to the planning merits of the scheme. It results in a marked reduction in the bulk, and especially the footprint, of the proposal.

- 10.9 The table below provides a comparative view of three versions of the scheme – the plans and elevations for the refused application 2018/90978 (2532-03 Rev C), the plans originally submitted for 2018/93226 (Rev D), and the plans and elevations now under consideration (Rev E):

Application / Plan	Description	Total footprint added (sqm)
Previously Refused Scheme – Rev C	2- and single-storey extensions	45.9
Scheme initially proposed under this application - Rev D	2- and single-storey extensions	41.8
Scheme now proposed under this application - Rev E	2-storey extension	30.7

- 10.10 The above table demonstrates that the increase in built footprint represented by Rev E as now proposed is only about two-thirds of that shown on the plans refused under the previous scheme as set out in Rev C.
- 10.11 The previously proposed single-storey extension was, of the two extensions proposed, the less visually prominent from Birkby Road. But the original reason for refusal referred to “the proposed extensions” and did not single out one element of the scheme as being particularly harmful. Nor does the wording of the reason for refusal imply that any and all extensions to the building must inevitably be harmful to visual amenity. It is considered that the proposed two-storey extension would not appear overly prominent in the street scene or out of keeping with the local area, given the lack of uniformity of house type along the northern frontage of Birkby Road.
- 10.12 In conclusion, it is considered that the latest changes to the plans have addressed the reason for refusal. It is considered it would no longer amount to a visually assertive form of development, amount to overdevelopment of the site, or be out of character with the local area. It is considered that the development would conserve visual amenity and would thereby comply with the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.

Residential Amenity

- 10.13 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.
- 10.14 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

- 10.15 As before, it is considered that the existing trees have only limited amenity value and do not merit a Tree Preservation Order. The development as proposed would not, in any case, involve works within the crown spread of a tree or necessitate any tree pruning or similar works. Several trees will, unavoidably, be lost if the proposed junction improvement to Birkby Road goes ahead. This does not form part of the application but the applicant has proposed that some replacement planting (shown on the site plan) could be undertaken on the Birkby Road frontage. It is considered that the proposed development has no implications for the wider landscape.

Highway issues

- 10.16 The proposed development does not involve any new or amended means of access to the highway. Existing parking and manoeuvring arrangements within the site would be unaffected. The attached garage would be retained and there would be space enough within the site to park at least two vehicles near the southern end of the curtilage. Using standard swept paths, a car can easily undertake a three-point turn within the site.
- 10.17 In conclusion, the proposed development, if implemented in accordance with the submitted plans, would not create or materially add to highway safety problems, and would accord with the aims of Policies T10, T19, PLP21 and PLP22.

Representations

- 10.18 The concerns expressed are summarised below with officer responses:
- Overdevelopment, and the deletion of the single-storey extension does not adequately address the reason for refusal.
Response: The proposal as amended is not considered to be overdevelopment for the reasons set out at length in paragraphs 10.4-10.12.
 - The extensions will make it the most densely developed plot, and the plot coverage will be proportionately still greater if the highway improvement goes ahead.
Response: The analysis of the relative degree of coverage for different plots, in particular Brigsteer and 408, has been undertaken based on how the two dwellings would have appeared when Brigsteer was first built and the original plot divided to form two plots. It does not take into account any later, or proposed, additions in either case, nor does it take into account the proposed highway improvement which does not form part of this application and is outside the applicant's control.
 - The refusal of the original outline application for erection of a dwelling, 2002/60/94079/W, should be a material consideration. The subsequent application, 2003/94421, was approved even though it was not in accordance with the Kirklees Highways Directive (no more than 5 dwellings to be served by an unadopted road), and there were inaccuracies in the highway consultants' report. In particular there is no shared turning head within the lane nor has there ever been one.

Response: The previous refusal for residential development is not considered material to the proposal now under consideration. Paragraph 10.16 in that officer's report refers to "...rights of use over any shared turning head within the land, or absence thereof..." For the avoidance of doubt, the words "shared turning head", wherever they appear, should not be construed as confirming that a turning head actually exists.

- Already bigger than approved and with more bedrooms.

Response: Based on plans held by the Council and supplied by the applicant, the dwelling seems to have been built larger than shown on the approved plans, but not dramatically so. The most notable 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. Finally, an increase in the number of bedrooms does not necessarily require planning permission in itself, since the layout of internal space is, in general, outside of planning control.

- Loss of privacy caused by the south-facing upper floor window in the extension.

Response: It is considered that the distance between the proposed extension and the nearest facing dwelling is too big for significant overlooking to occur.

- Insufficient parking space for the likely number of cars, and no swept path analysis. There may be more traffic to and from the property once the extension is built.

Response: This issue has been fully examined in paragraphs 10.16-10.17 above. It is considered that the amount of parking and turning provision, which would remain unchanged, would be sufficient to serve the development in the event of an approval. Swept path analysis is not a standard requirement for applications of this type.

- Loss of trees including during construction.

Response: As previously stated, none of the trees on site is considered worthy of a tree preservation order.

- No proven right of way along lane, no right of access to shared turning head, ownership of boundary walls is disputed, and it has not been demonstrated that safe access could be gained during construction.

Response: Notice has been correctly served on the owners of the lane. The development would be unlikely to result in a long-term material increase in refuse collection vehicles or other large vehicles on the lane, so the rights of use over any shared turning head within the lane, or absence thereof, are not material to the application. The plans involve no alterations to the lane. Access during construction, including any temporary removal of boundary walls that might be required, is in general deemed to be a private civil matter. A condition requiring a construction management plan can however be imposed if the Local Planning Authority deems it appropriate in the circumstances.

- If vehicles cannot turn within the boundary of the property, they will be forced to reverse down the lane into Birkby Road, and this could be made more dangerous after the Halifax Road and Birkby Road junction alterations, because when vehicles turn left into Birkby Road from Halifax Road they may be travelling at a greater speed due to a filter lane. Vehicles have been observed reversing out of Brigsteer on to the lane. The other 5 current residents of the lane, 404-412, and their visitors, have no need to reverse into Birkby Road.

Response: The proposal involves no change to private access arrangements and would not affect intervisibility, so this cannot be treated as a material consideration. The claim that turning space within the site is inadequate for private cars is considered to be unsubstantiated.

- The applicant is named as Acumen Architects on the form – if they really intend to occupy the property it will need a change of use to commercial. Alternatively why does it not give the name of the current or intended occupant?

Response: The form has been filled in correctly and the application is valid. The fact that Acumen Architects are named as the applicant does not imply that they intend to occupy the property.

- There have been recent instances of the lane being blocked by large goods vehicles, skips, etc.

Response: The erection of an extension is not expected to result in a long-term increase in large vehicles visiting the site. Construction arrangements can be regulated by a construction management plan and a condition that it must be adhered to.

- The site plan is difficult to understand because the trees on the drawing cover what is proposed on the ground and a separate plan should be provided to make this clear.

Response: It is considered that the plans are clear enough to be accurately interpreted by all parties who may have an interest in the application.

- Covenant says that every plot must be 200 square yards, and if this had been followed Brigsteer would never had been built. It should not have been able to take the original property name and number.

Response: A restrictive covenant is not enforceable through the planning system, and this factor cannot be taken into account as a material consideration.

- Any extensions could open the door to further permitted development – any such rights should be removed.

Response: Condition (8) on permission 2004/91771 removed permitted development rights for extensions and outbuildings. For the avoidance of doubt, a similar condition should be re-imposed (see 10.23).

- The highway improvements will reduce the size of the curtilage even further and make the dwelling more prominent in the street scene.

Response: The siting and prominence of the dwelling is noted, but the assessment of visual impact has been carried out on the basis of the site's existing layout since the highway improvement does not form part of the application and is outside the applicant's control.

- The report refers to '*calculations done independently by the applicant and by the case officer*' but makes no mention of the independent survey using measurements on the ground commissioned by residents. It should also include the comparative building densities of other properties that use the lane.

Response: As previously stated, all measurements in the report are approximate. Alternative calculations were submitted by the third party as part of a representation and are available to view. These actually confirm the case officer's and applicant's current view – that no. 408 is more densely developed than no. 402, the difference being about 2%.

- Some claims made by a supporter are disputed – in particular about the resurfacing of the driveway and about neighbours being shown the plans for the new dwelling and invited to view the property.

Response: These are not deemed to be material planning considerations.

- Error in description – it was re-advertised as a proposal for two- and single-storey extensions, which contradict the latest plans.

Response: This was an oversight that has now been corrected. The current description accurately reflects the current plans.

- The applicant has appealed the original refusal, which implies that both extensions are required after all.

Response: An ongoing appeal against refusal of an application is without prejudice to any current planning application for the same site. This cannot be treated as a material consideration.

10.19 Comments in support of the application are summarised below with officer responses:

- The proposal has been reduced, would not amount to overdevelopment, and this shows the applicant's willingness to address the reason for refusal.

Response: It is considered that the latest plans have addressed the reason for refusal and that the scheme would not amount to overdevelopment.

- The house as built was passed for the purposes of Building Regulations.

Response: Building Regulations and Planning are two separate regimes of control and it does not follow that the house was built fully in accordance with the plans approved for planning purposes.

- The occupants of no. 402 have historically played an active role in maintaining the shared lane.

Response: This is not deemed to be a material planning consideration in determining the application.

- Brigsteer has ownership of the boundary wall, contrary to some claims.

Response: This is deemed to be a private civil matter.

- The house has accommodated 4 or more cars in the past without difficulty.

Response: A precise analysis of how many cars can be safely parked within the site has not been undertaken, but officers are satisfied the proposal would not give rise to increased highway safety problems.

- The development will not cause overlooking.

Response: Noted.

- It will harmonise with its surroundings and would be done in matching materials.

Response: It is proposed that materials would be of the same type as those used on the existing dwelling. The standard condition that materials match those on the existing building in all respects can be imposed.

- There is a wide variety of house types and styles with the local area and many homes are built closer to the highway boundary than the proposed extension would be.

Response: Most houses on this part of Birkby Road are set back a substantial distance from the highway, although there are exceptions. There are also examples of detached outbuildings built quite close to the highway. The development proposal has been assessed having regard to the context of the wider area as well as the immediate setting. As previously stated, it is considered that the application as modified would not be harmful to visual amenity.

- Plot coverage is considerably higher for no. 408.

Response: It is acknowledged in paragraphs 10.6-10.7 above that the degree of plot coverage is greater for no. 408.

- Replacement of trees would be a net benefit; would not involve any loss of protected trees.

Response: The plans indicate some additional or replacement tree planting near the Birkby Road frontage. None of the existing trees is covered by a tree preservation order and would not be affected by the building of the extension.

- Some of the objectors' letters raise issues that are not material from a planning point of view.

Response: This is noted and has been highlighted where appropriate in officer responses to the grounds of objection.

- Access arrangements would be unaffected, there is minimal traffic on the lane, and a large van can easily manoeuvre in the drive.

Response: It is noted that access arrangements from the plot to the lane would remain unchanged and that typically, there is very little traffic on the lane. An analysis of swept paths for larger vehicles within the curtilage has not been undertaken. In the circumstances a condition requiring a construction management plan to be submitted by the applicant would be reasonable.

- The neighbours cannot see the proposed extension.

Response: It will be visible from various points outside the application site and this has been taken into account.

- No effect on residential amenity.

Response: It is considered it would have no adverse impact on the amenities of neighbouring properties or land.

- No Ward Councillors have raised any objections to the current application.

Response: It is noted that there have been no objections by Ward Councillors, although Councillor Cahal Burke has requested that a condition requiring a construction management plan is included.

- Tree planting will help to screen it.

Response: It is noted that replanting is shown on the drawings but this was also shown on the 2018/90978 plans and is not a new material consideration.

- Some of the existing properties served by the lane, besides Brigsteer, were originally built on garden plots, so it is unfair to single out Brigsteer as being a “garden grab”.

Response: It would not be possible to confirm or refute this point without further research, but the fact that a particular property is built on a former garden plot is not a reason to rule out domestic extensions per se and is not in itself a material consideration.

- Anyone can drive on to the lane so vehicles shown in photographs could belong to anyone.

Response: Noted.

- The Council should impose a speed limit and adopt the lane.

Response: This is outside the remit of the planning system.

10.20 Ward Councillor Comments

- Ward Councillor Cahal Burke, who commented on application 2018/90978, was notified of the new application. Cllr Burke did not request a Committee decision but requested that if approval is given, a construction management plan must be required as a condition.

Response: It is recommended that a construction management plan is conditioned as part of this application in the interests of highway safety – see paragraph 10.21 below.

Other Matters

- 10.21 *Construction access.* A Construction Management Plan is not a standard requirement for Minor or Householder development. In the circumstances, since the dwelling is served by an unadopted road, and in view of the concerns raised by some local residents and one Ward Councillor, it is considered that it would be reasonable to impose it as a condition in this case.
- 10.22 *Ecology.* The site is in the bat alert layer but the existing dwelling has no evident bat roost potential. No bat survey work is considered necessary and the proposal is considered to have no ecological implications.
- 10.23 *Removal of permitted development rights.* A condition is proposed to restrict permitted development rights for outbuildings given concerns that have been previously raised in relation to the overdevelopment of the site.

11.0 CONCLUSION

- 11.1 It is considered that the proposed development has adequately addressed the Huddersfield Sub-Committee's reason for refusal of the previous application. Taking into account the development plan and all other material considerations, it is considered it would not amount to overdevelopment and would respect the character of the existing dwelling and its surroundings. It is therefore recommended that conditional full permission is granted.

12.0 CONDITIONS

1. Development to be commenced within 3 years
2. Development to be implemented in full accordance with plans and specifications
3. Materials to match
4. Construction management plan
5. Removal of permitted development rights for extensions and outbuildings.

Background Papers:

Application and history files.

Website link <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93226>

Certificate of Ownership – Notice served on nos. 402, 404, 406, 408, 410 Birkby Road, 21-Nov-2018.