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Kirklees Council
Planning Department

25 February 2021

Send Via Email

Dear Sir/Madam

Objection Letter – Planning Reference: 2020/60/93867/E

Proposal - Outline application for erection of residential development and formation of new access

Site - Land adjacent, Red Lea, 27, Church Lane, Mirfield, WF14 9HX

LRJ Planning Ltd has been instructed by

the legal owner occupiers of 27a Church Lane, Mirfield, WF14 9HX to review and draft a formal response to the above planning application that has been lodged with Kirklees Council.

Following a review of the submitted plans and the supporting documents with my clients' we have serious concerns with the application proposed and therefore **OBJECT** to the application for reasons that will be detailed below.

The speculative development site forms the southern boundary of my clients' property.

Aerial View of Site



The following is a summary of my clients' objections.

- i) **The substantial size of the development would lead to severe harm on the residential amenity of neighbouring properties through an unacceptable increase in overlooking, loss of daylight, outlook, overshadowing, overbearing impact, noise and disturbance;**
- ii) **The substantial development would have an adverse impact on the character and appearance of the area;**
- iii) **The proposal would lead to an impact on protected trees and biodiversity interests at the site;**

- iv) **The effect on flood risk, surface water and foul drainage; and**
- v) **The increase in traffic to and from the site, along with the substandard access arrangements would have an impact on highway and pedestrian safety;**

I. PLANNING POLICY CONTEXT

In June 2019, the Government published the latest version of National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and sets out how they are expected to be applied. The NPPF took immediate effect.

Paragraph 2 of the NPPF states that *"Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise."*

Paragraphs 7 and 8 confirm that the purpose of the planning system is to contribute to the achievement of sustainable development, which comprises economic, social and environmental dimensions.

The NPPF retains a presumption in favour of sustainable development. Paragraph 11 reaffirms that *"applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise."*

The Courts have held that Central Government's policy is a material consideration that must be taken into account by the decision maker, as are relevant appeal decisions.

The Courts have held that Central Government's policy is a material consideration that must be taken into account by the decision maker, as are relevant appeal decisions. The development plan consists of the Local Plan (adopted 27th February 2019). The following is a summary of the policies that are pertinent to this case:

Local Plan (adopted 27th February 2019).

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP21 – Highways and access
- LP 22 – Parking
- LP 24 - Design
- LP 30 – Biodiversity
- LP 33 – Trees

2. GROUNDS OF OBJECTION

i) Severe harm on Residential Amenity

In relation to the impact on the amenity of neighbouring properties, Paragraph 127 of the NPPF is particularly important and it states:

“Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets,

spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

*f) create places that are safe, inclusive and accessible and which promote health and well-being, **with a high standard of amenity for existing and future users (our emphasis)**; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

Paragraph 127 (f) of the NPPF clearly describes that decisions should ensure that developments have a high standard of amenity for future or existing users. NPPF paragraph 180 decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. These principles are reflected in the Local Plan.

The proposal would result in an expanse of development across the site. The provision of a dwelling with associated access road and parking areas adjacent to No.27a, as well as neighbouring properties will lead to an intensification of development at the rear of the property, which is currently an attractive greenfield site with a significant number of high quality specimen of trees.

The proposed plans highlight that the proposal would also result in the introduction of development set to the rear of the plot that would directly overlook the private amenity space, as well as habitable room windows of the rear of my clients' property, as well as that of neighbouring properties.

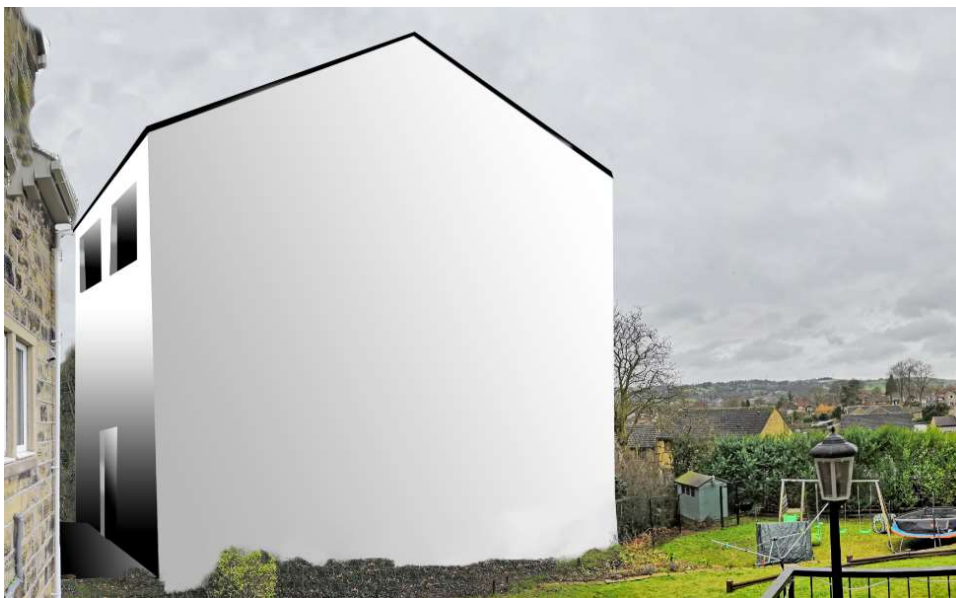
The level of built form facing my clients' property would demonstrably harm their enjoyment of their dwellinghouse and private garden area, as they would be constantly overlooked.

As a result of the proximity of the development and its intended overall, size, scale, mass and poor design it will appear as an imposing and obtrusive structure from my clients' property that will clearly have an unacceptable overbearing impact. The harm will also be compounded as due to the trajectory of the sun the development will cast permanent shadows on the rear garden and property at No.27a and lead to a loss of daylight.

Existing outlook at rear of No.27



Image provided by client on how a dwelling could appear on the boundary



Given the substantial size of the development in respect of No.27a and all neighbouring properties, and that it appears that the proposal fails to comply with the 45 degree rule in respect of loss of light, it is imperative that a Daylight and Sunlight Assessment is provided in support of the application to demonstrate that there will be no impact on my clients' property. Daylight is the light received from the sun which is diffused through the sky's clouds. Even on a cloudy day when the sun is not visible a room will continue to be lit with light from the sky. This is also known as 'diffuse light'. Any reduction in the total amount of daylight can be calculated by finding the 'Vertical Sky Component'.

The Vertical Sky Component (VSC) is the ratio of the direct skylight illuminance falling on a vertical face at a reference point (usually the centre of a window), to the simultaneous horizontal illuminance under an unobstructed sky.

The guidance states that the VSC will be adversely affected if after a development it is both less than 27% of the overall available diffuse light and less than 0.8 times its former value.

Therefore, if the VSC is more than 27% then enough light would still be reaching the window of the neighbouring building. However, if the VSC is less than 27% as well as less than 0.8 times its former value the occupants will notice the reduction in the amount of skylight.

The Council does not have any cogent evidence to demonstrate that there will be no unacceptable loss of light or outlook from the windows at the rear of my clients' property, or those at neighbouring properties.

In addition, a parking area and tuning head is proposed adjacent to the boundary of No.27a. The intensification in use through increased vehicle movements including delivery vehicles will lead to an increase in noise and disturbance, that will have a detrimental impact on the use of my clients' private amenity space area where a degree of peace and quiet should be expected. Due to the proximity of the development to my clients' property it will inflict significant harm as a result of an increase in noise from vehicles, lights, as well as the opening and shutting of car

doors, as well as front doors serving this substantial dwelling. The provision of a dwelling is going to exacerbate the comings and goings into the site.

Overall, the introduction of built form and associated parking area along the boundary with my clients' property would have a significant adverse effect on the level of amenity enjoyed through extensive overlooking, overshadowing, overbearing impact, loss of outlook and daylight, as well as lead to an unacceptable increase in noise and disturbance. The proposal would infringe on my clients' right to a private family life and home under Article 8 of the Human Rights Act 1998. The proposal is contrary to the NPPF and local planning policy.

ii) Adverse Impact on the Character and Appearance of the Area

The objectives of the NPPF include those seeking to secure high quality design and a good standard of amenity (Section 12 – Achieving well-designed places). Paragraph 127 highlights that planning policies and decision should ensure that developments will function well and add to the overall character of the area, not just for the short term; are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping; and are sympathetic to local character and history, including the surrounding environment and landscape setting to establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

Notably, paragraph 40 of the National Design Guide stipulates that “well designed new development responds positively to the features of site itself and the surrounding context beyond the site boundary.” Paragraph 49 goes on to say that the “identity or character of a place comes from the way buildings, streets, spaces, landscape and infrastructure combine together and how people experience them. In addition, paragraph 51 describes that local identity is made up of typical characteristics such as the pattern of housing, and special feature that are distinct from their surroundings. Paragraph 52 articulates that this includes considering the composition of street scenes, individual buildings and their elements and the height, scale, massing and

relationships between buildings.

The above is echoed in the Policy LP24 of the Local Plan relating to design that new development should be of a high quality and be compatible with the surrounding pattern of development.

The site comprises an attractive greenfield site. The proposed development would result in the infilling of a characteristic gap in the street scene and loss of a lined frontage that would opening up views through the site. The provision of a dwelling, together with associated garden, parking area and access would dominate and subsume the area. The harm is compounded as it is set towards the rear of the plot and significantly beyond the established building line. The proposal clearly fails to respect the surrounding pattern of development.

The proposed development is of a very poor quality and fails to respect the character and nature of the surrounding form and pattern of development. Due to the poor positioning of the dwelling, it will be extremely prominent from my clients' property to the detriment of their visual amenity. The dwelling will appear as incongruous, and would have a detrimental impact on the character and appearance of the area.

The dwelling will be sited a minimum distance off my clients' property, which results in the proliferation of development adjacent to my clients' property.

Due to the poor design and position of the dwelling facing the rear of my clients' property, it would appear as a dense form of development that has no appreciation for the surrounding form of development. It would appear as an alien and contrived development. Along with the associated access, hardstanding and parking areas, the development would be extremely prominent and significantly visually harden this part of the street scene.

Overall, the development would be prominent from a number of vantage points, including from my client's property. The proposed development would appear as an incongruous and

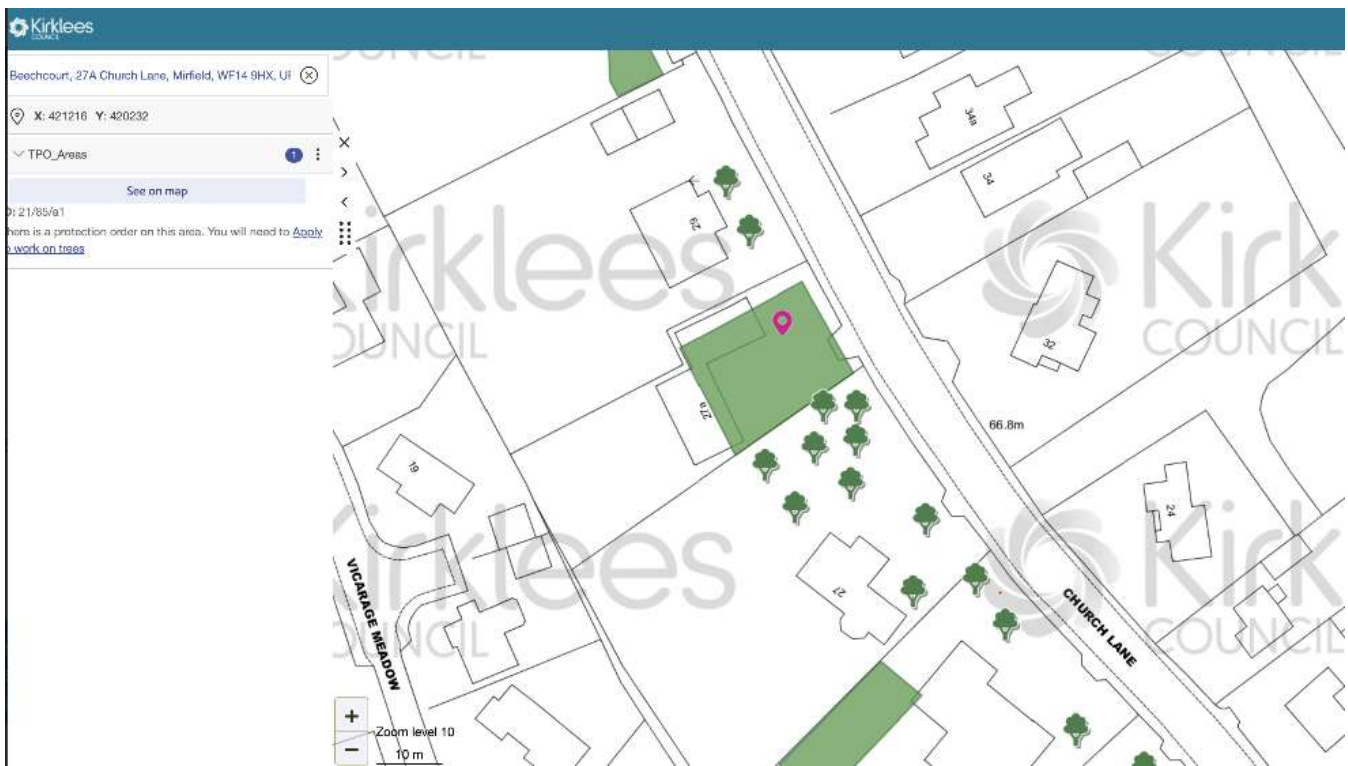
intrusive addition to this local environment. Its overall scale and prominent siting would emphasise this intrusion, appearing overly dominant.

iii) Impact on Protected Trees and Biodiversity

As part of the Natural Environment and Rural Communities Act 2006, all Local Planning Authorities have a duty to have regard to conserving biodiversity as part of its decision making.

My clients' are particularly concerned about the impact on trees at the site that are of a high amenity value and covered by a Tree Preservation Order (TPO) as illustrated below.

Trees Covered by a TPO



. It is noteworthy that the applicant's own Arboricultural Impact Assessment states:

"There is little room for development within this site without the removal of some trees

***(my emphasis).** based on the current proposals, 5 trees (T2, T3, T4, T5 and T21) and 1 group of trees (G6) require removal to accommodate the proposals. These include 5 retention category 'B' trees and 1 retention category 'C' group. There is little room for development within this site without the removal of some trees. based on the current proposals, 5 trees (T2, T3, T4, T5 and T21) and 1 group of trees (G6) require removal to accommodate the proposals. These include 5 retention category 'B' trees and 1 retention category 'C' group."*

The high level of tree loss required to facilitate the proposal cannot be supported. In addition, the siting of a dwelling at this location will result in pressures to fell or excessively prune the proposed retained trees over the long-term, due to conflicts between trees and future occupants.

No details have been provide on any shade patterns, however, it is clear that siting of a dwelling at this location will result in pressures to fell or excessively prune the proposed retained trees over the long term, due to conflicts between trees and future occupants. From the layout provided and taking into account the limitations of the plot, the proposed dwelling would have limited usable outside amenity space that is not dominated by tree issues, shade, seasonal nuisance etc, and the internal domestic areas and wider structure would also be impacted on by conflicts with the trees. Given this position if the Council approved this scheme they would find it difficult to resist any future tree work applications on trees covered by a TPO resulting from these conflicts. Consequently, the proposal would have a long-term and unacceptable impact on trees. Accordingly, the proposal is at odds with policies LP24 and LP33 of the Local Plan and the NPPF.

My clients' note that question 12 has been answered incorrectly on the application form. Due to the nature of the development proposed it is considered that an ecological survey should be provided, as bats are understood to forage in the area. It is imperative to ensure that the Council satisfies its public duty in respect of the above Act. As it stands the proposal directly contravenes this Act.

iv) Flood Risk Foul and Surface Water Drainage

No details on the foul and surface water strategy that will be adopted for the site has been

provided in support of the application. Given the nature of development proposed and the nature of the existing ground conditions, my clients' are concerned whether a sustainable drainage system can be adopted. My clients' are also worried about the connection to the main sewer to dispose of foul waste.

Poor ground conditions



v) Effect on Highway Safety

Paragraph 109 of the National Planning Policy Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

The proposed site plan is again ambiguous as it does not illustrate how cars can and delivery vehicles can access, park and turn safely within the site. No tracking plans or details of the access arrangements have been provided in respect of the requisite visibility splays that can be achieved on to the highway. It has not been demonstrated that suitable access to the development can be provided.

Paragraph: 004 Reference ID: 42-004-20140306 of the Practice Planning Guidance identifies that Transport Assessments and Statements are ways of assessing the potential transport impacts of developments (and they may propose mitigation measures to promote sustainable development. Where that mitigation relates to matters that can be addressed by management measures, the mitigation may inform the preparation of Travel Plans). Transport Assessments are thorough assessments of the transport implications of development, and Transport Statements are a 'lighter-touch' evaluation to be used where this would be more proportionate to the potential impact of the development (ie in the case of developments with anticipated limited transport impacts).

Given the nature of the proposed development and the level of traffic that will be generated by one unit, it is critical that for a sound decision to be made that a Transport Statement is provided in support of the application.

The proposal would increase the number of vehicles using this part of the highway network, thus increasing the conflict with pedestrians due to the lack of a footway. Agreeing to this as laid out in the Planning Application would be disregarding legality as specified within The Road Safety Act. This would prejudice the safety and free flow of traffic on this part of the highway network to the detriment of highway and pedestrian safety.

3 SUMMARY

There are compelling reasons why the application should be refused as the proposal comprises inappropriate development of this greenfield site that is not in keeping with the character and appearance of the area. The new development with associated access, turning head, parking areas is completely at odds with the pattern and existing grain of development, which will set a dangerous precedent inflicting significant harm on the character and appearance of the area. The proposal would fail to integrate effectively with the spatial pattern and character of surrounding built form.

This speculative application, through the creation of a development with a minimal separation distance being provided with my clients' property will lead to significant harm on the level of amenity that they enjoy. However, the intensification of the site to provide a substantial development would result in unacceptable harm to the peace and tranquil surroundings my clients' have been accustomed. The proposal would have an unacceptable effect on the living conditions of my clients' by way of loss of privacy, overbearing impact, loss of day light and outlook, as well as overshadowing. Further to this, it will result in an increase in noise and disturbance both inside the house, as well as within the garden area.

The existing trees in the site make a positive contribution to the area and are of a high amenity value, particularly as they are covered by a TPO. The loss of trees to facilitate the development as well as the future pressure to remove trees in the future simply means the site is unsuitable for any development and should be resisted.

There is a failure within the scheme to provide any cogent evidence in relation to foul and surface water. Furthermore, there is no supporting information to demonstrate that there will be no unacceptable impact on any ecological interests at the site.

Finally, the proposed development would have a severe impact on highway and pedestrian safety.

The proposal is contrary to both local and national planning policies and does not comprise sustainable development. Allowing this development could set a dangerous precedent. It is respectfully requested that the planning application is refused.
