

Dear Mr. Walstow

**OBJECTION TO APPLICATION: 2022/94073 (the 'Proposed Development' or the 'Application')
94B New North Road, Edgerton, Huddersfield HD1 5QP (the 'Application Site')**

We are the owners of the neighbouring property to the Application Site, no. 92 New North Road, a Grade II Listed Building.

We object to the Proposed Development for the following reasons and identify significant deficiencies in the Application, such that as a matter of law, this Application cannot be granted.

Listed Building and Conservation Area

It is of course accepted that no. 94 and 94B are not in themselves listed buildings. However, our building at no. 92 (Listed Building UID: 1279242) and nos. 96 to 98 are listed buildings (Listed Building UID: 1279155) and their affiliated curtilage features are both sets of Grade II listed buildings.

The property known as the 'Coach House' is likely curtilage listed building pursuant to s.1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, associated with no. 92, though is in separate ownership. However, this may not have been the case historically and therefore an examination by the Council as to the listed (or not) status of the Application Site is required.

Is the Application Site Curtilage Listed Building?

Obviously ownership areas are different and may have changed over the years. The Coach House being an example.

However, having examined the all too brief Heritage Statement submitted with the Application, the applicant simply states that (our emphasis): *"It is assumed that the building to which the application relates is probably a stable and lodge that was once part of non listed number 94."*

This completely misses the point and does not provide a definitive position as to whether the Application Site is or is not curtilage listed.

For this to take place, the applicant should be challenged to show why this Application Site does not amount to being curtilage listed building, thereby requiring listed building consent, which would mean that the applicant is therefore breaching or otherwise facilitating this breach of planning control, which in the case of a listed building would also be a criminal offence.

The 'Heritage Statement' associated with the Application

The Heritage Statement compiled by Messrs Space Architecture and Design Ltd. submitted with the Application has been considered. This falls way short of what should have been submitted in order to justify the granting of this Application.

There is no reference or deference to the Application Site being within the historic grounds of and adjacent to several listed buildings and structures, nor any reference to the impact on the Conservation Area against which it all sits.

The law (not policy, but the law) is clear in this respect.

Section 66(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 ('PLBCAA') requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any special features of special architectural or historic interest which it possesses.

Furthermore, section 72(1) of PLBCAA requires that with respect to any buildings or land in a conservation area, then in the exercise of its planning functions special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.

The Heritage Statement submitted with the Application falls considerably short in this case, with no real reference of deference to the setting of any listed buildings and structures, nor the preservation or enhancement of the character or appearance of this long-established conservation area.

Leaving any comment that the Application Site may amount to curtilage listed building pursuant to s.1(5) PLBCAA, which has been set out above, the planning aspect of this matter still requires that such an application must be determined in accordance with the statutory development plan for the area, unless material considerations indicate otherwise (s.38(6) Planning and Compulsory Purchase Act 2004).

The statutory development plan for the area is the Kirklees Local Plan (adopted 2019). As such, Policy LP35 (historic environment) is engaged. There is not one reference to such a policy anywhere in this Application, with no reference or assessment in accordance with the definitions in the Glossary of the Local Plan as to what constitutes a Designated Heritage Asset and conversely what may amount to a non-designated heritage asset in the context of this Application.

The National Planning Policy Framework ('NPPF') is also a significant material consideration in this respect. In particular, chapter 16 of the NPPF is engaged (paragraphs 189 to 208) is engaged.

There is no reference to any Local Plan or any policy consideration in the NPPF, let alone any reference or examination with respect to this Application.

Quite simply, the Heritage Assessment falls way short of anything that could allow the Council to discharge its statutory duties in relation to the Application Site and this Application overall.

Potential Change of Use - Multiple Residential Properties

The introduction of a new first floor is not of itself offensive, but two issues arise when one considers the existing and proposed drawings.

The first is that where the building is found to be curtilage listed, as described above, which we submit that there is a more than reasonable chance that it may well, this internal and external building work requires Listed Building Consent.

The second is that on closer examination of the existing/proposed plans, it is increasingly obvious that the intention is effectively two or even possibly three separate flats. One property appears from the submitted plans to be turned into a complex of at least two separate flats.

This clearly is an application for a change of use as well as physical operational development.

A change of use from one residential unit to two or more residential units.

The Applicant should be challenged on this point and where this is not correct, the Council must safeguard this from occurring, or have this or a future application administered and determined as an application for a change of use as well as physical development.

The Application does seemingly attempt to brush over this, but the introduction of a further floor and the proposed layout as submitted does clearly lead to a high degree of suspicion as a minimum, as well as the clear requirement for the Application to be considered as a planning application for a change of use, from one residential property to two or more, or indeed a HMO, or similar. The intended use of the property is murky, ambiguous and unclear.

Where a change of use is intended, then there must be clear assessment in respect of s.66 and s.72 PLBCAA, as well as a full assessment of the impact of multiple residential (or other) units on the setting of heritage assets, including the character and appearance of the Conservation Area.

Highways and Parking

The above leads in part to issues of parking. Where there is more than one residential unit, then this has implications for parking.

Local Plan Policies LP21 and LP22 are engaged, yet there is no comment or even assessment by the Applicant in this respect. The Council as both LPA and Highway Authority needs to understand whether this is one or several residential units, or in the alternative what other use may be intended. An assessment against highways and parking requirements can only be carried out when this is operationally understood and properly assessed, as well as appropriately conditioned if applicable.

Where this is not a change of use to two or three flats, then we have a situation whereby a four/five-bedroom house has only one parking space, with only one access, over our land.

The parking on site is presently limited to just one unofficial parking area outside of the building, within the red line of the Application Site.

This is a useful segue to addressing the issue of the red line of the Application Site.

Application and Ownership: Red Line/Blue Line

The red line of the Application Site covers the building itself, as well as the access line through our property from Cemetery Road, but does not cover the back lane. Not even a blue line denoting ownership covers this. The reason is that the owners of the Application Site do not own the back lane.

Nevertheless, the drawings submitted with the Application (Reference: 28.008(2-) 001 Rev C) clearly shows that the bottom floor (lower ground), possibly the lower ground flat, having two large patio-type opening doors out onto the area of the back lane, which is not a public right of way, not an adopted road or any other kind of highway, to the best of our knowledge.

However, the point is, that the owner of the Application Site does not control or own this land, yet is having fenestration and piercing changes that would mean that access and egress onto this back lane area is facilitated, though it is not part of the red line.

We in fact have the strongest reason to believe that the owners of the Application Site are looking to use the back lane area as a parking area or other amenity space. However, as the red line of the Application does not cover this, this cannot occur through this Application.

Neither can parking for the Application be achieved on the back lane, again because the owner of the Application Site, does not own the back lane land.

Nevertheless, this has not prevented the owner of the Application Site from carrying out engineering works on the back lane.

There is no further parking associated with the Application Site, though we have reason to believe that the owner is trying to create alternatives on the back lane land (which we shall refer to as back lane, even though it is not a PROW or road), which is not a part of the property and the applicant does not own.

Moreover, in carrying out engineering works to the back lane, they have compromised our rear boundary retaining wall (this retains the car park area above), which we have had to engage the Council on, as well as are going to have to spend large sums of money resolving this issue, as well as liaising with the owner of the curtilage listed building known as the Coach House.

Overall, the owner of the Application Site does not own the back lane and cannot expect to have rights on the back lane, but appears to be trying to engineer (physically and otherwise) possible parking and amenity space, outside of the red line of the Application, on land that it does not own.

Steps and Decking

We would finally wish to comment on the external timber steps and decking area which was on the back lane until recently, but has now been removed.

Apart from the fact that these do not appear to be included in the official planning history or the site, the owners have submitted in the Heritage Statement that: *"The existing external timber steps will be repaired as required."*

However, these have very recently been removed altogether during the course of the above-described engineering works that have compromised our boundary wall, but also this is irrelevant as

the external timber steps and platform area are again outside of the red line of the Application and existed on land not owned by the applicant.

Summary of Objection

This Application could not lawfully be granted in its present state.

It is not known whether the building amounts to being curtilage listed building pursuant to s.1(5) PLBCAA and requires separate Listed Building Consent.

Also, the Heritage Statement submitted as part of the Application falls well short of any planning requirement in this context, before we even get to its clear legal shortcomings.

Furthermore, it is clear that this Application may in fact be for multiple flats or mixed or other occupation, which clearly the present Application does not address or provide clarity on.

Following the above, but also generally, there are clear issues with highways and parking on the site, which have not been in any way addressed by the Applicant.

The red line of the Application omits land on the back lane which it is clearly attempting to use but does not own (hence why it is not in an adjacent 'blue line').

The wooden steps and platform area have been removed but are/were incidentally outside of the red line and it appears (unless the Council can tell us otherwise) to have been constructed before their recent removal in breach of planning control.

It is submitted that the Applicant should be made to:

- 1) Establish whether or not the Application Site amounts to being curtilage listed pursuant to s.1(5) PLBCAA
- 2) Establish whether Listed Building Consent for any works pursuant to PLBCAA is required
- 3) Defer to and provide a full assessment against Local Plan Policy LP35 (Historic environment)
- 4) Assess the Application against the requirements of s.66(1) PLBCAA
- 5) Assess the Application against the requirements of s.72 PLBCAA
- 6) Clarify that this is to remain one residential property, not multiple properties
- 7) Clarify plans and arrangements for highways access and parking (we would submit that this requires analysis and swept-path assessment) for what will be a four/five bedroom property
- 8) Clarify its intentions towards the back lane, which it has already carried out engineering works on, which has already damaged and compromised a boundary wall of our listed building, which retains the car park

To grant this Application without the above, in sufficient and appropriate detail, would leave such a permission challengeable and in any event would not represent sound planning when the Application Site sits amongst and within heritage assets. The Council has no such detail beyond doing a significant and resource intensive assessment of its own accord. The Council as LPA has clear legal powers to request such further information, which in our submission should require re-publicity and re-consultation, particularly of the Council's Conservation consultee(s).

For this reason alone, the granting of this Application would be unlawful. Nevertheless, we have also identified other shortcomings and significant interventions.