

Attn – Mr N Bearcroft

Comments / Objections re Planning Application 2021/62/91239/W

410/412 Birkby Road , Birkby Huddersfield, HD2 2DN

Dear Sir

I would like to make the following comments and lodge an objection to the acceptance of the above mentioned Planning Application.

We are a next door neighbour to this property and believe that it will have a serious detrimental effect on our property and wellbeing as well as the surrounding environment.

Specifically we believe that the following points and objections must be taken into account when considering the Planning Application:-

- The plans make no mention of the closeness of 410 Birkby Road to our Property or our neighbours. The proposed building work would have significant impact and be an overbearing and overshadowing effect on our amenity to light and privacy.
 - The property being proposed will be much taller than the existing property and is to be brought closer to our property. This would reduce our right to light as the sun sets immediately behind 410 Birkby Road from our perspective and will cast a shadow over our property from early afternoon.
 - The original planning approval (Application Number: 2002/92426 further amended with 2013/70/93405/W) for this property was to construct a bungalow due to the proximity to the boundary and neighbouring properties.

Therefore, based upon previous approvals why would consent be given for a two-storey property of the magnitude that is currently being proposed?

Kirklees Council have set a precedent that must be followed and administered in the same manner.

- The existing property at 410 Birkby Road has two small windows overlooking our house which at the time the house was built it was stipulated had to be made opaque and frosted windows so the occupants could not see out directly onto our property to maintain privacy, these are a Laundry and a toilet. The new proposal has a number of large windows, downstairs and upstairs as well as a balcony looking directly over our property and that of our neighbours. Specifically they will be looking directly into our bedroom, kitchen and laundry and our neighbours Kitchen and Lounge/conservatory. The proposal will also give us no privacy in our respective gardens either. The existing

property is exactly on the boundary of permitted development the new proposal would be even closer. We object to this proposal on grounds of a gross infringement of our right to privacy.

- The existing house had to be a bungalow so that it maintained our right to privacy. The proposed properties are imposing and overlooking both our house and our neighbours house, contrary to the 'Planning Statement' sections 5.0 and 6.0 which appear to have been written to be deliberately misleading indeed it states in section 6.0 'will have no impact on neighbours'. Below is a side by side comparison of the old and new properties. We believe it is overly large and has excessive amounts of windows and balconies over looking our property.

Side by Side Comparison
Existing versus Proposed

410 Birkby Road



412 Birkby Road



- Currently the property located at 410 Birkby Road is a detached bungalow. The bungalow was constructed following Planning Approval covered under Application Number: 2002-92426.
 - It should be noted that the reason for single storey property being approved was due to it's close proximity and elevated position to the existing neighbouring properties.
 - On this pertinent point alone Kirklees Council should reject the approval for a two storey property being constructed as a precedent has been set based upon previous considerations being taken into account. Therefore, this further amplifies the reason on why this application should be rejected.

- It should be further noted that the proposed height of the new property is currently designed to be in excess of 9.0m. The ground level currently sits approx. 4.0m above the neighbouring properties, therefore meaning that the new property would at its highest point be circa 13.0m higher than the neighbouring properties.
- The entire back elevation is covered in balconies to the first floor which would mean a direct view down onto the neighbouring properties, specifically No 9 Valley Head, as well as views from the ground floor windows looking directly into the first floor rooms of the neighbouring properties especially No 7 Valley Head.
- The drawing is misleading!
- There are Measurements missing but to us and our professional advisors the overall height of the roof doesn't seem correct for the pitches to work! Perhaps the overall height is not true?
- The proposed building would bring it to well within 21 meters of our property as the existing property is already at the boundary limit. The 'garden' area of 410 is on a steep incline which contains the woodland area down to our property as it says above, if the measurements are correct, 13m higher. Again imposing on our rights to privacy and light. **If any site visits are proposed please ensure that you visit both sides of the fence to appreciate what we will be faced with.**
- The existing property is at the very edge of the permitted development area. Planning application 2013/70/93405/W makes it abundantly clear in clause 3 that no further development would be allowed into the TPO area as follows:-

3. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Act or Order with or without modification) no buildings or extensions shall be erected in the area hatched red on the approved site plan received 29 October 2013.

Reason: To maintain effective control over the site in the interest of protecting the mature trees covered by a Tree Preservation Order, in accordance with Policy NE9 of the Unitary Development Plan.



- The proposal talks about building a retaining wall within the already protected woodland area (TPO 19/14/w2), this would create a face of concrete for us to look at producing an eyesore.
- The line of the retaining wall as identified on the proposed plan sits within this protected area and it must be noted that to build this wall will also require adequate working space to ensure the construction is carried out in line with current Health and Safety legislation. Thus a further minimum working space of 600mm should be added to all four sides of excavation for the wall to be built from. As the building plot sits beyond the line of permitted development the retaining structure will sit even further beyond the permitted boundary line. There is no consideration for the number of shrubs and trees that will have to be removed in order to facilitate the construction.

On top of the working space a further 2 to 2.5 meters will be required for excavators and machinery to access the area to ensure the retaining structure is constructed correctly. This would mean that the gardens of both 7 & 9 Valley Head will have to be accessed for these works to be carried out. We will not give permission for this to occur.

- You should also consider the extent of excavation in terms of depth that will be required which will result in the roots of the established trees being damaged and within time the trees will die.
- There is talk in the documents of using Pile drivers to under pin the property to provide the foundation. We feel that this Pile Driving would also have a dangerous and potentially fatal effect on the trees as experienced in other places.
- Should these trees be adversely affected they would pose significant and potentially tragic consequences to our family and property if they were to be compromised and fall, as they are so close and so large.
 - I believe that Pile driving could also have a detrimental effect on our property and foundations. What guarantees could be provided that this would not be the case?
 - Dirt and Dust generated by this development will mean that we will be unable to enjoy the garden, open windows or hang washing out for months or years. Many developments like the proposed development have taken up to decades, denying us the right to enjoy the area that we live in.
 - Please be aware that works were carried out on Friday 14th May 2021 and Monday 17th May 2021 to obtain core samples, driving their equipment very close to the protected trees (within 1m). They were informed that the trees were protected but chose to ignore this and were overheard saying that they 'weren't bothered about those trees'! Kirklees Council Forestry department were informed and a log made of the incident.
- This then provides a Health & Safety risk as the trees could potentially fall into the neighbouring properties and due to the sheer height of the trees could result in devastation of the properties and potentially a risk to life.

Should Kirklees Council permit this development it should be noted that they will be fully liable for any damage to properties, specifically No's 7 & 9 Valley Head or injury or death to persons as they have allowed the mass destruction of woodland areas that have been established for years.

- Professionally, I work independently from home by telephone and presenting via the internet. If the planning to such an extent were to go ahead the demolishing and constant noise disruption of rebuilding two already desirable properties would deny me the right to earn a living, potentially this building could go on for years.
- **Ecologist Report**
We have asked for an independent Wildlife Assessment Check to be carried out via the Partnership for Biodiversity in Planning and the results state;
"this proposed development requires input from a consultant ecologist, who will carry out a Preliminary Ecological Appraisal for the project. This will involve a desk study probably followed by a site visit and will inform the need for subsequent ecological survey work. Using information from the desk study and site visit the ecological consultant will decide whether further ecological surveys will be necessary to carry out a thorough ecological impact assessment"

As part of the Planning Application submission two documents have been included;

1. Phase 1 Survey Report
2. Arboricultural Impact Assessment

Both documents have been produced by Morfe Valley Environmental Limited.

Kirklees Council will be fully aware that Preliminary Ecological Appraisals should follow the guidelines produced by the Chartered Institute of Ecology and Environmental Management (CIEEM) and that Ecological surveys must be undertaken by a suitably qualified and experienced ecologist.

Upon checking with CIEEM, Morfe Valley Environmental Limited are not listed as being CIEEM approved despite their website having links direct to CIEEM.

This then brings us onto our next point with regards to the reports that have been submitted which in the main are factually incorrect based upon the following findings;

- The report's findings have been taken based on the property 408 Birkby Road, which although is only next door does not sit within the protected woodland covered by TPO 19/14/w2.
- There are a number of errors / mis-representations in the planning documents, specifically the Phase 1 Survey Report and the Arboricultural Impact Assessment.
 - The Phase 1 Survey Report 1.3 Proposed Development says that the buildings are to be developed on original footings, this is misleading as the new buildings are much larger, in a different position and require new footings in order to be built.
 - It is my belief that the new footprint will undermine the root area of the trees that exist in a woodland area covered by a woodland tree protection order. As also previously mentioned.
 - I notice in investigating this application that according to your web site no applications have been made for the tree lopping that has taken place in recent years. Have Kirklees ensured that this lopping has not damaged the trees in any way?
 - Throughout the document it is stated there is no evidence of wildlife and or nests. It is very evident that bats are abundant around the woodland together with badgers, deer, foxes, owls, squirrels, hedgehogs and a large variety of birds. We appreciate these may not have been present at the time of the survey however the following points should be noted:-
 - Page 5 of the Survey Report mentions the Common Pipistrelle bat within 500 meter radius. 4.2.1 page 12 says that there is no evidence of bats, no further action required.
 - Bats are abundant around this property and always have been. The trees around this property had bat boxes in them, my understanding is that this was instructed by Kirklees council on the building of 410, I believe that these bat boxes have now been removed.
 - Bats can be seen most evenings especially in spring, summer and early autumn. Photographic evidence can be provided if required taken only this week.
 - Badgers have been present around this property for years, it would be wrong to say that there are none in this area. I have been informed that a photograph of a badger on the land of number 410 Birkby Road was provided as evidence to the planning department when objections were raised to the development of number 402 Birkby Road.
 - On the evening of Fri 7th May 2021 the following wild animals were observed in the woodland area surrounding 410 Birkby Road:-

- Bats, Deer, Foxes, Squirrels, Photographic evidence can be provided if required.
- Other animals we see and hear regularly in the woodland area are:-
 - Birds - Owls, Woodpeckers, Finches, Great Tits, Blue Tits, Pigeons, Blackbirds, Magpies
 - Hedgehogs
- According to the report there were no nests present. Please see the photograph here showing a nest immediately above No 410 taken this week.
- A large pond existed at the back of 412 Birkby Road for a number of years, as such I would expect amphibians to be present in the property unless the pond has already been filled in to ease the process. This pond, it would appear, will end up beneath the proposed 'Garage with Home office' and the end of the property for 412.
- The document talks about removal of a number of trees and hedges, however the plans do not show where some of those are. In particular T34, H7 & H8. Why did the trees need to be re-numbered, Kirklees Council had originally numbered the trees what has happened to those numbers? Excepting new of course.
- In previous years the hedge between our properties was maintained by Mr MacGill, the original owner, in agreement of all parties. The photographs below show the height of the original hedge which was the same as the properly maintained hedge on our side. The current occupant has not maintained the hedge as they should have, despite being asked to trim it back. As such the new owners should note that this is unacceptable and we would expect the Laurel hedge to be maintained.



Estimated height & Width of new building

These are the views from our bedroom window, you can clearly see the full extent of the roof of the existing bungalow is visible. Only the overgrown hedge is obscuring the view and is now blocking light to our property. When the foliage goes in winter the full building is clearly visible. The privet hedge is 8ft high with the Laurel towering and encroaching above it.

Therefore, it must be noted that the documents provided are in fact **misleading, not produced in line with the requirement from CIEEM and therefore these must be disregarded and replaced with surveys carried out by an approved member of the CIEEM.**

The proposal is also not in accordance with Kirklees Local Plan section 13, in particular sections 13.33 to 13.36.

- **Fire Safety**

I would question if this development meets the requirements of Building Regulations 2010, in particular the requirements required for fire safety as described in Approved Document B, Volume 1 Dwellings, Requirements B4 External Fire Spread and B5 Access and Facilities for the Fire Service.

- In the unfortunate event of a house fire, moving the house 410 even closer to the trees than the present house and much taller, is likely to create an increased risk to the tree canopy and subsequently increased risk to surrounding property. The applicant's documents show the house higher than the trees, this would obviously be incorrect we would hope.
- As the property is down a narrow private road, already occupied by more than 5 dwellings and more than 20 meters from the main road there is a requirement for a turning circle to be maintained for the fire service appliances as described in the document. Looking at the plans it would appear to us that this requirement is not being met.

The following table is taken from West Yorkshire Fire & Rescue Fire Safety – Public Advice Notice;
Access for Fire Appliances Ref FS- PAN010; Issue 05/05/2015, Version: 6.0

Appliance Type	Pump	High Reach(Aerial)
Minimum width of road between kerbs (m)	3.7	3.7
Minimum width of gateway (m)	3.1	3.1
Minimum turning circle between kerbs (m)	16.8	26.0
Minimum turning circle between walls (sweep circle)(m)	19.2	29.0
Minimum clearance height (m)	3.4	4.0
Minimum carrying capacity (tonnes)	24	24

Based upon the current plans submitted none of the above minimum requirements can be met and complied with. As these building will only be easily accessible from one side we would envisage that High Reach(Aerial) appliances may be required to reach the other side of the properties.

- Adding extra parking and vehicles would also add to the congestion, confusion and danger in case of fire. Reducing the capability of the Fire Service to fight such an event. As such parking for the number of vehicles proposed for two 'ordinary houses' is excessive.

- **Sustainability**

Kirklees Policy in achieving sustainable development states;

When considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

How does "take a positive approach that reflects the presumption in favour of sustainable development" comply when two relatively newly built , desirable and modern dwellings are being proposed to be demolished and replaced with structures that are substantially bigger than what is already in place.

We would also question the statement within the policy “the council will always work pro-actively with applicants to find solutions to improve the environmental conditions in the area”. The current proposal will require mass destruction of a protected woodland area. This is NOT an improvement to the environment.

- The ‘Home Office’ and Garage for property 412 would appear to be very large. The plans appear to show five desks, bathrooms with toilets and showers, in a ‘Home Office’ is this change of use in order to run a business from this address? Why the need for parking of 15 vehicles if it is for two five bedroom houses? This appears to be a change of use to create office space.
- The land was sold to Mr MacGill with a covenant from the Church of Latter Day Saints that ‘2 dwelling houses on the land’ only were to be built. (See Title Deed WYK347005 HM Land Registry, charges Register point 4 - *A Conveyance of the land in this title dated 10 June 1985 made between The Church of Jesus Christ of Latter-day Saints (Great Britain) (Vendor) and (2) Kerry Michael Peter MacGill and Janet MacGill (Purchasers) contains the following covenants:-"The Purchasers hereby further jointly and severally covenant with the Vendor for the benefit of the Vendor's adjoining land shown edged green whosoever hands the same may come that they will not erect more than two dwellinghouses on the land hereby conveyed and that no alcoholic drink shall be sold thereon."*

The current garages are already as big as some houses, this land is already incorrectly overdeveloped which is prohibited in the deeds to the property as above. We object to this proposal.

- The addition of car parking allowing 15 vehicles would, if you include the other houses already on this private lane, in my opinion cause significant issues on the egress of these vehicles into Birkby Road. It is very common for Birkby Road to be at a standstill at the point that this lane joins Birkby Road so close to the traffic lights, especially at peak hours.
- There appears to be an open ‘Hot tub’ in the corner between property 410 and our neighbours and ourselves. Again we would object to this on the grounds of disturbance and noise that this could create.
- As previously mentioned the existing two properties are already large and desirable, not derelict. As the application itself says they are relatively modern with 410 being built around 2005 and 412 in 1990. These properties are not unfit for purpose. How does demolishing these properties and rebuilding them fit in with Kirklees Council’s and Government’s commitments to the environment and ecological requirements. It is just wanton destruction!
- The design proposed is totally out of character for the area.
 - The stone proposed is not in keeping with the surrounding properties.
 - The properties closest to the proposed developments are all bungalows.
 - Little garden will be left for 2 large properties, such is the terrain any remaining land is steep banking into the woodland area. Already the rear garden, in places, is held up by metal crates containing stones.
- The current drain system for sewage is to the best of our knowledge a pump system. I would question if this would be sufficient for such large houses and garages with showers and toilets?
- We have not seen any public planning notices on the lamp posts on Birkby Road for these developments , why, have they been illegally removed?

Due to the above issues we strongly object to the proposal made and would ask Kirklees Planning to reject this application!