

Planning Statement

Planning application for the change of use of land, and associated works, into domestic garden.

Holly Bank House, Haigh Lane, Flockton, Wakefield, WF4 4BZ

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I. INTRODUCTION

- I.1 Plande has been appointed to submit a supporting statement for the change of use of land, and associated works, into domestic garden at Holly Bank House, Haigh Lane, Flockton, Wakefield, WF4 4BZ



Figure I: Location Plan

- I.2 This statement, which should be read in conjunction with the supporting information submitted with the application, aims to give an appraisal of the planning issues and merits in context with planning and other policies, guidance, and material considerations.
- I.3 This planning statement seeks to provide an overall summary of the existing site and surroundings; the relevant planning history of the site, and to provide justification for the proposed works, in the context of the local surroundings, in order to support Kirklees Council in the determination of this proposal and demonstrate that the proposed works comply with the policies of relevance within the Development Plan. The report is structured in the following format:
- Section 2: Site & Surroundings
 - Section 3: Planning History
 - Section 4: The Proposal
 - Section 5: Planning Policy Framework
 - Section 6: Scheme Assessment
 - Section 7: Conclusion
- I.4 This statement has been prepared for the exclusive use of the applicant as part of their planning application and in accordance with the agreed scope of the project. The document may not be reproduced in whole or in part, without the prior written consent of Plande. The copyright in this document (including its electronic form) shall remain vested in Plande. Plande will not be liable for the contents or use of this document by any person for any purpose.

2. SITE & SURROUNDINGS

- 2.1 Holly Bank House, Haigh Lane is a two-storey detached dwelling located in Flockton, Wakefield. It is constructed of natural coursed stone, with a dual-pitched roof finished in slates.
- 2.2 The applicant property is one of three modern residential dwellings, constructed c. 2017/2018, on the site of a former plant nursery. The dwelling is of traditional design, and benefits from an attached double garage and off-street parking. There is a large garden/amenity space to the south-western side of the dwelling.
- 2.3 The application site is located within the Green Belt, in a rural area.



Figure 2: Rear view of the property and Hawthorn House.

- 2.4 To the northwest of the property are open fields. To the northeast is 'The Willows', and to the southeast is 'Hawthorn House', both residential properties constructed as part of the residential development of the former plant nursery site. To the south-western side of the dwelling is a garden area associated with the property.

3. PLANNING HISTORY

3.1 A planning history search illustrates the following relevant planning applications for the site:

- 2021/62/92302/E- Erection of single storey extension to rear, juliet balconies to rear and associated alterations. Granted 02 August 2021
- 2017/90160 - Erection of detached dwelling (modified proposal). Conditional full permission. Granted 17 March 2017
- 2015/90003 - Demolition of existing buildings and erection of 3 dwellings. Conditional full permission Granted 04 August 2015.

4. THE PROPOSAL

4.1 This retrospective planning application is submitted following the issue of a Planning Contravention Notice by Kirklees Council on 21.12.2023, which identified the breach of planning control as *“Unauthorised change of use from green belt land to domestic garden (residential land), including engineering operations to raise the land levels and the installation of a hard surface.”*

4.2 The applicants purchased the newly constructed property in December 2019, along with a parcel of land sold as a paddock to the southwest of the dwelling. At the time of purchase, the garden area belonging to the property had been laid to lawn with turf, and this was demarked from the ‘meadow’ land which had been sown with grass seed. The applicants believed the ‘meadow’ to be green belt land, and have done no works to this piece of land since moving into the property.

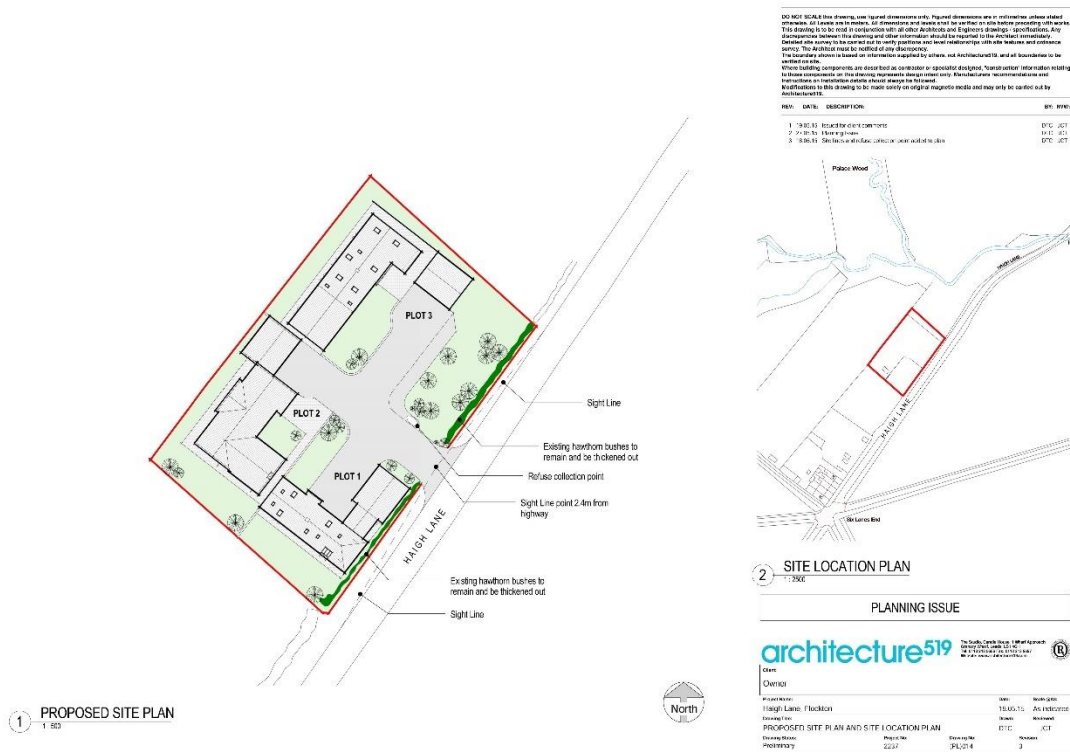


Figure 3: Site plan of the development granted by permission 2015/90003.

4.3 In 2021, the applicants were granted planning permission to extend their property to the rear. The site location plan for this application highlights the land ownership of the applicants, see figure 4.



Figure 4: Site location plan from application 2021/62/92302/E showing applicants ownership.

- 4.4 Since moving into Holly Bank House, the applicants experienced a number of issues with water in the garden. It is understood that a collapsed septic tank belonging to the row of terraced houses to the south of the site, along with the blocking of a natural culvert during the construction of the dwellings caused a significant volume water to accumulate on the applicants land due to the natural fall of the land, and flow into the garden of Hawthorn House.
- 4.5 In order to resolve the drainage issues, the applicants were advised to construct a retaining wall within their garden area, to prevent the water from flowing down into Hawthorn House. This work, combined with the replacement of the collapsed septic tank, and the creation of a new culvert in the adjacent field has resulted in significantly less water on the land, and no flooding issues to the neighbouring property.
- 4.6 The drainage and water issues on the meadow resulted in a large amount of soil being eroded from the site. This soil erosion revealed large amounts of glass, tyres and building waste in the ground, both in the garden areas and the meadow. Following resolution of the drainage issues, and removal of the dangerous waste from the ground, the eroded soil was replaced with additional top soil in order to make the site safe for the applicants children and animals to use, and to restore the natural ground levels.

5. PLANNING POLICY FRAMEWORK

5.1 In accordance with S.38 of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, this application should be determined in accordance with the relevant Development Plan policies unless material considerations indicate otherwise. For the purposes of this determination, the Development Plan comprises:

- Kirklees Local Plan Strategy and Policies (Adopted 27 February 2019)
- Supplementary Planning Documents
 - Housebuilders Design Guide SPD, June 2021
 - House Extensions and Alterations SPD, June 2021

KIRKLEES LOCAL PLAN

5.2 This section provides the background to the development plan and identifies the relevant policies below.

5.3 Policy LP58 Garden extensions, states that proposals to change the use of land in the Green Belt to a domestic garden will not normally be permitted. Where it can be shown that very special circumstances exist that would warrant allowing the proposal, consideration will need to be given to the following;

- a. the degree, location and orientation of the enclosure, which should cause least harm to the openness of the Green Belt; and that
- b. the means of enclosure is appropriate to its setting and is of a high quality of materials and design.

Permitted development rights for structures such as garages, sheds, greenhouses or other ancillary or incidental buildings or structures may be removed if it is considered that they would subsequently result in an unacceptable intrusion of urban character into their Green Belt setting.

5.4 Policy LP24 Design, states that good design should be at the core of all proposals, and sets out a number of factors that should be considered to promote good design, including providing a high standard of amenity for future occupiers.

HOUSEBUILDERS DESIGN GUIDE SPD

5.5 Principle 17, Outdoor space, states that all new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.

NATIONAL PLANNING POLICY FRAMEWORK

5.6 The National Planning Policy Framework (NPPF) was published in 2012 and last revised in December 2023. The aim of the NPPF is to ensure there is a presumption in favour of sustainable development and that positive planning solutions are found to ensure development is brought forward. The NPPF is a material consideration in planning decisions as outlined in Paragraph 2 of the NPPF and Section 38(6) of the Planning and Compulsory Purchase Act 2004.

5.7 Sustainable development is broadly defined in Paragraph 8 of the NPPF as having three overarching objectives which are independent and need to be pursued in mutually supportive ways:

- a) An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using

natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

- 5.8 The NPPF sets out Government planning policies for England and how these are expected to be applied. Paragraph 11 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and that a presumption in favour of sustainable development is at the heart of the NPPF. For decision-taking this means:
- Approving development proposals that accord with the development plan without delay; and
 - Where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework as a whole; or
 - Specific policies in the Framework indicate development should be restricted.
- 5.9 Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way and should work proactively with applicants to secure development that will improve the economic, social and environmental conditions of the area.
- 5.10 Paragraph 47 states that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.11 Paragraph 55 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions.
- 5.12 Paragraph 127 states that local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.
- 5.13 Paragraph 135 (f) states that developments should ‘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 and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 5.14 The National Planning Policy Framework provides the following information in relation to Proposals affecting the Green Belt:

142. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

143. Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

152. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

153. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
 - not have a greater impact on the openness of the Green Belt than the existing development; or*
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”*

5.15 Promoting sustainable development is a key component of the NPPF and a substantial weight is given to encouraging economic growth with planning authorities being required to apply the presumption in favour of sustainable development.

6. SCHEME ASSESSMENT

- 6.1 The following section will consider the compliance of the proposal with the Development Plan policies and material considerations for the application. It provides an analysis of the main planning matters related to the principle and a more detailed, policy-orientated assessment of planning considerations.

PRINCIPLE OF DEVELOPMENT

- 6.2 Considering the NPPF as a whole, it is important to note that the main purpose of the NPPF is to contribute to the achievement of sustainable development. Paragraph 8 states that “*Achieving sustainable development means that the planning system has three overarching objectives which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives)*”.
- 6.3 At Paragraph 7, the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 further states that, at a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 6.4 At Paragraph 11, the NPPF sets out a presumption in favour of sustainable development, which requires decision takes to approve applications that accord with the Development Plan without delay.
- 6.5 It is suggested that the drainage and landscaping works have been undertaken to address issues with the site, and that the proposals will help to improve the living conditions of the occupiers of the property and the neighbouring properties.

CHANGE OF USE OF LAND IN THE GREEN BELT TO DOMESTIC GARDEN

- 6.6 The land ownership of the applicants falls into two areas; an area of domestic garden granted permission by application 2015/90003, and the meadow, a separate parcel of land purchased by the applicants.
- 6.7 The applicant believes that the extent of the domestic garden associated with the property falls in line with the garden and fencing of the neighbouring property, ‘Hawthorn House’, and is aware of the distinction between domestic garden and other land within the green belt. Since their occupation of the property, the applicants have been careful to ensure that their domestic activities remain within the domestic curtilage, and do not go beyond the line of the neighbouring fencing. The applicants have carried out drainage works to their property in good faith that they were not encroaching into Green Belt land.
- 6.8 It is clear from reviewing the planning documentation that the southwestern boundary of the site approved by application 2015/90003 (see figure 3) is not located in the same place on the later drawings approved under application 2021/62/92302/E (See figure 4), which indicate a larger domestic curtilage to both the application site and Hawthorn House.
- 6.9 Land registry documents indicate that Hawthorn House, and a parcel of land to the rear of the property were purchased by the owners of Hawthorn House in April 2018. It is assumed that fencing was erected surrounding the land ownership of both the garden area and additional land at this time.
- 6.10 Subsequently, when the owners of Holly Bank House purchased their property in December 2019, they believed that their domestic curtilage extended as far as the fencing of the neighbouring property, and the land beyond the fencing was their paddock / meadow.
- 6.11 Policy LP58 of the Kirklees Local Plan makes it clear that the change of use of land in the Green Belt to a domestic garden will not normally be permitted, unless very special circumstances apply. Where very special circumstances exist, consideration would need to be given to the degree, location and orientation of the enclosure, which should cause the least harm to the openness of the Green Belt, and that the means of enclosure is appropriate for its setting.

- 6.12 The NPPF does not define what “very special circumstances” are however it is suggested that the following could be considered:
- The “quality” of the existing context – it’s location, openness, setting and relationship to open land and other development
 - Whether the proposals have an actual impact on the green belt and it’s openness.
 - Fall-back

6.13 It is suggested that special circumstances exist, namely that the boundary fencing of the adjacent property has been positioned incorrectly.

6.14 The following sections will seek to justify very special circumstances and should be taken into consideration in support of the proposals.

VSC - IN RELATION TO THE GREEN BELT GENERALLY

6.15 Taking each of the five purposes of the Green Belt in turn, it is suggested that the proposals do not materially affect the purposes that it serves and therefore are not fundamentally harmful to the Green Belt.

6.16 The property sits within a ribbon of development and therefore any extension to the garden boundary will not lead to neighbouring towns merging into one another.

6.17 While the garden has a larger area than that originally approved by application 2015/90003, it is suggested that the meadow continues to act as a buffer between the domestic curtilages of the recently constructed residential properties on the former plant nursery site and the older terrace of properties at the junction of Haigh Lane and Common Lane.

VSC - IN TERMS OF OPENNESS

6.18 Whilst it is appreciated that inappropriate development is, by definition, harmful to the Green Belt it is suggested that within both the Local and National Policies and guidance, the key themes and phrases relate to openness.

6.19 In this case the boundary between the domestic curtilage and the Green Belt land has been clearly marked by the low level retaining structure installed as part of the drainage works. This change in ground level visually separates the two areas, but does not compromise the openness of the green belt. The retaining structure is constructed from high quality materials that are inkeeping with the design of the house.

6.20 It is suggested that the boundary treatment between the Green Belt land and the residential garden, retains the openness of the Green Belt, and that the re-positioning of this retaining wall in its original approved location would have little or no effect on the openness of the Green Belt.

6.21 The NPPF requires local planning authorities (LPA) should ensure “substantial weight” is given to any harm to the Green Belt. The section above, highlights that generally there is no fundamental harm to the Green Belt in terms of the purposes it serves.

VSC – LOCATION WITHIN CONTEXT

6.22 The site has a long history of development, being in commercial use as a plant nursery since the early 1990’s. As such it is suggested that development of the site is not as sensitive as within a typical rural or open countryside locations.

VSC - IN TERMS OF PRECEDENT

- 6.23 The following application within the wider Kirklees area serves as a precedent where the change of use of agricultural land to domestic garden has been approved. While it is appreciated every application should be taken on its merits, the following application clearly highlight a precedent for similar approvals.
- 6.24 2017/62/91608/W – 9 Halifax Road, Scapegoat Hill, Huddersfield HD7 4NS – Change of use of agricultural land to domestic and erection of rear extension – Granted 09 February 2017.
- 6.25 The officer’s report concluded that *“while the impact of the manifestation of the use as domestic land is noted as is the harm through inappropriateness in the Green Belt, in the context and setting of the site this is not considered undue. It is noted that no built development is proposed which is beneficial. In light of this it is considered that there are very special circumstances in favour of the proposal which clearly outweigh the limited harm caused to the Green Belt by reason of inappropriateness.”*
- 6.26 It is suggested that in this case very special circumstances would apply, and that the degree of enclosure afforded by the proposals is appropriate for the setting. It is therefore suggested that the works are in accordance with Policy LP58 of the Kirklees Local Plan.

PROVISION OF GARDEN SPACE

- 6.27 It is an established expectation that dwellings have private gardens, and that a generously proportioned 4 bedroomed property would have a garden of an appropriate size of useable amenity space to accommodate a family. The original planning approval shows a distance of c. 4.7m between the dwelling and the northwestern boundary of the site, and a distance of c. 7.6m between the dwelling and the southwestern boundary of the site. It is suggested that a rear garden depth of c. 7.6m is relatively small in scale for the size of the dwelling, and that the proportions of this space, across the full width of the property but of limited depth, restricts the useability of the family garden.
- 6.28 Principle 6 of the Housebuilders Design Guide Supplementary Planning Document, although not adopted policy when the dwelling was constructed, requires residential layouts to maintain high standards for residential amenity. Paragraph 7.19 advises that for a two storey house a distance of 10.5m between a habitable window and the boundary of adjacent undeveloped land is required. It is suggested that the garden areas created under the original approval were not proportionate in scale to the size of the dwelling, and did not create an appropriate quantity or quality of outdoor private amenity space.
- 6.29 It is suggested that the purchase of additional land to supplement the garden area of the dwellings by both the owners of Holly Bank House and Hawthorn House indicates that neither owner believed that their property benefitted from sufficient useable garden area.
- 6.30 It is therefore suggested that the proposals conform with Principle 6 of the Housebuilders Design Guide Supplementary Planning Document and should be considered acceptable in this location.

IMPACT ON NEIGHBOURING AMENITY

- 6.31 The proposals were carried out to address drainage issues that were impacting the neighbouring property. As such it is suggested that the proposals have had a beneficial effect on neighbouring amenity.
- 6.32 In terms of the garden extension into the Green Belt, the proposed extension to the garden area sits in line with the neighbouring boundary fencing, therefore it is suggested that there is no adverse impact on neighbouring amenity in terms of privacy, or overlooking.
- 6.33 With regards to the change in site levels, as previously described, this work was to restore the natural ground level of the site following soil erosion by drainage issues. It is suggested that there is not detrimental impact in terms of neighbouring residential amenity to these works.

7. CONCLUSION

- 7.1 The proposed development seeks planning permission for the change of use of land, and associated works, into domestic garden at Holly Bank House, Haigh Lane, Flockton, Wakefield, WF4 4BZ
- 7.2 The works were carried out in response to drainage issues on site following construction of the dwellings and the repair of a collapsed septic tank on adjacent land. The garden boundary was understood to be in line with the boundary of the adjacent property, Hawthorn House, and all works were confined to the residential curtilage.
- 7.3 It is considered that the change of use of the Green Belt land would not materially impact the 5 purposes that the Green Belt serves, and is therefore not fundamentally harmful to the Green Belt. The boundary treatment between the Green Belt land and the residential garden, retains the openness of the Green Belt, and the meadow land continues to serve as a buffer between the residential curtilage of the development on the former plant nursery site and the existing nearby terrace of dwellings.
- 7.4 It is considered that the proposal would align with policy LP58 of the Kirklees Local Plan in that very special circumstances exist, and the degree, location and orientation of the enclosure is appropriate to the setting and of high-quality materials.
- 7.5 It is considered that the increase in the residential garden size creates an external amenity space that is well proportioned, and appropriately sized in relation to the dwelling, in accordance with Principle 6 of the Housebuilders Design Guide Supplementary Planning Document.
- 7.6 It is considered that the engineering works undertaken to improve the drainage of the site and the clearance of dangerous debris from the site and subsequent replacement with topsoil demonstrably outweighs any harm to the Green Belt that has been caused by the incorrect positioning of the boundary to the residential curtilage.
- 7.7 It is therefore respectfully requested that the application is approved. In the event that Kirklees Council do not agree with this view, the applicant would seek to engage with the authority to secure a solution, in line with the NPPF.