

Kirklees Council  
Planning, Investment and Regeneration Service  
PO Box B93  
Civic Centre  
Huddersfield  
HD1 2JR

13<sup>th</sup> January 2020

Dear Sirs,

Re Planning Application Reference 2018 / 93591 : Castle Hill, Huddersfield

## 1. INTRODUCTION

I have been requested to consider the above application proposals on behalf of \_\_\_\_\_, and provide my professional opinion on the planning related aspects which require consideration.

As part of this assessment I have had mind to both the statutory and discretionary regulations falling on Local Planning Authority's in validating, considering and determining planning applications, the previous planning application history of the site and all relevant planning policy considerations.

I have concluded on the basis of the assessment I have undertaken that there is a strong basis for objection to the proposed development on the grounds of the following aspects –

## 2. STARTING POINT / CONTEXT

- The application proposals are a departure from the Statutory Development Plan – the Kirklees Local Plan adopted in February 2019.

- The application site is a highly prominent location of enormous importance locally.

- Castle Hill is a Scheduled Ancient Monument comprising an iron age fort and inner bailey.

- The Victoria Tower on the application site is a Grade 2 listed building. The application site is within the curtilage of this listed building and within close proximity to the Ancient Monument.

- The application site lies within the designated Green Belt.
- The application site forms part of a Local Wildlife site and Nature Reserve.
- The application site is part of a Local Geological site.
- The application site is located within a SSSI Impact Risk Zone.
- The application site is a Class 1 Archaeological site.
- The application site is not classified as previously developed land.
- A previous building on the application site was demolished in 2005. Whilst a

planning permission had been granted to convert and extend this previous building it was demolished by the current applicant and a new building was commenced without appropriate planning permission being in place. Subsequently, Enforcement action undertaken by the Local Planning Authority resulted in this new building being demolished.

- The current application proposals are objected to by a number of statutory bodies including Historic England, West Yorkshire Archaeological Advisory Service, National Amenity Society, Council for British Archaeology Yorkshire, Campaign to Protect Rural England, Huddersfield and District Archaeology Society and Kirkburton and Holme Valley Parish Council's.

- There are in excess of 230 third party objections to the proposals.
- The application site is rural, remote and an unsustainable location.

#### OBSERVATIONS AND COMMENTS

- a. The application site is a hugely sensitive environmental and heritage location.
- b. The application proposals are a departure from a relatively recently adopted new Local Plan. The proposals are required to be considered in accordance with the policies of this plan unless material considerations indicate otherwise.
- c. No listed building application has been submitted as part of the current proposals which is considered at odds with the application site's location within the curtilage of a listed building.
- d. Given the sensitive environmental context of the application site it is considered that

an Environmental Impact Assessment Screening Opinion request should have been sought by the applicant as to whether the proposed development constitutes EIA development for the purposes of the EA regulations.

e. It is considered that given the previous building on the application site was demolished some 15 years ago that this should be correctly regarded as Abandonment and no weight can be attached to the existence of a previous built structure.

### 3. PREVIOUS PLANNING HISTORY

The application site has been subject to 3 previous proposals for development since 2012.

These are as follows –

- 2012 / 91867 – erection of a public house and hotel with associated parking – Refused for 5 reasons in October 2012 ( Copy of Decision Notice attached ).
- 2012 / 93683 – erection of a public house and hotel with associated parking – Deemed withdrawn in August 2013.
- 2013 / 93172 – erection of a café / restaurant with bedrooms and interpretation facilities for visitors and formation of car parking and servicing facilities – Invalid and deemed withdrawn in April 2017.

### OBSERVATIONS AND COMMENTS

- a. All previous 3 submitted applications were made by the current applicant's.
- b. All previous 3 proposals are almost identical in component elements and proposed uses to the current application.
- c. It is considered that within the context of point b. above the Local Planning Authority should, under it's discretionary powers, have before now and still should refuse to consider the current proposals. None of the previous reasons for refusal in 2012 have been addressed, none of the objections raised previously have been remedied and the current proposals remain of a scale and nature that have previously been considered unacceptable in this location and on the basis of the same material considerations that exist now.

#### 4. MAIN ISSUES

It is considered that the main issues in relation to the application proposals are as follows –

- A. Green Belt Considerations.
- B. Heritage Considerations.
- C. Other Planning Policy Considerations.

I comment on each of these issues individually below.

##### A. GREEN BELT CONSIDERATIONS

The application site lies within the Green Belt. Guidance on development proposals within a Green Belt location is set out within Section 13 of the National Planning Policy Framework (NPPF) – February 2019 / paragraphs 133 – 147 : Protecting Green Belt land.

Local Plan policy LP 56 reflects the guidance set out within the NPPF in considering facilities for outdoor sport, outdoor recreation and cemeteries.

Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belt's are their openness and permanence.

The application proposals would conflict with this fundamental aim.

Paragraph 134 identifies 5 purposes of Green Belt's and it is considered that the application proposals would conflict with 3 of these as follows –

- Purpose c – the proposals would not assist in safeguarding the countryside from encroachment.
- Purpose d – the proposals would not preserve the setting and special character of the historic context of Castle Hill and the listed Victoria Tower.
- Purpose e – the proposals would not assist in urban regeneration by encouraging the recycling of derelict and other urban land.

Paragraphs 143 – 147 deal specifically with proposals affecting the Green Belt and paragraph 143 emphasises that inappropriate development is harmful to the Green Belt.

The application proposals are inappropriate development and do not fall into any of the exception categories set out within the NPPF guidance.

No Very Special Circumstances have been put forward of sufficient justification to warrant a different conclusion being reached on the test of inappropriateness.

The application should be refused in line with NPPF guidance as a consequence of this.

Paragraph 144 of the NPPF advises Local Planning Authority's to give substantial weight to Green Belt harm. Very Special Circumstances do not exist in the case of the application proposals because the harm is not outweighed by any other considerations.

Paragraph 145 sets out the exception categories for development to be classed as appropriate and the application proposals do not fall into any of these. The application proposals represent inappropriate development.

Equally, the application proposals do not fall into any of the other forms of development categories set out within paragraph 146 of the NPPF.

#### OBSERVATIONS AND COMMENTS

- a. The application proposals represent inappropriate development in the Green Belt.
- b. No Very Special Circumstances have been put forward that would outweigh the harm that would be caused to the Green Belt by virtue of the development proposed being inappropriate.
- c. The application proposals would conflict with the fundamental aim of maintaining the openness and permanence of the Green Belt.
- d. The application proposals would conflict with 3 of the 5 purposes of Green Belts.
- e. The application proposals conflict fundamentally with NPPF policy on Green Belt land and development proposals.
- f. The application proposals do not meet the requirements of adopted Local Plan policy LP 56 which is reflective of NPPF Green Belt policy.
- g. The previous refusal issued in relation to the similar 2012 scheme included a reason for refusal based upon that development being inappropriate development in the Green Belt.

The current proposal should also be refused for this same reason.

## B. HERITAGE CONSIDERATIONS

The application site is situated within a hugely sensitive heritage context – a Scheduled Ancient Monument, a Grade 2 listed Tower and a Class 1 Archaeological site.

These factors represent material considerations of significant weight and the application proposals have drawn objections for a considerable number of statutory and non statutory consultees.

It is also important to note that the previous 2012 scheme refusal for a very similar scheme to that now proposed contained 2 reasons for refusal based upon these key heritage aspects.

The only change in circumstances since 2012 has been the publication of the revised NPPF in 2019 which at Section 16 provides clear guidance on conserving and enhancing the historic environment.

My client's have appointed a specialist heritage consultant, Prospect Archaeology, and their statement should be read alongside this objection letter.

It is clear from this statement that the current application proposals have not addressed the 2 previous reasons for refusal stated on the 2012 decision notice and that these proposals would conflict with both NPPF Section 16 guidance and adopted Local Plan policy LP 35.

## C. OTHER PLANNING POLICY CONSIDERATIONS

It is considered that comment is also required on the following aspects –

- I. Highways
- II. Sustainability
- III. Landscape
- IV. Biodiversity and Ecology
- V. Town Centre Uses

I comment on each of these individually below –

## I. HIGHWAYS

The previous similar application scheme refused in 2012 included a reason for refusal related to highway aspects. This related specifically to an intensification of use of an access with substandard geometry and visibility at the junction of Castle Hill Side, steep gradients, restricted forward visibility, insufficient width for 2 way vehicle movements and limited passing places.

The current proposals have not properly addressed these matters such as to result in a proposal which would be acceptable and provide an environment for highway and pedestrian safety.

A transport assessment document was only submitted in November year last despite the application having been originally submitted in 2018 and this document does not provide the required detail or solution to demonstrate that the concerns raised previously have been satisfactorily addressed.

As such it is considered that the application proposals do not take account of the guidance set out within Section 9 of the NPPF relating to promoting sustainable travel and would also conflict with adopted Local Plan policies LP 4, LP 19, LP 20, LP 21 and LP 22.

It is considered that the highway issues are in themselves a reason for refusal of the current application proposals.

In addition as requested by the Local Planning Authority no Independent Stage 1 Safety Audit has been undertaken and no draft Travel Plan submitted.

## II. SUSTAINABILITY

The application site is not a sustainable location. It is rural and remote.

The application proposals cannot be regarded as sustainable development and as such there is no presumption favouring them. The applicant's supporting transport assessment provides no practical proposals for enhancing the sustainability of the site via other modes of transport. The application proposals would not contribute to the achievement of sustainable development.

Paragraph 11 of the NPPF emphasises that planning decisions should apply a presumption in favour of sustainable development and for decision taking this means approving development proposals that accord with an up to date development plan without delay. The application proposals do not accord with the recently adopted Local Plan as evidenced within this objection letter and as such the application should be refused. Specifically, the application proposals are contrary to the guidance set out within Section 2 of the NPPF and in relation to adopted Local Plan policies LP 1, LP 2 and LP 3.

### III. LANDSCAPE

It is noted from the consultation response received in relation to the application proposals that the scheme is not supported as it would be highly visible from the surrounding area and as such would have an adverse impact given the site's prominent location.

The application site is located with a SSSI Impact Risk Zone, the Green Belt and within an essentially rural context.

It is considered therefore that the proposals would conflict with Section 15 of the NPPF and with adopted Local Plan policy LP 32.

### IV. BIODIVERSITY / ECOLOGY

The application site is situated within a Local Wildlife Site and Nature Reserve, is part of a Local Geological site and is located within a SSSI Impact Risk Zone. The application proposals have not taken sufficient account of these key features and importantly, do not propose any securable measurable gains for biodiversity as required by paragraph 174 (b) of the 2019 NPPF.

It is considered that the application proposals are in conflict with Section 15 of the NPPF and also with adopted Local Plan policies LP 30 and LP 31.

It is also important to note that the previous 2012 refused scheme proposals contained a specific reason for refusal on the basis of them having a detrimental impact on the

biodiversity of the site. The current application proposals have the same detrimental impact.

## V. TOWN CENTRE USES

The current application proposals, as with the previously refused and withdrawn schemes, include for a café/restaurant with accommodation bedrooms. Both of these uses (A3 and C1) are classed as town centre uses.

No sequential assessment has been undertaken and submitted as part of the application justifying these proposals in such a rural, remote, unsustainable and out of centre location. Equally, no justification has been provided to demonstrate why such uses are required in this location.

As such it is considered that the application proposals do not comply with the guidance set out within Section 7 of NPPF guidance and are in conflict with adopted Local Plan policies LP 13 and LP 16.

## 5. CONCLUSION

- The application proposals are a departure from the adopted Local Plan.
- The application proposals do not meet the appropriate policy requirements of the adopted Local Plan.
  - The application proposals do not represent sustainable development and as such there is no presumption favouring them.
  - There are no other material considerations that would outweigh a decision taken on the basis of non-compliance with local and national planning policy.
  - The application proposals represent inappropriate development within the Green Belt. The nature and significance of the aspects put forward to demonstrate Very Special circumstances are wholly insufficient to outweigh the significant harm to the Green Belt that would arise as a consequence of this development.
- The application proposals would have a detrimental impact on heritage assets of paramount importance in a prominent location. These heritage assets are iconic to this rural

location and NPPF guidance emphasises that great weight should be given to the conservation and protection of these assets.

- The application proposals represent the 4<sup>th</sup> attempt to achieve planning permission for a scheme that is almost identical in character and content to a previously refused scheme and 2 withdrawn schemes.

The reasons for refusal on the refused 2012 scheme are equally applicable to the current proposals.

- There are significant unresolved traffic and highway related issues associated with the application proposals which would be harmful to both highway and pedestrian safety. Access arrangements are substandard and unsatisfactory and no solution exists to improve this context.

There are both landscape and biodiversity/ecology issues with the application proposals given the environmental context associated with the site. There are also archaeological issues which have not been properly addressed.

- The application proposals represent an unreasonable attempt to justify new development on a site where a previous building was demolished despite having planning permission in place for a conversion and extension. This demolition was undertaken so long ago that the site should now be considered as abandoned. The attempt to erect a new building, following demolition, without planning permission resulted in enforcement action and subsequent demolition of this unauthorised structure including its foundations.

- There are major objections from all statutory heritage bodies and over 230 third party objections to the proposals.

In summary, the application proposals should be refused on the basis of a combination of the following aspects –

- Unsustainable Development.
- Green Belt Inappropriateness.
- Heritage Impact.

- Highway and Pedestrian Safety.
- Impact on Landscape, Biodiversity and Ecology.

and by reference to appropriate NPPF guidance and adopted Local Plan policies as part of the reasons for refusal.

The scale, character, nature and content of the application proposals are fundamentally ill conceived and wholly at odds with the significant and important environmental, heritage and infrastructure context of this site and the Local Planning Authority are respectfully requested to refuse the application.

Kirklees Council Planning, Investment and Regeneration Service  
PO Box B93  
Civic Centre  
Huddersfield  
HD1 2JR

13<sup>th</sup> January 2020

Dear Sirs

**RE: Castle Hill, Almondbury, Huddersfield, Kirklees Planning reference 2018/62/93591/W**

My clients, \_\_\_\_\_ have requested my opinion on the proposed erection of café/restaurant with bedrooms, interpretation facilities, car parking and servicing facilities (Kirklees planning reference 2018/93591). I have considered the documentation presented on public access and had brief discussions with Historic England and West Yorkshire Archaeology Advisory Service to clarify some of the issues. My comments on the proposal are presented below.

### **Introduction**

I have extensive experience of dealing with heritage issues, including those relating to nationally and internationally important monuments in both England and Scotland. Examples of this include providing archaeological advice and management for a major retail development within the Cornwall and West Devon Mining Landscape World Heritage Site, providing archaeological and heritage advice for the proposed redevelopment of the Loudoun

Castle Garden & Designed Landscape and associated Category A listed building; and making the case for designation of the Aiskew Roman Villa as a scheduled monument in tandem with managing archaeological works on a granted road scheme affecting a small part of the remains. I have acted on behalf of a wide range of clients, including commercial and residential developers, local authorities and heritage / campaign groups, and have acted as an expert witness in public inquiries.

The proposed development at Castle Hill, Almondbury sits within the scheduled monument of Castle Hill, Almondbury (National Heritage List for England (NHLE) No 1009846) and adjacent to the Grade II listed building, Victoria Tower (NHLE No 1210385). Both monuments are described in detail in other documents relating to this application and I will not regurgitate that information here. Suffice to say both are nationally significant monuments and their treatment is legally protected through the Ancient Monuments and Archaeological Areas Act (1976) and the Planning (Listed Buildings and Conservation Areas) Act 1990 with amendments enabled by the Enterprise and Regulatory Reform Act (2013). These acts are supported by the National Planning Policy Framework (NPPF, 2018), associated guidance and local authority planning policies.

The current proposals would involve the construction of a new building within the scheduled monument and within the setting of the listed building. The site of the new building was previously occupied by the Castle Hill Hotel and associated buildings, demolished in the early years of the 21st century. The provision of utilities, car parking and access to the new building would also affect both monuments.

### **Direct Impacts**

An archaeological evaluation of the site of the proposed new build has been undertaken but the resulting report is included only as a superseded document in the planning application. Regardless of this, the results of the evaluation are largely indicative of the considerable impacts of 19th and 20th century development of the tavern and hotel that formerly occupied this site; only one substantial feature is of archaeological interest on the north-west side of the proposed new building and that remains undated. The potential direct impact on archaeological deposits and features of the new building is therefore considered to be limited in the main. However, it is also noted that the proposed development includes a terrace on this side of the building with retaining walls that would impact in this area. Further investigation of this feature and the potential for further associated archaeological activity is

warranted to determine whether any such features are of national importance in advance of a planning determination being made.

There has not, however, been any similar investigation of the proposed utilities routes, car parking or road widening, all of which have the potential to directly impact on the scheduled monument in areas where there has been considerably less impact from 19th century and later development. It should be noted that whilst the surfaces of the existing car park and access road are excluded from the scheduling, the ground below is specifically included. The potential exists for these areas to contain significant evidence of the construction, development, layout and use of the monument from the Neolithic to the 20th century. The submitted details of the proposed road widening for passing places shows some excavation into the existing ground surface, i.e. the ramparts of the hillfort. There are no details provided for the construction of the car park and its associated drainage even though the proposed car park is larger than the current one. No details of utilities routes have been provided and their impact cannot therefore be assessed. The potential direct harm to the scheduled monument has not therefore been fully assessed.

#### **Indirect Impacts**

The setting of the scheduled monument has been one of continual change. It could be argued that demolition of the Castle Hill Hotel has improved the settings of the Castle Hill scheduled monument as the open aspect aids understanding and appreciation of the archaeological features, particularly of the early univallate hillfort and the arrangement of medieval baileys which are more recognisable with the absence of any structure interrupting views of and access to the earthworks. Views towards the monument are also enhanced with the removal of the former hotel. The Castle Hill Setting Study (Atkins 2016) highlights the significance of the 'open and exposed nature of the hilltop' and states that 'the open character of the site makes a major contribution to the significance of Castle Hill'. However, the provision of a new building would not necessarily be an unreasonable change to the setting of the monument, if the public benefit can be shown to outweigh the harm caused.

The Updated Planning Support Statement (One17 2019) identifies four specific public benefits: free access to toilet facilities, shelter during inclement weather, availability of hot and cold refreshment, and a dedicated interpretation room. Simply stating that these are the public benefits that could be achieved is not in itself an explanation of how the public benefit outweighs the harm. These elements could be contained in a smaller structure or structures

and do not require the construction of a building of this size or the provision of hotel rooms. The justification for a structure of this size and type has not therefore been made.

There does not appear to be any consideration given to the proposed increases in light pollution both from use of the building and traffic arriving and departing after dark, which would further impact on the largely undeveloped character of the monument, considered a 'key characteristic' of the site

An increase in noise and dust pollution is likely during the construction phase. This should also be considered as an indirect impact on the scheduled monument.

### **Conclusion**

The NPPF makes it clear that 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'. In the case of scheduled monuments, substantial harm to or loss should be wholly exceptional (NPPF 2018, para 194). In our opinion, the case for public benefits outweighing the harm or loss of heritage assets, as required by the NPPF, has simply not been made in this application.

Please do not hesitate to get in touch if you have any further questions.

Yours sincerely,