



CAROLINE TAMWORTH PLANNING

Planning and Development

FULL PLANNING APPLICATION

**RETENTION OF 13 NO. DWELLINGS WITH ASSOCIATED ACCESS ROAD AND
LANDSCAPING (PART RETROSPECTIVE)**

LAND SOUTH OF 5 – 25 CLAY WELL, GOLCAR HUDDERSFIELD

PLANNING, DESIGN & ACCESS
STATEMENT

Prepared by Caroline Tamworth Planning

On behalf of

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Planning Applications and Appeals, Change of Use
Applications, Development Potential Appraisals,
Conservation Areas & Listed Buildings, Planning
Enforcement Issues

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1.0 The Site

1.1 The application site comprises a substantially complete residential development site consisting of 13 No. two and three storey dwellings served by a cul-de-sac, Hillcrest View. An earlier phase of development, covered by a separate planning permission, to the east and south east was completed in 2021 and the dwellings were sold and are occupied. The second phase of the development is that contained within the site edged red and the subject of this part retrospective planning application. The majority of the plots have already been sold and are occupied.



Plot 1 – No. 21 Hillcrest View



Plot 2 – No. 23 Hillcrest View



Plot 3 – No. 25 Hillcrest View



Plots 4 & 5 – No's 27 & 29 Hillcrest View



Plots 6, 7 & 8 – No's 38, 36 & 34 Hillcrest View



Plots 9, 10 & 11 – No's 32, 30 & 28 Hillcrest View



Plot 12 – No. 26 Hillcrest View



Plot 13 – No. 24 Hillcrest View

1.2 Access to the site is via Hillcrest View, a new tarmacadamed access road leading off Carr Top Lane, which has been created to serve both phases of the residential development.

1.3 The land within the general area and on the site slopes quite steeply downwards from north to south with No's 5 – 25 Clay Well sitting at a much higher level than the development site to the north and the phase 1 dwellings of Hillcrest View sitting at a lower level to the south and east. Aside from an area of open land to the west, the surrounding area is residential in character with a predominance of two storey stone built terraces.

2.0 Planning Background

2.1 Planning permission for the residential development of the site for 13 dwellings was granted in February 2022 under planning application 2021/91384.

2.2 Several applications for approval of details reserved by the conditions attached to 2021/91384 were subsequently submitted to the Council for consideration.

2.3 In July 2022 an application seeking approval for the variation of condition 2 of 2021/91384 was submitted to the Council (2022/70/92334/W). The application sought various amendments to the plot designs including, but not limited to, the addition or deletion of windows, deletion of chimneys, recessed balconies, parapet verges and stone detailing and increased eaves and cill heights. Amendments to plot positions, staircases and driveways were also included. The planning officer listed the amendments to the plots within the delegated report as follows:

Plot 1

Gable window to study omitted
Eaves height to front elevation lifted
Chimney stack omitted
Vaulted ceiling omitted, altering the window to bedroom 1
Cill height to kitchen increased

Plot 2

Gable window added to first floor en-suite
Gable window added to first floor bedroom
Eaves height to front elevation lifted
Vaulted ceiling omitted, altering window to bedroom 1
Chimney stack omitted

Plot 3

Gable window added to first floor bedroom
Chimney stack omitted
Eaves height to the front elevation lifted
Vaulted ceiling omitted, altering window to bedroom 1
Recessed balcony omitted
Lounge French doors altered to window
Garage extended to rear building line
Amendments to garage door and front door design

Plots 4 and 5

Gable windows removed from lounge on plot 4
Gable windows removed for bedroom 3 on both plots
Parapet verge detailing omitted
External chimney stacks amended to be roof only
Gable windows removed from bedroom 2 on both plots
Quoins on gable omitted
Lower ground floor area increased

Plots 6, 7 and 8

Gable windows removed from the guest room on plot 6
Parapet verge detailing omitted
Cill heights to kitchens increased
Quoins to gable omitted

Plots 9, 10, 11

Parapet verge detailing omitted
Unit 10 – front windows amended
Cill height to kitchens increased
Quoins to gable omitted

Plot 12

Parapet verge detailing omitted
Quoins to gable omitted
Feature window to front elevation amended
Detail band removed
Roof pitch amended (increased in height by 1m)

Plot 13

Roof pitch re-designed (front to back as opposed to gable as granted)
Change to the window design to the study

Site layout alterations

External steps to the left hand side of plot 1 added as opposed to sharing with plot 2
External steps to plot 3 moved to the right hand side
Steps to plots 4 and 5 amended
Drive to plot 5 amended
External steps to plots 6, 8, 9 and 11 amended
Plot 12's parking increased/amended
Plots 13's position amended
Plots 6 -8 moved south easterly

2.4 Work continued on site during the eight months that the application was under consideration by the Council and the scheme that was implemented was that that was the subject of the variation of condition application.

2.5 In January 2023 the applicants, Brierstone Newsome Ltd, went into administration. When the decision on the application was issued in March 2023, due to the circumstances, it did not reach Brierstone Newsome Ltd and the deadline to appeal against the refusal of the application passed. An enforcement notice was subsequently received by Brierstone Newsome Ltd, the landowner. The enforcement notice included plots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 but excluded plots 1 and 13 as the Council were aware that these plots had already been sold and took the view that it was not expedient to pursue enforcement action. The Council were informed that plots 2, 3 and 12 had also been sold since their last communication with the applicant's accountants in August 2023. This information was

provided at paragraph 1.1 of the applicant's Statement of Case of the enforcement appeal lodged against the enforcement Notice on 7th November 2023 (APP/Z4718/C/23/3332696), but the Council did not respond to this information and the appeal progressed with the Council submitting its appeal questionnaire on 29th January 2024.

3.6 On 13th February 2024 an email from the Council's enforcement officer was received stating the following:

"It has been brought to our attention that several of the plots subject to the Notice have been sold. Due to this, the Council feels that we have no other option but to withdraw the Notice and reserve it immediately, so that all the owner/occupiers of the land have the opportunity to appeal.

If we can agree to this route forward, you can appeal on the same grounds, use the same appeal documents/material you have already prepared for the current appeal, and we can transfer the fee you have paid over to the new appeal. The only difference will be that the new Notice will be served on the owner/occupiers too, meaning that they can submit their own appeals to the Notice should they so wish."

3.7 At this point the appeal had been with the Planning Inspectorate for three months with the six week deadline due on 26th February. The applicant had no option but to agree to the suggested course of action but was, and remains, understandably extremely concerned about the impact that the delay would have on the completion of the plots and sales and in turn the financial implications. The Council undertook to re-issue the Notice immediately. However, the Notice was not re-issued until seven weeks later on 2nd April 2024 adding a further significant delay. Furthermore, the applicant was informed that the deemed application fee originally paid would not be transferred to the new appeal as stated in the correspondence from the Council on 13th February and had actually been refunded meaning that the applicant, due to timings, had to pay twice the increased planning fees, not just on plots 4 – 11 but also in relation to the appeals for plots 1, 2, 3, 12 and 13 – an additional £4,864.00 to that paid in November 2023.

Appeals against all six enforcement notices were lodged with the Planning Inspectorate in April 2024. The appeals were lodged on grounds a), f) and g). The Planning Inspectorate has indicated that it is likely to take at least 12 to 18 months for the appeals be processed. This waiting time is unacceptable due to the uncertainty for the homeowners and landowner and the financial implications of not being able to sell the remaining plots until the matter is remedied.

In order to progress matters, the applicant has offered to include some of the features of the approved scheme that have been omitted from the built scheme.

3.0 The Proposal

3.1 This planning application seeks planning permission to retain the dwellings as built, including the site layout, and the proposed addition of chimney stacks to plots 1, 2 and 3 and the replacement of garage doors to plots 8, 9, and 11.

4.0 Planning Policy Context

4.1 The land to which the appeal relates is allocated for housing on the Kirklees Local Plan. The site also falls within the Golcar Conservation Area and there are Grade II listed buildings to the north.

4.2 The following Local Plan policies are relevant to the application:-

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP23 – Core walking and cycling network
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic environment
- LP47 – Healthy, active and safe lifestyles
- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP50 – Sport and physical activity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land

- LP63 – New open space
- LP65 – Housing allocations

4.3 Advice contained within the Kirklees Council Golcar Conservation Area character appraisal and the Housebuilders Design Guide SPD (2021) is also relevant to the application along with the National Planning Policy Framework (NPPF).

5.0 Planning Policy Compliance & Design

5.1 The principle of the residential development of the site has already been accepted. The planning officer's delegated report for 2022/70/92334/W states that:-

"In this instance, the principle of residential development on this site has already been established by planning application 2021/91384, to which this application relates.

More specifically, the number of units as a whole would not change. The size, number of bedrooms or housing mixture would remain unaltered. Therefore, the proposal remains an effective and efficient use of the housing allocation, as required by Local Plan policies LP7 and LP11."

5.2 The Council's reason for refusal of the application to vary condition 2 of 2021/91384 states:

"The development would fail to provide a high quality design for the site, which is situated within a prominent hillside location, surrounded by heritage assets which include Golcar Conservation Area and a row of Grade II listed terraces. To permit such development would be contrary to Paragraph 135 and Chapters 12 and 16 of the National Planning Policy Framework, Policy LP24 and LP35 of the Kirklees Local Plan and the aims of the Housebuilders Design Guide Supplementary Planning Document."

5.3 However, within the planning officer's delegated report, it is stated that several of the amendments were deemed acceptable or not raised as a concern. These are listed below:

Plot 1

Alterations to the originally proposed vaulted ceiling that resulted in a change to the design of the window opening for bedroom 1 by removing the upper triangle and infilling with stone.

The eaves for the projecting gable have been heightened so that they now sit flush with the eaves on the main house.

The removal of a gable window to the study.

Addition of first floor window to side elevation

Plot 2

Alterations to the originally proposed vaulted ceiling that resulted in a change to the design of the window opening for bedroom 1 by removing the upper triangle and infilling with stone.

The eaves for the projecting gable have been heightened so that they now sit flush with the eaves on the main house.

Two new gable windows - one for the first floor en-suite and another as a secondary opening for bedroom 1.

Plot 3

Alterations to the originally proposed vaulted ceiling that resulted in a change to the design of the window opening for bedroom 1 by removing the upper triangle and infilling with stone.

A new gable window to bedroom 1 – subject to the installation of obscure glazing.

The eaves for the projecting gable have been heightened so that they now sit flush with the eaves on the main house.

5.4 The Council also did not set out any concerns on the replacement of the French doors with a window to the rear elevation, or the extension of the garage to the rear building line, within the delegated report.

Plots 4 and 5

The removal of the originally approved external chimney breasts and their replacement with a shorter chimney stack.

An increase in the lower ground floor area due to additional excavation works.

The removal of a gable window to plot 4 along with the secondary gable windows for bedrooms 2 and 3.

Plots 6, 7 and 8

The deletion of the originally proposed gable window to the guest bedroom of plot 6.

5.5 With regard to plot 12, within the planning officer's delegated report it appears that some of the amendments to plot 12 were deemed acceptable or not raised as a concern. In the delegated report the officer confirms that the change to the roof pitch was acceptable as it would still appear subservient within the context of the site and would add some variation. There was also no mention of concerns with regard to the absence of the stone band detail or the amended parking provision. As such, it is assumed that the Council accepts these amendments.

5.6 Similarly for plot 13, the delegated report confirms that the change to the roof pitch was acceptable, as was the amended window to the first floor window within the gable. There was also no mention of concerns with regard to the revision to the position of the plot.

5.7 The delegated report also addresses matters of residential amenity, highway safety and other relevant matters in relation to the amended scheme:

"Impact on residential amenity

...given the nature of the changes proposed, it is unlikely that the development would have any material impact upon existing third parties in terms of overbearing, overshadowing or overlooking. This is due to the acceptable separation distances of at least 20m (at the closest) being retained. The change in levels would also mean that the application site would be on a lower level than the dwellings to the north along Clay Well.

Amenity of future occupiers

The changes would allow for an acceptable level of amenity to be provided for the future occupiers, as all habitable rooms would retain an acceptable outlook.

Lastly, all dwellings would exceed the Government's nationally-described space standards.

For these reasons, the proposed amendments are considered acceptable from a residential amenity perspective..... to accord with Policy LP24 of the KLP, the aims of the Housebuilder SPD and Chapter 12 of the NPPF.

Impact on highway safety

...there would be no significant changes to the highway or the parking spaces for each plot. It has been noted that the layout for the driveway to plot 5 would be amended, however, this would still be suitable for the parking of two cars.

Other matters

The proposed variation is not considered to impact upon any other material planning considerations such as trees, ecology, PROW, crime and safety, land contamination etc. which remain as previously assessed within the parent application (ref 2021/91384).

Planning Obligations

With regard to the previous contributions, to include affordable housing, the education, open space, sustainable transport and ecology contributions and the management and maintenance of drainage and the vehicular access into the adjacent site, these would all remain unchanged and in the case of an approval would be secured via a Deed of Variation to the original Section 106 agreement.”

5.8 It is clear from the above that there is agreement between the Council and the applicant on the acceptability of several aspects of the scheme as built.

5.9 Looking now to the aspects of the development as built or proposed that the Council has raised objection to, these are summarised below.

Plot 1

- The removal of the chimney stack and the replacement with a standard flue pipe.
- The amended entrance door design and metal garage door.

Plot 2

- The removal of the chimney stack and the replacement with a standard flue pipe.
- The amended entrance door design and metal garage door.

Plot 3

- The removal of the chimney stack and the replacement with a standard flue pipe.
- The amended garage door and front door design.
- The removal of the rear balcony.

Plots 4 and 5

- The loss of the water table stones (parapet verge) and quoins.
- The addition of two vent pipes to the front roof plane. However, there are no vent pipes to the front roof plane, as can be seen from the photograph above. There is a soil pipe to the side elevation of plot 4 but nothing within the front roof plane.

Plots 6, 7 and 8

- The loss of the water table stones (parapet verge) and quoins.
- Changes to the door details to the front and rear elevations.
- The amended metal garage door to plot 8.

Plots 9, 10 and 11

- The loss of the water table stones (parapet verge) and quoins.
- The reconfiguration of the windows to the front elevation of plot 10.
- The amended metal garage doors to plots 9 and 11.

Plot 12

- The loss of the water table stones and quoins
- The amendment to the main stairwell window (front elevation)
- The amended garage door design

Plot 13

- Loss of the water table stones
- Amendment to the garage door design
- Amendment to the door design (referenced in the enforcement notice)

Wider site layout changes

- The changes to the layout of plots 6-11 which the Council considers to create a cramped appearance.
- The reduction in the amount of green space to the site frontages.

5.10 Focussing now on the guidance and policies referred to within the reason for refusal of 2022/70/92334/W.

5.11 Paragraph 140 of the NPPF states that:--

“Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme”.

5.12 NPPF Chapter 12 and Kirklees Local Plan policy LP24 seek to achieve an attractive high quality sustainable design that respects the local context and makes a positive contribution to the local area.

5.13 Policy LP24 states that development proposals should promote good design by ensuring:-

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

5.14 The Kirklees Housebuilders Design Guide SPD (2021) provides additional guidance on achieving high quality design in new housing developments.

5.15 Principle 2 of the SPD states that:-

“New residential development proposals will be expected to respect and enhance the local character of the area by:

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

5.16 The dwellings have been built to a high standard of design and make a positive contribution to the character and appearance of the area. The material palette is

complementary to the older buildings within the village and the architectural detailing and fenestration is in keeping with the buildings that form the character of the hillside village.

5.17 The Council's suggestion that the revised site layout leads to an unacceptable cramped and contrived development is disputed. The Golcar area is characterised by rows of stone built terraced properties that sit closely together. Narrow winding lanes and passageways between dwellings leading to pockets of shared or private amenity space are common features within the village. The layout as built ensures that each of the dwellings are provided with adequate amenity space to the front and rear and the planning officer has acknowledged that future occupants of the dwellings will have good levels of residential amenity.

5.18 As much green space as possible has been provided to the frontages of the dwellings. However, the original approved layout did not make provision for a particularly large amount of green space in the first instance with the main provision being soft landscaped gardens to the rear. However, the s106 Obligation covers a contribution towards the provision and enhancement of public open space and there is an area of open space already included to the east between the application site and the phase one housing development.

5.19 In the delegated report for 2022/70/92334/W the Council alludes to the fact that it would be preferable for the design features of the approved scheme to be implemented but does not state in detail how their omission is harmful. As such, it is contended that the design of the scheme as built, and as proposed within 2022/70/92334/W, whilst maybe not 'ideal' is acceptable. The omission of stonework details, amendment to garage doors and the other alterations are minor and do not go to the heart of the original permission.

5.20 NPPF Chapter 16 and Kirklees Local Plan policy LP35 seek to conserve and enhance the historic environment.

5.21 Paragraph 200 of the NPPF requires the applicant to identify and adequately assess the significance of a heritage asset which may be affected by a proposed development. Clear justification for any harm or loss caused, if any, must demonstrate substantial public benefits that outweigh that harm.

5.22 The application site is located within the Golcar Conservation Area and there are Grade II listed buildings to the north.

5.23 To support the enforcement appeals the applicant engaged a historic building consultant, Garry Miller, who has carried out a heritage assessment which sets out the significance of the heritage assets and examines the impact that the retention of the dwellings will have. The Heritage Statement is provided with this application.

5.24 On page 16 of the Heritage Statement, Mr Miller argues that:-

“Given that we are essentially dealing with decorative touches – and not radical alterations such as scale, massing, or the quantum of development– then the level of any harm must surely be no more than at the lowest end of the scale of less than substantial. In the extent of the conservation area as a whole, which covers a wide area encompassing the core of the village and surrounding open space – amounting to just under 50 hectares – their impact of these detail changes would be imperceptible. Its essential hill village character will remain unaffected. Similarly, they are unlikely to be noticeable in terms of the setting of the listed buildings, as the application site forms part of the wider background in which they are experienced; a background in which modern development, in the form of the estate to the east of the appeal site, is already established. In this context the absence of, for example, quoins or a change to garage door detail is hardly likely to impede the understanding or appreciation of any of the listed buildings, especially as they belong to a new housing development with which they have no aesthetic or historic connection. They will still be appreciated primarily for their intrinsic interest, and in a setting which includes both traditional and modern properties. To suggest therefore that the absence of these details represents anything other than the lowest level of harm to this setting would be an overstatement.

Considering the above in the final planning balance, where harm is less than substantial paragraph 202 of the NPPF requires it to be balanced against the public benefits arising from the proposal. The benefits in this case are the provision of new homes in a sustainable location, as duly recognised in the officer’s report and by the original approval. However the report fails to make the balancing exercise on the changes that paragraph 202 requires. When this test is applied, the reasonable conclusion to arrive at is that the omission or alteration of the approved details is a minor matter that is clearly outweighed by the scheme’s public benefits.”

5.25 It is important to note that the scheme the contains three affordable houses. The applicant did put forward a financial viability case as part of the original planning application process seeking a reduction in the level of contribution towards education, open space, sustainable transport, ecology and the management and maintenance of drainage and the vehicular access into the adjacent site. However, the Council was not willing to take this into account. Affordable housing provision on the site has equated to £440,000.00 of discounts across three of the dwellings. The terms of the S106 Obligation include the provision of one discounted dwelling (20% below market value) and two dwellings to be sold to a housing association at a considerably discounted price (64% below market value). This, combined with rising inflation, increased materials costs and challenges on site due to the topography has taken its toll. As a result, the applicant had no option but to seek the reduction in some of the expensive decorative detailing such as the parapet walls and quoins. Should the application be refused then the development will not be completed and the affordable units lost.

5.26 The housing development to the east was also carried out by the applicant and has been completed to a high standard. These dwellings also fall within the conservation area and did not include, for example, the parapet verge features being requested on the this site. The

dwellings being considered here appear as a logical extension to those built under phase one and reflect closely their character and appearance. The absence of the parapet verges does not have a harmful impact and the quoins, if present, would be mostly obscured by the downpipes.



Above and below - Examples of completed Phase I development to the east



5.27 In view of the above, the retention of the dwellings as built is considered to be acceptable when assessed against relevant local and national planning policies relating to design and the historic environment.

5.28 Notwithstanding the above, the applicant is willing to add chimney stacks to plots 1, 2 and 3 and has ensured that the design of the garage doors installed to plots 8, 9 and 11 has been amended to reflect that of the original approved scheme. As plots 1, 2, 3, 4, 6, 12 and 13 are no longer within the ownership of the applicant it is unreasonable for the Council to insist that the garage doors to the other plots are altered.

5.29 Due to the advanced stage of construction, or in some cases completion and occupation by the new owners, the rebuilding or substantial alteration of the dwellings to incorporate the omitted features is simply not possible. This would involve significant demolition works to dwellings that are either fully completed or very near to completion. Due to the circumstances highlighted above, the applicants do not have the financial means to undertake this. The additional delay caused by the withdrawal of the original enforcement notice three months into the appeal process and the further delay in re-issuing the notices and therefore being able to lodge the appeals has significantly worsened the situation due to pressure from the finance provider. The complete demolition of the dwellings, as set out within the enforcement notices, is excessive and will cause huge distress to the homeowners.

6.0 Access

The access arrangements to the development are satisfactory and no objection to the scheme was raised by the Council's highway officer during the consideration of application 2022/70/92334/W.

7.0 Conclusion

7.1 For the reasons stated above, the retention of the dwellings as built is not harmful to the Golcar Conservation Area or listed buildings to the north. The amendments to the original approved scheme are minor and do not diminish the design quality of the scheme as a whole.

7.2 The overall scheme has delivered quality family residential units, including three affordable units, to the area and any perceived harm as a result of the amended design is far outweighed by the addition of quality units to the housing stock.

7.3 The development is fully compliant with local and national planning policies and advice and the application should be approved without delay to enable the new owners to enjoy their homes and for the remaining plots to be sold.

July 2024