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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 17-May-2018

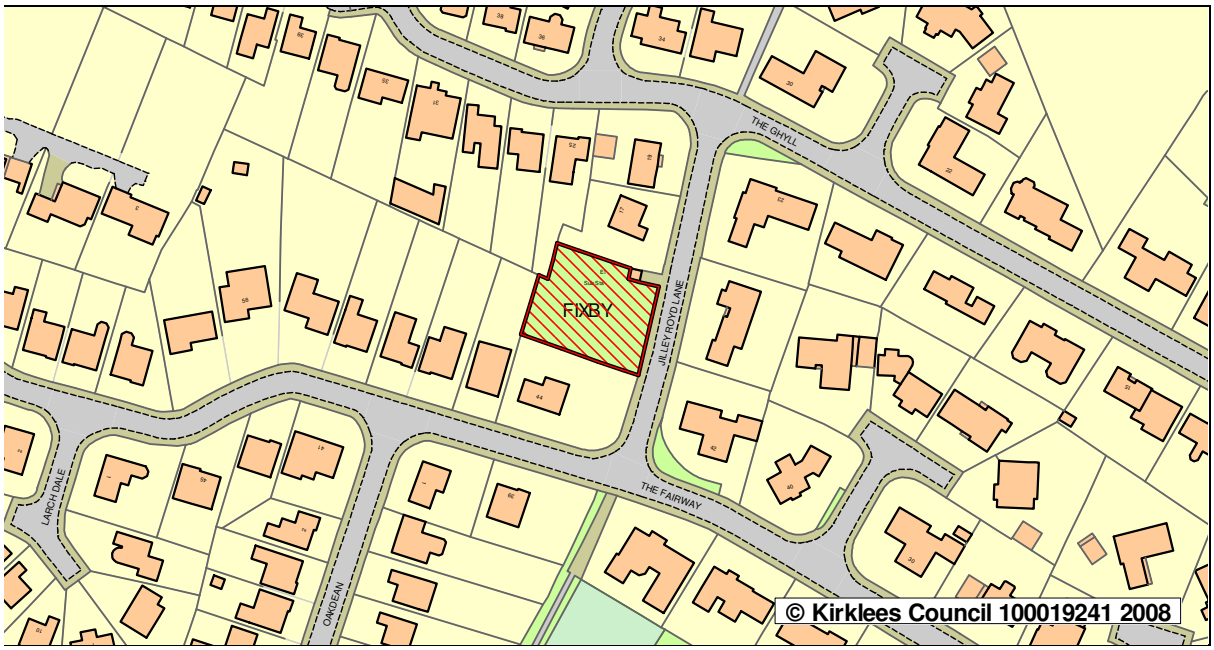
Subject: Planning Application 2017/91286 Change of use of land to domestic garden with formation of driveway adj to, 46, The Fairway, Fixby, Huddersfield, HD2 2HU

APPLICANT
Mr Mohammed Anwar

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
19-May-2017	14-Jul-2017	18-Apr-2018

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.
http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Ashbrow

No | Ward Members consulted

RECOMMENDATION: REFUSE

1. The proposed change of use of an area of established protected woodland to domestic curtilage associated with no. 46 The Fairway, would cause harm to an important open green buffer along the rear of properties on The Fairway stretching down to Jilley Royd Lane. This would adversely impact on how the woodland functions at its eastern end and lessen its function as a green corridor. This would also be detrimental to visual amenity. Such a change to its operation is considered to be to the detriment of the local area and the local area's sense of place. To permit such a development would be contrary to Policies D2 (vi & vii), BE1 (i & ii) and BE2 (i) of the Kirklees Unitary Development Plan, Policy PLP24 (a) of the Kirklees Publication Draft Local Plan and Policies in Chapter 7 and the Core Planning Principles of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 The application is brought to planning committee at the request of Cllr James Homewood who has stated the following reason:

Mr Anwar has taken the necessary action request by the council to show that the driveway can be created without damage to the trees.

The impact on the woodland and visual amenity is somewhat subjective and I think it would benefit from the view of Cllrs undertaking a site visit.

1.2 The Chair of the Committee has confirmed that Cllr Homewood's reason for making this request is valid having regard to the Councillors' protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

2.1 The application site forms a piece of land located off Jilley Royd Lane close to the junction with The Fairway. The site is part of a protected woodland which extends along the rear of a number of properties on The Fairway and which are covered by Tree Preservation Order 08/77/W1. The site is bound on Jilley Royd Lane by a 1 metre high fence with an entrance gate formed relatively recently. An electricity substation is located adjacent the site. The wider area is characterised by detached two storey dwellings. The residential dwelling of 46 The Fairway is located to the west of the site and the rear garden adjoins the application site.

3.0 PROPOSAL:

3.1 The application seeks planning permission to change the use of land to form domestic garden with the formation of a driveway. The drive would be accessed via the centrally positioned gates with a turning head formed at the eastern end.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

Planning History

4.1 89/02279 - Outline application for erection of detached dwelling – Refused

4.2 2016/91597 - Change of use of land to form domestic garden, formation of driveway, erection of boundary fences and gates - Withdrawn

Enforcement History

COMP/16/0079 – formation of new access – Duplicated investigation looked into under COMP/16/0063.

COMP/16/0063 - Alleged unauthorised works – no evidence of breach of planning control.

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

5.1 The Case Officer requested an Arboricultural Survey and method statement for the development to determine the impact of the development on the protected trees. A Preliminary Ecological Appraisal was also provided at the request of Officers to determine the impact of the change of use on local ecology.

5.2 The further information set out above was not re-advertised to local residents as they related to technical matters regarding trees and ecology.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

- **D2** – Unallocated Land
- **BE1** – Design principles
- **BE2** – Quality of design
- **NE9** – Protection of Mature Trees
- **T10** – Highway Safety
- **T19** – Parking Standards

6.3 Kirklees Publication Draft Local Plan (PDLP):

- **PLP1 –** Presumption in favour of sustainable development
- **PLP2 –** Place Shaping
- **PLP21 -** Highway Safety
- **PLP22 -** Parking
- **PLP24 –** Design
- **PLP33 -** Trees

6.4 National Planning Guidance:

- **Chapter 7** – Requiring good design
- **Chapter 11** – Preserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Final publicity date Expires: 20/6/2017 5 representations have been received in total 4 in objection and 1 in support, a summary of the comments received is set out below:

7.2 **In Objection**

- The site is a natural woodland which was specifically left by the builders to provide protection to the mature trees and provide a natural habitat for plants, birds, bats and the site has native English Blue Bells. The proposal would in part lead to the loss of this area and local species to the detriment of local ecology.
- A number of young trees at the application site have already been cleared to the detriment of local ecology. Trees would also be damaged in construction works, as has previously occurred in the local area when some work on the site commenced.
- Local soils are clay based and any drive could prevent water from filtering to the protected trees to their detriment, any run off could also go out on to Jilley Royd Lane and be a hazard to local road users.
- There is concern that the driveway would be used to park cars whilst they are being renovated and lead to commercial activity on the site.
- The wood fence which has been erected on the site is out of keeping with the local area. The applicant has also planted conifer trees to form a hedge which is also considered to be inappropriate given that the site forms part of a protected woodland.

7.3 **In Support**

- No objection in principle, the land needs tidying up.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** None

8.2 **Non-statutory:**

- **KC Arboricultural Officer** – After the submission of further information no objection subject to conditions.
- **KC Ecology** – No objection
- **KC Highways DM** – no objection subject to condition.

9.0 MAIN ISSUES

- Design
- Trees
- Ecology
- Highway Safety
- Representations

10.0 APPRAISAL

10.1 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states "planning permission for the development … of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]". All these considerations are addressed later in this assessment. The site is also unallocated on the draft Local Plan and Policies PLP1 and 2 will therefore be considered with the proposal.

Design

10.2 With regards to design Policies D2, BE1 and BE2 of the UDP, Policy PLP24 of the draft Local Plan and Policies in Chapter 7 of the NPPF are relevant. The site currently forms part of a wider woodland area which stretches 200 metres to the north-west from Jilley Royd Lane and is covered by Tree Preservation Order (TPO) 08/77/W1. This area of woodland predates development along the Fairway and Jilley Royd Lane, being shown on historical maps dating from 1854.

10.3 Policy D2 advises that consideration must be given to the impact of a development on the character of the surroundings and visual amenity. Policy BE1 advises that all development should be good quality design which creates or retains a sense of local identity and is visually attractive. Policy BE2 goes on to stated that new development should be in keeping with surrounding development in terms design and layout. These points are further reflected in Policy PLP24 of the draft Local Plan. Paragraph 58 of Chapter 7 and the core planning principles of the NPPF advises that, new developments should ensure that they function well and add to the overall quality of the area not just in the short term but over the lifetime of the development and establish a strong sense of place.

10.4 Paragraph 64 of the NPPF advises "*Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and th*e way it functions."

10.5 In light of the above, consideration must be given to the impact of the change of the use of the character and appearance of the local area along with visual amenity.

10.6 It is considered that the proposed change of use of land to form a domestic garden and a driveway would cause harm to an important open green buffer along the rear of properties on The Fairway stretching down to Jilley Royd Lane. The proposal is considered to adversely impact on how the woodland functions at the eastern end and lessen its function as a green corridor. Whilst the impact on Trees (as discussed later in this report) can be technically accepted it is considered that the proposal would detrimentally change how the land would operate and lessen its function as a green corridor and be detrimental to visual amenity. This section of the woodland is largely undisturbed by any form of hardsurfacing or the paraphernalia associated with uses incidental to domestic occupation. Such a change to its operation is considered to be to the detriment of the local area and the local area's sense of place.

10.7 The proposal would therefore fail to accord with Policies D2, BE1 and BE2 of the UDP, Policy PLP24 of the draft Local Plan and Policies in Chapter 7 of the NPPF.

Trees

10.8 The application site is located within a woodland that is covered by TPO 08/77/W1 and the application has been assessed by the Council's Arboricultural Officer. Initially objections were raised to the use of the land for a parking area and an Arboricultural Method Statement was requested to demonstrate how the parking area could be formed without adversely impacting on the trees. A method statement was subsequently provided and assessed by the Council's Arboricultural Officer who advised that the revised Arboricultural Impact Assessment Rev B, ref BE537.1 dated 01/11/17 is sufficient to demonstrate that the driveway can be constructed without causing direct damage to the trees and their rooting area. Should this application be approved this should be conditioned to ensure this document is adhered to during construction.

10.9 However the Arboricultural Officer has also advised that there are still concerns that permitting the construction of a driveway through this woodland will materially change the land use and setting. This plot forms the end of a linear woodland, TPO'd since 1977, that stretches from Jilly Royd Lane almost to Broomfield Road. The woodland has existed in this size and form for over 150 years as it appears on maps from the 1850's. Allowing the construction of a driveway would alter this end plot of the woodland, at least from a visual amenity perspective, and possibly begin its degeneration from woodland to developed land thus potentially leading to the destruction of the visual amenity and habitat benefits of the woodland.

10.10 In light of the above comments whilst the development may technically be possible in terms of the impact on the protected trees it would not be without potential harm to the visual amenity of the wood land as set out previously.

Ecology

10.11 In terms of ecology the application has been assessed by the Council's Ecology Officer and a Preliminary Ecological Assessment (PEA) was provided at the request of Planning Officers. The PEA confirms no impacts to protected species and no significant impacts to the habitats present and the Council's Ecology Officer agrees with these findings. It is suggested that the recommendations in section 6 of the PEA are conditioned if the application is for approval, this could be condition if necessary.

Highway Safety

10.12 In terms of highway safety the application has been assessed against Policies T10 and T19 of the UDP, Policies PLP21 and 22 of the draft Local Plan and has been assessed by the Highways DM Officers. The Highways Officer raises no objection to the proposal, subject to a condition regarding the surfacing of the parking areas.

10.13 It is noted that in terms of parking provision for no. 46 the Fairway which the parking area would serve, it already benefits from approximately 3 parking spaces which is considered to be sufficient for a detached dwelling of such a size. The provision of additional parking provision for the host property is therefore not considered necessary in highway safety terms and would represent a provision above what is needed to accord with the current parking standards.

10.14 Subject to the condition as set out above, the proposed parking spaces would have an acceptable impact on highway safety.

Representations

10.15 5 representations have been received in total 4 in objection and 1 in support, a summary of the comments received is set out below along with a response to the points raised.

In Objection

10.16 The site is a natural woodland which was specifically left by the builders to provide protection to the mature trees and provide a natural habitat for plants, birds, bats and the site has native English Blue Bells. The proposal would in part lead to the loss of this area and local species to the detriment of local ecology.
Response: This is noted as set out above Planning Officers have concerns regarding how the development would impact on this woodland.

A number of young trees at the application site have already been cleared to the detriment of local ecology. Trees would also be damaged in construction works, as has previously occurred in the local area when some work on the site commenced.
Response: These comments are noted and the Council's Arboricultural Officer is aware of previous work at the site and has taken approbation action where necessary.

Local soils are clay based and any drive could prevent water from filtering to the protected trees to their detriment, any run off could also go out on to Jilley Royd Lane and be a hazard to local road users.
Response: In terms of drainage a system has been provided with the technical information on the trees which is considered to be acceptable.

There is concern that the driveway would be used to park cars whilst they are being renovated and lead to commercial activity on the site.
Response: The change of use proposed is for domestic purposes any change of use for commercial operations would require a separate permission

The wood fence which has been erected on the site is out of keeping with the local area. The applicant has also planted conifer trees to form a hedge which is also considered to be inappropriate given that the site forms part of a protected woodland.
Response: The fence erected on the site has been erected under permitted development.

In Support

10.17 No objection in principle, the land needs tidying up.
Response: Noted

11.0 CONCLUSION

11.1 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Background Papers:
Application and history files.
Website link:
http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91286
Certificate of Ownership – Certificate A signed.