

# **KIRKLEES METROPOLITAN COUNCIL**

## **PLANNING SERVICE**

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

**24 JANUARY 2019**

---

**Planning Application 2018/92934**

**Item 10 – Page 31**

**Outline application for erection of residential development**

**Former Gees Garage, New Hey Road, Outlane, Huddersfield, HD3 3YJ**

Highway issues:

Since the publication of the committee report Highways Development Management have assessed the revised details demonstrating vehicle tracking for an 11.85m refuse waggon at the site access and the amended sightlines to the east and west of the proposed access. The submitted details are considered to be acceptable.

A Road Safety Audit has also been provided by the applicant. Highways Development Management accept the Road Safety Audit.

Consultee responses:

Comments have been received from the Police Architectural Liaison Officer. The issues raised will need to be addressed through the design, layout and landscaping of the site at reserved matters.

---

**Planning Application 2018/92935**

**Item 11 – Page 45**

**Outline application for erection of residential development**

**Land adj, former Gees Garage, New Hey Road, Outlane, Huddersfield, HD3 3YJ**

See update for application 2018/92934 above.

---

**Erection of 3 detached dwellings and garage ancillary to 33, Woodside Lane**

**33, Woodside Lane, Fixby, Huddersfield, HD2 2HA**

Relevant Planning History:

Since the publication of the committee report application 2018/93412 for Certificate of lawfulness for proposed use of a dwelling (C3) as a residential home for up to 5 young adults has been withdrawn.

A new Certificate of lawfulness for proposed change of use of dwelling to residential care home for up to 5 young people has been submitted under application reference 2019/90129.

The new application attempts to address a procedural issue with the earlier application. The new application will be determined on the basis of the facts of the case and relevant planning law; the planning merits of the proposed use are not relevant.

Representations:

Ten representations have been received in response to the publicity of the amended plans.

A summary of the representations received is provided as follows:

- The amended plans do not address the concerns raised in response to the first round of publicity (as summarised as paragraph 7.2 of the committee report)
- The amended plans do not address the previous reasons for refusal
- Impact of plot 3 on protected trees
- Impact on bats has not been resolved
- Committee report is flawed and misleading
- Concerns raised with the planning process
- If the application is approved the decision will be open to judicial review

The comments received have been considered but do not alter officers' assessment of the application and the recommendation.

Ecology issues:

Ecological information confirms that the site is used by bats. There is a bat roost in the existing dwelling and there is also a bat roost close to the site.

An Ecological Impact Assessment has been submitted which proposes a range of ecological mitigation and enhancement measures.

It is considered that the layout of the site would still allow opportunities for bats to move across the site and access adjacent trees and woodland. It is however important that external lighting for the development is controlled to mitigate the impact on commuting bats. To this end a condition regarding external lighting is recommended. It is also recommended that the rooflights to the proposed garage are omitted to limit light spill in this part of the site.

A condition is also recommended requiring an Ecological Design Strategy (EDS) to build on the recommendations of the submitted Ecological Impact Assessment.

A Construction Environmental Management Plan (CEMP) is also recommended to mitigate the impact of the construction of the development on biodiversity.

For the purposes of the recommendation the impact on bats is considered to have been resolved subject to conditions.

Additional conditions:

- Lighting design strategy
- EDS
- CEMP
- No rooflights to garage

---

**Planning Application 2018/93073**

**Item 13 – Page 69**

**Erection of three storey side and single storey rear extension and erection of dormers**

**215, Birkby Road, Birkby, Huddersfield, HD2 2DA**

For clarification purposes with respect to paragraph 3.1 of the published committee report, the erection of extensions (single storey front, two storey side and single storey rear), dormers and inclusion of roof lights facilitates the provision of accommodation in the roof space thereby providing accommodation over three floors. The extensions facilitate the inclusion of an entertainment room, family lounge, kitchen, utility, laundry and fridge and freezer store in addition to the existing ground floor accommodation. At first floor level an additional two double bedrooms, both with ensuite and large walk in wardrobe, are created and within the new attic space a games room, toilet/shower room, double bedroom, ensuite and a family living room is formed.

---

**Erection of two storey extension****Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN**

Further to the details set out in the published committee report Officers wish to provide additional information in resection of section 4 Relevant Planning History, and 2 further representations have been received further to that set out in section 7. These matters are detailed below.

**4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 The following text appeared in the officer's report to Committee for application 2018/90978, and is reproduced here for the sake of completeness:
- 4.2 "The "as existing" elevations on the current application have been compared with the approved elevations for 2004/91771. The overall width of the house, north to south, is now 24m, the depth (including the main living accommodation and the original double garage) 12.9m. The original approved plans show it to be 23.4m in length, 13.1 in width. The discrepancy in width is corroborated by aerial photographs held by the Council. The internal ground floor level to eaves height on the eastern or front elevation as existing is scaled off at 5.7m, and from floor level to the roof ridge 7.9m. The equivalent scaled measurements shown on the 2004 plans are 4.9m and 7.4m. It can be observed on the plans that the proportions of the house are different, in that, for example on the south elevation as built there are several courses of stone between the lintels of the upper floor windows and the gutter line, whereas on the 2004 plans there was no clearance between the lintels and eaves.
- 4.3 In conclusion the dwelling seems to have been built larger than shown on the approved plans, but not drastically so. The most striking difference is not in the footprint but in the height of the walls from ground to eaves, which has allowed the inclusion of second-floor living space in what was originally approved as a two-storey dwelling. It should be noted that this in itself however is not a material planning consideration in the assessment of this application. The dwelling, it would appear, has been substantially completed for more than 10 years and there is no record of a breach of condition ever being challenged by the Council, and so any breach of condition that may have occurred relating to the design or scale is now immune from any enforcement action. Furthermore, as the operational development to construct the dwelling was substantially completed more than 4 years ago this would also preclude enforcement action being considered."

## 7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 Since the original officer's report, new or additional letters of representation from 2 third parties have been received, both in opposition. All new issues raised (i.e. that have not already been summarised and commented on in the main report) are copied or summarised below with officer responses:

### *Alleged inaccuracies and omissions in the Officer's report to Committee:*

- 7.2 "Para 5.1 History of negotiations. This is not an accurate record of events. The agent submitted inaccurate information regarding the plot size and building density of 408 Birkby Road in their covering letter with the planning application dated 2<sup>nd</sup> October 2018. This claimed that the building density of 408 was 23.75%. To counter this, we had to commission our own independent chartered surveyor to produce a report which was based on more accurate ground measurements, not aerial images. The findings were clearly set out in our letter to Planning on 1st November and in representations on the portal, (ref 718822) and included measurements for all of the properties that use the lane. On 4<sup>th</sup> December, the day the committee report was written, the agent submitted revised calculations that were more in line with our findings. However, you have failed to include the information we provided but did include that given to you by the agent. This seems a bit one sided."

**Response:** The applicant provided some plot coverage figures in their initial covering letter – a more accurate version, with illustrative material, was submitted 4<sup>th</sup> December. The alternative (objector's) survey calculations are shown in this update, with officer comments – see 7.12 below. The LPA seeks to present accurate information relating to the proposed site in its most concise and approachable form. Lengthy reports of the chronology of negotiations are unhelpful when what is needed is an accurate assessment of the proposal.

- 7.3 "Para 10.9 Table. There is a table included which we assume is supposed to represent the surface area of the building footprint. Not one figure in this table accords with the measurements quoted in this or earlier committee reports. E.g. para 3.2 refers to the proposed extension as 5.3m by 6.0m, this makes 31.8 sqm not 30.7 sqm as shown in the table. It also fails to take account of the bulk of the proposed extension which has 2 storeys and therefore double the surface area."

**Response:** The proposed extension overlaps the existing west wall and it would be wrong to treat part of the fabric of the original building as part of the footprint of the extension. This means that the footprint will actually be less than 31.8sqm. Area was calculated using the area measuring tool on Adobe Acrobat Reader, but officers are satisfied that doing the measurements "longhand" would have produced the same result. It is accepted that the bulk or surface area of a two-storey extension will be proportionally greater than that of a single-storey extension.

- 7.4 “Para 10.18 Representations. *Covenant says that every plot must be 200 square yards.* This is not correct, the objection submissions clearly states 2000 square yards”.

**Response:** Noted, but still not deemed to be a material consideration for the reasons already stated. Independent legal advice should be obtained on this matter

- 7.5 “Para 10.19 Comments in support of application . . . The planning officer response is *it is noted that there have been no objections from the Ward Councillors.* As Planners are well aware, Councillor Burke has raised concerns and objections on several occasions throughout this process from April 2018 to present, and we have copies of emails that demonstrate this.”

**Response:** Comments from Ward Councillor made to planning officers, and relating to the current application only, are accurately reported in the officer’s report.

- 7.6 “*Ward Councillor Cahal Burke who commented on application 2018/90978 was notified of the new application. Cllr Burke did not request a Committee decision.* We believe this is misrepresenting what actually happened. We understand from Cllr Burke that if he had not intervened, the planning officers were proposing to approve the re-submitted application (93226) with delegated powers. Discussions ensued between Cllr Burke and council officers, and ultimately senior officers agreed with Cllr Burke that, as the application had been refused so recently by committee, it should go back to Committee. This decision meant Cllr Burke did not need to formally object and provide reasons to the chair to bring it back to Committee.”

**Response:** The decision to take the application to Committee last November, was made by agreement between Senior Planning Officers and the Committee Chair. Delegation by officers to committee is a normal constitutional process and the ward member was aware that the application would be referred to committee at the request of officers in line with the delegation agreement as set out in section 1 (introduction) of the published committee report.

- 7.7 “As noted above there are 3 repeated references to lack of objection from the Ward Councillor, which is clearly leading committee members to a form an opinion that the Ward Councillors do not have any concerns with this application. However in para 10.21 Other Matters, concludes that a condition regarding a construction management plan would allay the concerns of *one Ward Councilor.* Cllr Burke has told us that, from the start of this application process, his concerns and those of the other Lindley ward councilors have been about the overdevelopment of the site and those concerns remain. In addition our letter of 7<sup>th</sup> January to Ms. Harlow (reply received from you) clearly sets out the significant level of involvement of Councillor Burke, which we know senior officers within the Council are well aware of. Therefore we are very disappointed to see such misleading comments 3 times throughout the report.”

**Response:** Again, this aspect of the report is accurate. No other Ward Councillor has made representations or comments to the case officer.

7.8. “We appreciate that it is not always easy to produce a report of reasonable length which includes all information. However, we feel that there are several key issues raised by objectors in their submissions that have been omitted, or at best incorrectly summarised. We thoroughly understand that issues need to relate to planning and that could be a reason why you might say they have been left out of the summary of the objections and concerns. However, we note that this approach has not been taken when the supporters’ comments are summarised. All issues raised by supporters have been noted whether they relate to planning or not and the officer has then commented to say they are not a planning consideration. Clearly, this is not a balanced way of dealing with comments on the application.”

**Response:** In the interests of brevity, representations are usually summarised and not reported verbatim. Specific comments may be left out if they are essentially a repetition or re-phrasing of comments made elsewhere. This approach has been adopted in the report to Committee. In this Update, many objectors’ comments have been reported verbatim (indicated by quotation marks), except that there has been some reformatting for the sake of clarity. Some particularly lengthy passages of text have been summarized. All alleged omissions that have been highlighted in the latest letters of objection will however be commented on this update.

7.9 “We note that there is lack of consistency in the way the single-storey extension has been described. In the current report the removal of the single-storey extension is described as *a significant change to the planning merits of the scheme* (10.8)  
However the December report refers to:

- *A small single storey* (10.5)
- *The proposed single storey lean-to extension* (10.8)
- *The smaller and less visually prominent of the two extensions* (10.8)
- *The impact on visual amenity is minimal* (10.8)

The September report refers to

- *The proposed rear extension would be very small* (10.8).”

“It is clear in previous reports that the officers were of the opinion that the single-storey was relatively insignificant in the overall scheme. Indeed the architects in their own words refer to this extension as a glass link way on the plans. By turning ‘a small lean-to’ into a ‘very significant change to the merits of the scheme’ seems to be changing the evidence to fit a conclusion.”

**Response:** The current officer’s report (10.4-10.12) sets out clearly and concisely the officers’ assessment of the planning merits of the current scheme. The now-superseded plans indicated that the single-storey extension would have had a tiled roof and an element of stonework in the walls, and would not have been wholly glazed.

7.10 “Similarly, in the December report in response to a supporter’s comment ‘it will harmonise with its surroundings and would be done in matching materials’ the planning officer response is ‘it is considered that the development would not be in harmony with its surroundings notwithstanding the use of matching material’. This was to suit a recommendation to refuse. In the current report, the response to the same comment from a supporter, is now ‘it is proposed that the materials would be of the same type as used on the existing dwelling. The standard condition that materials match those on the existing building in all respects can be imposed.’ This is to suit a recommendation to approve. Whilst planning may be a subjective process, there appears to be a complete lack of consistency and transparency in the approach to this planning application.”

**Response:** The proposed materials were never a point of contention in the first place and did not form any part of the basis for refusing application 2018/90979. So there is no inconsistency.

7.11 “In responding to the objection that 402 is already bigger than approved, in the September report, the planning officer provided a full description extending to 3 paragraphs. This description included measurements of the changes made to the current building which were not in the approved plans. The description in the January report is less comprehensive and diminishes the fact that the house is larger than it should be by conflating the issue with numbers of bedrooms, suggesting that, “the number of bedrooms does not necessarily require planning permission in itself since the layout of internal space, is outside of planning control.” These are 2 separate issues. The first is the fact that the house was built a third bigger than it should have been with 12 habitable rooms instead of 9. The second is that plans increase the potential for more bedrooms which would increase the number of people that could live there and therefore increase the amount of traffic on the lane.”

**Response:** The concerns relating to the number of habitable rooms are acknowledged in this update. In part 10.18 of the current Committee report it is acknowledged that the house is built bigger than approved. Some of the text from the officer’s report for 2018/90978 was omitted for the sake of brevity, but it is reproduced here – see **4.0 Relevant Planning History**.

7.12 “In the section entitled Urban Design the author refers to the reasons that the previous application (90978) was refused by the Committee which includes a comparison with ‘its plot size to those of surrounding *houses*’. Paragraphs 10.6 and 10.7 compare the plot coverage of 402 with 408 (i.e. a single house), whilst acknowledging that a mistake was made in calculating the plot coverage of 408 in the September report. It specifically mentions calculations made independently by the applicant and the case officer, but fails to mention the calculations made by an independent chartered surveyor commissioned by residents. This information provides comparisons with the footprints and plot densities of houses along the lane and not just with the nearest neighbouring property. At our request, similar information comparing plot densities with other properties was provided by the planning officer in the update to the September report. We therefore expect that in the interests of fairness, consistency and transparency that the following information will be provided to the Committee in the update to the current report:

House No	Plot Size sq m	Building area sq m	Building Density %
400	4000	252	6.3 *
402	1200	219 (249)**	17.0 * (20.4)**
404 (bungalow)	1713	221	12.9
406 (bungalow)	1520	193	12.7
408	972	188	19.4
410 (bungalow)	4183	350	8.4
Average			12.8

\*Not measured as site not accessed. Figures taken from previous Committee Report.

\*\*Figures if proposed development were to be approved.”

**Response:** As previously stated, these figures still show that 408 has a greater degree of plot coverage than Brigsteer (no. 402).

7.13 “Consistency of planning decisions. (Portal refs 724073/727955)  
Some key points were made with case law examples to demonstrate that previous planning decisions are capable of being material considerations. This is important as it supports one of the key objections around a previous planning decision made on false evidence allowing a 6<sup>th</sup> house to be built on a private lane, thus contradicting Kirklees Highways own directive. The objection points out those previous planning decisions, even more than 10 years old can have a bearing to prevent a bad situation being made worse.”

**Response:** The officer’s report concludes that the development would not result in the access or highway situation being made materially worse. So the previous refusal is not considered to be a material consideration in this case.

7.14 “Comparison of house types along the private lane (727943)  
Make up of lane in terms of house types were highlighted in several objections. This comparison demonstrates that 402, the only house with three storeys, is already much larger and bulkier than any other house in the area, making it visually assertive. Both the September and December update reports included corrections to note that amongst the other 5 house on the lane, there is a mix of house and bungalows, 3 bungalows and 2 house.”

**Response:** Noted. However, the extension proposed would be subordinate to the existing dwelling in terms of height.

7.15 “Residential capacity (727845) /habitable rooms (727838/727317)  
Numerous objections relate to habitable rooms and residential capacity. The house already has 12 habitable rooms and to add 2 more means that 14 rooms are twice the average of other houses on the lane or in the area. The Council cannot control the number of future residents and a house of this size, if not now, will in the future, need adequate service space and car parking space.”

**Response:** Objections relating to the number of rooms and car parking capacity have been examined in the main report, including paragraph 10.16 and in the responses to objections in part 10.18. Officers’ view is that it would not be reasonably possible to substantiate a refusal on these grounds – see 7.13 above and 7.21 below.

7.16 “Plans should be considered in the context of the lifetime of the property. (724517) Objections were made to ask for consideration of NPPF Para 127 and PLP 24c, which is to ensure the development is considered as to the future, not just the current situation. How many people could live in such a large house in the future when it is sold and how many residents’ cars might result from a house with 14 habitable rooms?”

**Response:** Again, objections relating to car parking capacity have been examined in the main report.

7.17 “Refuting ‘no ward councillors have raised concerns or objections’. The supporters comment re ward councillors has been included (724316). However the objectors’ comments, regarding the involvement of councillors, have not been included (725484). This is not consistent.”

**Response:** The only Councillor correspondence that should be mentioned in a report to Committee is a representation made by a Ward Councillor to Planning Officers. Correspondence which may occur between Ward Councillors and other third parties is not reported as it does not constitute a formal representation.

7.18 After the subdivision of the original 402 plot, the figures for those two new plots increase to 17% and 19.4%. Adding the proposed extensions increases this to over 22%. This demonstrates that the increase is dramatic and significant and is considered unacceptable.

**Response:** Any proposal for an extension must be considered on its own merits. Just because a dwelling is perceived as large compared to its plot size this should not automatically rule out all extensions.

7.19 402 was built much closer to the road than the other houses and this detracts from the original character of the group. It already represents a difference in character but to some extent this is masked by the mature trees on the boundary. The addition of a two storey extension on the most prominent elevation increases the impression of overdevelopment of the plot in the context of the locality. The visual impact of the proposed two storey extension as described below will be undiminished. Overdevelopment is not simply a volumetric assessment, it comprises visual impact elements.

**Response:** Planning officers have assessed the visual impact of the proposed extension in paragraphs 10.4-10.12 of the report to Committee, especially 10.11.

7.20 The proposed site layout includes large grassed areas which reduce the car parking available. It is noted that this layout is very similar to the one originally refused in 2002 and which was only approved in 2003/4 with the provision of the turning spaces which were conditioned as part of that permission.

**Response:** The proposed site layout indicates that the existing parking and turning areas would remain unchanged and that no new soft landscaping would be provided. The parking / turning areas are in fact more generous than those shown on the approved reserved matters plan 2004/91771.

7.21 “Now that the off-site facility is not available then the potential for highway safety issues to arise is significantly increased. The obvious one is where deliveries, service vehicles and visitors arrive at the house, they cannot enter the grounds because vehicles are already parked there and there is nowhere to turn round so they have to drive further up looking to turn round. No space is available for that and so there is no alternative but to reverse all the way down the drive and out onto the main road. Not only is this dangerous for other drive users, both cars and pedestrians, it would be a frequent occurrence with perhaps several such events on a daily basis. The previous history evidences that a turning facility was considered to be so important that the whole development was not allowed until it had been included in the scheme. The previous 2003/4 decision to only approve the new dwelling with the turning spaces in place and available to service the dwelling has to be a material consideration in any decision to allow further development for that same dwelling.”

**Response:** As the proposal involves a relatively small increase in the floor area and rooms compared to the existing dwelling, it would not be reasonably possible to substantiate a refusal on the grounds that the extension would lead to an increase in unsafe vehicle movements.

---