

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2024/62/92304/W
Site Address:	White Hart, Huddersfield Road, New Mill, Holmfirth, HD9 7JU
Description:	Change of use of former pub to 3 residential units and erection of detached dwelling
Recommending Officer:	Lucy Taylor

DECISION – REFUSED

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

John Holmes

AUTHORISED OFFICER

Date: 22nd November 2024

Officer Report.

Reference: 2024/92304

Location: White Hart, Huddersfield Road, New Mill, Holmfirth, HD9 7JU

Proposal: Change of use of former pub to 3 residential units and erection of detached dwelling

Site Description.

The site comprises The White Hart, which is a public house (currently vacant). The public house building, which fronts Huddersfield Road, is a two-storey building constructed from stone under a stone slate roof. To the rear of the building is a pub garden area. To rear of the site is a car park which is displayed to be under the same ownership of the applicant, and this is accessed off Huddersfield Road further to the north of the site.

The site is located on the south east side of Huddersfield Road, very close to the junction of this highway with Penistone Road. The site is centrally located within the village of New Mill and is located within New Mill Local Centre. The locality has a mixture of commercial and residential uses.

The building is not listed, and the site is not within a conservation area. There are no listed buildings within close proximity to the site.

Description of Proposal.

Planning permission is sought for the change of use of the former pub to three residential units and the erection of a detached dwelling.

The proposed three residential units would spread over two floors, with one dwelling accommodating three bedrooms and the other two dwellings providing two bedrooms. The alterations proposed to the building to accommodate the proposal involve the addition of new openings, including:

- Additional doorway to front elevation to provide access to one of the new dwellings.
- Above the existing entrance, a window will be reinstated, which will provide natural light to a bedroom.
- New entrance way into the dwelling on south elevation.
- On the east elevation, it is proposed to replace one of the window openings for a new rear doorway, to provide access to the garden spaces.

Each of the three dwellings will benefit from private garden space to the rear, as well as a shared bin area. Plot 3 will also benefit from a private summer house.

A three-bedroom dwelling is proposed in the eastern portion of the car park. The external materials will be a coursed stonework finish, which is a near match to the pub exterior. The dwelling will benefit from private garden space, with boundary hedging planted around this.

Six parking spaces will be provided adjacent to the dwelling, separated by fencing, which would serve the three dwellings proposed within the existing building. Two further spaces as shown for the dwelling proposed in the north eastern corner of the site.

History of Negotiations / Amendments Received.

During the course of this application, an amended application form was submitted, signing Certificate B, for reasons of matters relating to land ownership.

Also related to the same matter of land ownership, the planning agent confirmed to the case officer that all of the proposed development is located within land that is owned by the applicant.

As well as matters relating to land ownership, additional information was submitted regarding the loss of a pub and a revised block plan was submitted to address concerns raised by KC Highways Development Management.

Given the nature of the negotiations and amendments, it was not considered necessary in this instance to re-advertise the application. This is because the description of proposal and red line boundary remained as originally submitted, with additional information / revised information submitted relating only to land ownership, highway safety and the principle of the loss of a pub.

It is noted that the planning agent has provided agreement via email to the inclusion of the pre-commencement condition imposed by KC Environmental Health regarding the submission of a noise assessment report and mitigation scheme.

Relevant Planning History.

- 2020/90400 – Change of use and alterations to convert existing public house with living accommodation into 3 residential units. Refused 29th October 2021.

Application 2020/90400 was refused for the following reasons:

1. The proposed development would result in the loss of a public house which is a valued community facility use, and the application has failed to demonstrate that it would meet the criteria outlined within Policy LP48 of the Kirklees Local Plan. Specifically, it has not been conclusively demonstrated that the use is unviable, that there is no longer a need for the facility and that there is adequate alternative provision in the locality to serve the locality community which is in an

equally accessible location. The proposal is therefore contrary to Policy LP48 of the Kirklees Local Plan, Chapter 8 of the National Planning Policy Framework and Policy 9 of the Draft Holme Valley Neighbourhood Development Plan.

2. The proposed change of use from a public house to residential dwellings, would result in the loss of this 'main town centre use' within New Mill Local Centre and as such would adversely compromise the role and function of this Local Centre. The proposal is therefore contrary to Policy LP13 of the Kirklees Local Plan.

It is noted that, the determination of application 2020/90400 concluded insufficient information to have been submitted with regard to Policy LP48 of the Kirklees Local Plan and the loss of a pub, as well as the adverse impacts in which the proposal presented to the role and function of New Mill Local Centre as a result of the loss of a main town centre use. A Planning, Design and Access Statement, with attachment Appendix A, was submitted with this current application, to try and overcome the reasons for refusal under previous application 2020/90400. A full assessment of the information contained within this document is set out within the 'Principle of Development' section of this report.

Representations.

The application was advertised via neighbour notification letters, which expired on 27th September 2024.

In response to publicity, nine objections were received, and one general comment was received. These representations raised the following concerns:

Land Ownership Matters:

- The block plan submitted indicates that the applicant wishes to develop land that is not currently owned by the White Hart pub. Surely this would make the application invalid.
- The plans show access to the proposed site which incorporates land owned by someone else. In the past when this was an active public house there were double yellow lines painted down the wall side down the entrance. The brewery at the time recognised this land as not part of the public house.
- Figure 4 of the Planning, Design and Access Statement is misleading as there are two access roads here. The left-hand side of the road (northern) is owned by another property and provides access to four houses. The right-hand side of the road (southern) provides access to the old White Hart pub car park, and this is the only part of the access owned by the White Hart. There are markings on the road, but these have been lost or destroyed over time and need urgently to be reinstated to make this fact clear.

- The pub does not own the drive. There is land shown within the red boundary lines of the applicants block plan but is not shown as being owned by the White Hart on its title deeds.
- Additional parking space has been added to the new block plan, extending the main car park onto the drive that currently serves other properties. This is unacceptable. To each the proposed bungalow means that the occupiers' cars would have to go up other peoples drive and then turn sharply.

Officer Response: The above concerns relating to land ownership are noted. During the course of the application, a revised application form was submitted, with Certificate B signed. The planning agent confirmed to the case officer that all of the proposed development is located within land that is owned by the applicant. Therefore, officers are satisfied with the information submitted, however, should this application be granted approval, a footnote will be included which advises that the granting of planning permission does not override any private rights of ownership and it the applicant / developers' responsibility to ensure they have the legal right to carry out works outside their ownership.

Highway Safety Concerns:

- Concerned about the access to the parking space for plot 3. Parking only looks accessible from the main Huddersfield Road. This is dangerous. Owners of the property will not be able to reverse in to the space at peak times and try to leave again at peak times will be very hard. Access to this space should be from around the rear of the property.
- Huddersfield Road and the junction is a nightmare at peak times and anymore congestion is dangerous.
- Parking in the surrounding area is already insufficient, converting the pub into additional housing and converting current parking will add to the congestion caused by on street parking.
- Any exit from the bungalow parking spaces would be blind to other properties and an accident or collision could happen.

Officer Response: The concerns raised with regard to matters of highway safety have been noted. A full assessment of the proposal in conjunction with this planning consideration is set out within the relevant assessment section of this officer's report, titled 'Impact on Highway Safety'. Officers also note that, as part of the determination of this application, formal and informal consultations were undertaken with KC Highways Development Management, with their response set out in full within the aforementioned section of this report.

Visual Amenity Matters:

- Any new dwelling on this land will ruin the aesthetic of the village.

Officer Response: The concern raised with regard to visual amenity has been noted. A full assessment of the proposal in conjunction with the planning consideration of visual amenity is set out within the relevant assessment section of this officer's report, titled 'Impact on Visual Amenity'.

Residential Amenity Matters:

- Building of an additional dwelling in a small space with restricted access will cause disruption during the build phase and after completion for existing residents of the surrounding properties.

Officer Response: The concern raised with regard to residential amenity has been noted. A full assessment of the proposal in conjunction with the planning consideration of residential amenity is set out within the relevant assessment section of this officer's report, titled 'Impact on Residential Amenity'.

Concerns Relating to Loss of Pub:

- Sincerely miss having a local pub at the heart of the village and this proposal will see the loss of a valued facility to the community.
- The White Hart was a popular and much-loved pub, central to the community in New Mill until its decline.
- It still has many attributes to be a successful pub, it is an attractive building with a large car park, the interior still appears to have many original features, and it is the only pub in New Mill and for a significant distance, Thongsbridge also no longer having a pub.
- The applicant says it is not economic to run as a pub, but they have not tried to re-sell as a pub.
- Shame the pub cannot be converted into something that can be used by the community.
- The alternative offering in New Mill is a member only club and an Indian restaurant.

Officer Response: The concerns raised relating to the loss of the pub are noted. A Planning, Design and Access Statement, with attachment Appendix A, was submitted with this current application with regard to this planning consideration. A full assessment of the information contained within this document is set out within Assessment section 1 of this officer's report, titled 'Principle of Development'.

Consultation Responses.

KC Environmental Health (formal) – no objections with the inclusion of conditions and footnotes related to the submission of a noise assessment report and mitigation scheme, reporting of unexpected contamination and construction site working times.

KC Highways Development Management (formal & informal) – following the submission of amended plans, the proposals are considered to be acceptable to Highways Development Management.

Holme Valley Parish Council (formal) – no comment, defer to Kirklees officers on potential parking issues.

Policy.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

The site is located within New Mill Local Centre.

The application site is located within an area with a known presence of bats.

The site is within an area identified by the Coal Authority as being at low risk of ground movement as a result of former mining activity.

The following policies are considered relevant in the determination of this application.

Kirklees Local Plan:

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and effective use of land and buildings
- LP11 – Housing mix and affordable housing
- LP13 – Town Centres uses
- LP20 – Sustainable travel
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP28 – Drainage
- LP30 – Biodiversity & geodiversity
- LP48 – Community facilities and services
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and Improvement of environmental quality

Holme Valley Neighbourhood Development Plan:

The Holme Valley Neighbourhood Development Plan was adopted on 8th December 2021 and therefore forms part of the Development Plan.

- Policy 1 – Protecting and enhancing the landscape character of Holme Valley
- Policy 2 – Protecting and enhancing the built character of the Holme Valley
- Policy 6 – Building Homes for the Future
- Policy 8 – Facilitating development in Holmfirth Town Centre and Honley District Centre and Brockholes and New Mill Kicak Centres
- Policy 9 – Protecting and Enhancing Local Community Facilities
- Policy 11 – Improving transport, accessibility and local infrastructure
- Policy 12 – Promoting sustainability
- Policy 13 – Protecting wildlife and securing biodiversity net gain

It is important to note that the application is within Landscape Character Area 7 – River Holme Wooded Valley.

Key landscape characteristics of the area are:

- Glimpsed views towards the wider landscape through gaps between built form.
- Views across the wooded valley floor from elevated vantage points such as from Christ Church New Mill and Holy Trinity Church Hepworth.
- Stone boundary walls are common features.
- A network of Public Rights of Way (PRoW) crosses the landscape including a section of the Barnsley Boundary Walk, the Kirklees Way and the Holme Valley Circular Walk.

Key built characteristics of the area are:

- Settlements characterised by a close association between built form and landscape.
- Industrial heritage features such as weirs and mill buildings.
- Mounds and hollows, which are the remains of shallow tunnels created for coal mining, as well as piles of shale material and the remains of plateways (flat stones laid across fields to assist with vehicle movement), are also found across the moorland and fields.

Supplementary Planning Documents (SPD):

- Highways Design Guide (2019)
- Housebuilders Design Guide (2021)

Other Guidance Documents:

- Biodiversity Net Gain Technical Advice Note (2021)
- Nationally Described Space Standards
- National Design Guide
- Kirklees Waste Management Design Guide for New Developments (2020)
- Kirklees Climate Change Guidance for Planning Applications (2021)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 7 – Ensuring the vitality of Town Centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment.

1) Principle of Development

Sustainable Development:

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

The Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and as such it is accepted that relevant Local Plan policies for the supply of housing land are out-of-date. This now triggers the NPPF presumption in favour of sustainable development.

As set on in NPPF paragraph 11d, this means that for decision making *“Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

Policy LP7 of the Kirklees Local Plan states encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved. Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.

The site measures around ~ 1,240.11sqm. The proposal is for the change of use of former pub to 3 residential units and the erection of one detached dwelling. In this instance, it is considered that the number of residential units proposed is acceptable. This is because, even it there were the possibility to provide more dwellings at the site, it would increase the potential for other issues to arise, which could have a harmful impact, including on visual amenity, residential amenity and highway safety.

The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations.

Loss of Public House Use:

Paragraph 97 of the NPPF states that to provide the social, recreational and cultural facilities and services the community needs, planning decisions should ‘guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs.’

The site is within the Kirklees Rural Sub Area within the Kirklees Local Plan and Paragraph 88 of the NPPF states that to support a prosperous rural economy planning decisions should enable the retention and development of accessible local services and community facilities, such as public houses.

Further to this, Policy LP48 of the Kirklees Local Plan relates to community facilities and services. Policy LP48 states that: *“Proposals which involve the loss of valued community facilities such as shops, public houses and other facilities of value to the local community will only be permitted where it can be demonstrated that:*

- a. there is no longer a need for the facility and all options including the scope for alternative community uses have been considered; or*
- b. its current use is no longer viable; or*
- c. there is adequate alternative provision in the locality to serve the local community which is in an equally accessible location; or*
- d. an alternative facility of equivalent or better standard will be provided, either on-site or equally accessible; and*
- e. any assets listed on a Community Asset Register have satisfied the requirements under the relevant legislation.”*

The text supporting LP48 notes that:

“Where the proposal involves the loss of land or premises presently or last in community use, the applicant will normally be required to provide evidence covering the results of reasonable attempts to actively market the land or premises for sale or lease, at existing use value to demonstrate that there is no longer a need for the facility.

The following additional information will be required for licensed premises:

- the last 3 years trading accounts with a breakdown of the percentages of income from food and drink;*
- where a dining facility is provided, details of the market aimed at and the number of covers available;*
- who the licence is currently held with and when it is due for renewal;*
- the opening times for the premise.*

An established facility may become economically un-viable, particularly where this involves a commercially run facility, for example a post office or pub. In some instances, multiple use or investigation of assistance (e.g. new technologies, grants) may significantly improve economic viability, particularly where there is active community support to retain the facility.

An alternative facility of equivalent or better standard includes - in terms of size, function, adaptability and accessibility - to that existing, which meets the needs of the local community. To ensure the timely provision of a replacement facility, the Council may impose a condition on the planning permission or seek an obligation for the facility to be made available at the same time as the occupation of any associated development.”

Policy 9 of the Holme Valley Neighbourhood Development Plan (Protecting and Enhancing Local Community Facilities) sets out that community facilities of value to the local community will be protected and retained for community use and goes on to note that change of use of proposals involving their loss will be managed in accordance with Kirklees Local Plan Policy LP48.

With regard to criteria (a) and (b) of Policy LP48, the applicant has submitted details with a written letter, Appendix A, detailing the recent history of the White Hart and why they consider that there is no choice other than to close the pub. The letter sets out that, in recent years, the pub has not been profitable with multiple tenants taking on the pub, all having to step away, citing loss of revenue, savings and the inability to make the business turn a profit.

The letter details tenants since September 2014, up until the final tenant, who occupied the premises from January 2019 until December 2019. The letter includes copies of communications from the tenant who ran the pub until June 2018 and from the latest tenant, informing of their notice. The communications include details such as: trade is quiet and can't make a profit.

The letter states that the pub re-opened for a brief period of three months following the vacation of the latest tenant, however, the pub permanently closed in March 2020 as a result of apparent extensive damage. The letter goes on to state that work commenced in June 2020 on areas including the roof and walls, to make the building structurally sound and strip the building back to make sure of any further problems. Officers note that, the building being in a state of disrepair, in itself, does not mean that the use is an unviable one. It is noted that, if the pub was in such a state of disrepair on vacation of the latest tenant, as set out within Appendix A letter, that this may potentially outline that works to the pub were previously required, to make it more attractive to customers and a viable business.

No details have been provided with regard to searching for tenants following the closure of the pub in March 2020, with no evidence provided of such an exercise having been carried out, no details of marketing techniques and no price for rent / buying. In fact, a planning application was submitted 6th February 2020 for the conversion of the existing public house into three residential units.

Furthermore, it is not clear from the information submitted, that all reasonable efforts have been made to preserve the White Hart as a public house, for example, any measures to increase trade, diversify the use of the site or extend the range of facilities offered.

In addition, it does not appear from the information submitted, that any other community use has been considered before housing and officers note that planning permission for conversion into housing was sought in February 2020.

Based solely on the information provided by the applicant with regard to criteria (a) and (b) of Policy LP48, officers have significant concerns about the lack of detail provided in the viability statement.

It is noted that, a planning application was submitted 6th February 2020, during the time stated within the letter for this current application for building

works to the White Hart, which sought planning permission to convert the existing public house into three residential units, referenced 2020/90400.

The officer's report for application 2020/90400 set out that the information submitted in relation to criteria (a) and (b) of Policy LP48 was as follows:

"In relation to criteria (a) and (b) of Policy LP48 of the Kirklees Local Plan, a viability statement was submitted alongside the application, but Officers consider that this is very basic. This viability statement notes that several managers have ran the business between 2014 to January 2020, but this was to no avail and that the premises ceased from trading in January 2020. The statement refers to the last tenant/management who (who gave notice in December 2020) and provides an e-mail from this tenant to the owner that they were struggling to afford to pay bills owed to the Council. In addition, the statement outlines the applicant ran the pub for a 'short period' to determine the takings and it is noted that this equated to £500 per week.

Of note, and with reference to criteria (a), whilst it was noted that the proposal was marketed for lease, no evidence of such an exercise has been provided, including details of how it was marketed and the price of rent. From the viability statement submitted with the application, it also appears that no attempt has been made to sell the public house to another owner, and that it has only been offered as rent. Furthermore, from this viability statement, it appears that no other community use have been considered before housing.

Further to this, it is not clear from the viability statement that all reasonable efforts have been made to preserve this public house, for example measures to increase trade, extend the range of facilities offered on site or diversify the use have not been discussed within this statement. Of note, paragraph 5.2 of the viability states that whilst other pubs in the area provide food, The White Hart has never done and it is unclear to Officers why this is not possible as such efforts could help make the business a viable one.

In their e-mail to Officers, the applicant's agent referred to the building being in a state of disrepair, but this in itself does not mean that the use is an unviable one. If the pub was in such a state of disrepair, this may potentially outline that works to it were previously required to make it more attractive to customers and a viable business."

The officers report for application 2020/90400 went on to conclude the following, based on the information submitted by the applicant:

"Officers have significant concerns with the lack of detail provided in the viability statement respect of criteria (a) and (b).

...criteria (a) is not considered to be satisfied.

... criteria (b) of Policy LP48 has not been satisfied."

In relation to this current application it is noted that the information submitted closely resembles that submitted for previous application 2020/90400, as

discussed above. Therefore, given that such information was concluded insufficient and lacking in detail within the determination of application 2020/90400, failing to satisfy criteria (a) and (b) of Policy LP48 and forming grounds for refusal, it is not considered that this current application would overcome this.

Notwithstanding this, it is noted there has been a change in circumstances since the previous application to some degree, these are the passage of more time where the public house has stood vacant and the fact the LPA is unable to demonstrate a 5-year housing land supply. These changes in circumstance have been taken into consideration and the below conclusion section draws reference to their consideration in the overall assessment and determination of this current planning application.

Turning to Policy LP48(c), it is not considered that the information submitted by the applicant is sufficient with regard to this criterion and it is considered that it fails to address the conclusions set out in the officer's report for previous application 2020/90400, which was recommended for refusal on the grounds of the loss of a public house.

The submitted Planning, Design and Access Statement includes broad data relating to alternative provisions in the area and the named alternatives were previously rejected under application 2020/90400. Therefore, for the reasons set out below, it is not considered that this current application overcomes the recommendation of refusal on the grounds of LP48(c) as discussed under previous application 2020/90400.

The broad data included within the Planning, Design and Access Statement reads as follows: *"...there are 68 pubs and bars per 100,000 people in Yorkshire and the Humber, which is more than the national average, which is 58 per 100,000 people."* This is rejected for reasons of being too broad and failing to provide any justification in relation to criteria (c) of Policy LP48, which discusses provisions in the locality to serve the local community.

The Planning, Design and Access Statements also sets out in relation to LP48(c) that the *"The Wooldale Arms is less than a mile away from the site, approximately a 20 minute walk"* and lists 5 pubs and bars within a 1 mile vicinity of the site, including The Rose and Crown, The Wooldale Arms, Boot and Shoe Inn, The Red Lion Inn and The White Horse.

The officers report for planning application 2020/90400 disagreed that the village is served by other facilities and rejected the argument relating to The Wooldale Arms, considering it be located within another settlement.

Text taken from the officer's report for application 2020/90400 relating to the above:

"In relation to criteria (c) of Policy LP48, the applicant's agent has noted in the viability statement submitted with the application that the village is served by other facilities such as a local club."

Officers disagree with this statement. The nearest public house appears to be over a mile away in walking distance, and this is within another settlement (Woodale Arms in Woodale)."

The submitted Planning, Design and Access Statement for this application sets out that there is one venue that offers adequate alternative provision, which is the New Mill Club. The submitted information details that the officer's report for the previous application afforded limited weight to this, as it is a private club and not a public house.

Text taken from the officer's report for application 2020/90400 relating to the justification in relation to the New Mill Club:

"The agent referred to New Mill Club, but Officers give this argument limited weight given that this a private club which requires membership and is therefore exclusive, unlike a public house."

The Planning, Design and Access Statement for this application seeks to overcome this previous reason for rejecting the New Mill Club, setting out the following:

"The Officer's report for the previous application affords limited weight to this as it is a private club and not a public house. However, given its role within society and the large overlap between pubs, bars and clubs it should be considered as an "adequate alternative" as Policy LP47 states. The exclusivity that the Officer refers to currently consists of an annual £15 membership fee, which is not a significant barrier barring the local community access."

This reasoning is not considered to successfully overcome the officer's reasons for rejecting the New Mill Club as an alternative, because the New Mill Club remains a private club, which requires membership unlike a public house.

Criteria (d) and (e) of Policy LP48 are not considered to be applicable in this instance.

Given the above, it is considered that the proposal is in conflict with Policy LP48 of the Kirklees Local Plan and officers consider that this current planning application fails to overcome the reasons for refusal, as set out within previous planning application 2020/90400. The application fails to demonstrate that the loss of this public house would not result in the loss of a valued facility which would reduce the community's ability to meet its day-to-day needs. As a result, the change of use of the public house to residential development is considered unacceptable in principle, failing to comply with Policy LP48 of the Kirklees Local Plan, Chapter 8 of the National Planning Policy Framework and Policy 9 of the Holme Valley Neighbourhood Development Plan.

Town Centre Use:

The proposal would result in the loss of a 'main town centre use' as defined within the NPPF glossary, this being a public house.

Paragraph 90 of the NPPF states that planning decisions should support the role that town centres play at the heart of communities, but taking a positive approach to their growth, management and adaptation.

Policy LP13 of the Kirklees Local Plan relates to town centre uses. Policy LP13 states that proposals that have a significant adverse impact on the vitality and viability of centre or compromise the function of a centre will not be supported. The site is within New Mill Local Centre, and the Local Plan outlines the role and function of these centres is to *'provide for top-up shopping and local services particularly food and drink.'*

Based on the Council's GIS mapping system, New Mill Local Centre has a hairdresser, a butcher, several takeaways, a post office, a pharmacy, a co-op and New Mill Club (discussed in greater depth in the previous section of this report).

Aside from New Mill Club, which has been rejected as an alternative provision within the previous section of this report for reasons of being a private club requiring a membership, New Mill Local Centre has no other drinking establishments.

As such, the White Hart is the only public house within New Mill Local Centre.

Whilst there are other main town centre uses within New Mill Local Centre, including shops, it could be argued that the proposal would not adversely impact upon the viability of this centre. However, as the proposal would remove the only drinking establishment and public house (aside from New Mill Club which is a private club requiring a membership) in this Local Centre with limited services, it is considered that the change of use of White Hart to housing (a non-main town centre use) would adversely compromise the role and function of this relatively modest centre.

The same argument was put forward within the officer's report for previous application 2020/90400.

Whilst officer's note the arguments put forward by the applicant relating to Policy LP13 and the loss of a main town centre use, the arguments relating to the New Mill Club have previously been established to be rejected, the site's close proximity to Holmfirth does not justify the loss of a public house within New Mill Local Centre and the argument that local residents have already made alternative arguments if they wish to visit a pub is an assumption only and does not diminish the harm of the loss of a main town centre use in this instance.

Therefore, the proposal is considered to be contrary to Policy LP13 of the Kirklees Local Plan. As outlined within the previous section of this report, it is considered that sufficient justification for the loss of such a use has not been provided.

Principle of Development – Conclusion:

Since the previous refusal the LPA has been unable to demonstrate a 5-year housing land supply. There has also been the passage of 3 years since the previous refusal. Notwithstanding this, it is concluded that, whilst the tilted balance can be considered to be applicable in this case, for the reasons set out above in this section of the report, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. It is therefore concluded the reasons for refusal in relation to the conversion of the public house to 3.no dwellings have not been overcome.

2) Impact on Visual Amenity

Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Policy LP24 states that all proposals should promote good design by ensuring the following:

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

c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details...”

Policy LP11 of the Kirklees Local Plan requires that All proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need.

Policy 1 of the Holme Valley Neighbourhood Development Plan (HVNDP) sets out that development proposal should demonstrate how they have been informed by the key characteristics of the Local Character Assessment (LCA).

Policy 2 of the HVNDP states that *“proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings”* and [proposals] *“should protect and enhance local built character and distinctiveness...”*

Principle 2 of the Kirklees Housebuilders Design Guide 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.”*

Principle 5 of the Housebuilders Design Guide states, amongst other things, that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street.

Principle 6 of the Housebuilders Design Guide SPD highlights that *‘the space between buildings can help maximise residential amenity in terms of maintaining privacy, reducing overlooking and ensuring natural light is able to penetrate buildings...normally new build development should seek appropriate separation distances for servicing, accommodating future adaptations and creating attractive street scenes. These should be in keeping with the character and context of the site and proportionate to the scale of the dwellings’.*

Principle 13 seeks to ensure consideration is given to use locally prevalent materials and finishing to reflect the locality.

Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

Principle 15 of the Housebuilders design guide sets out that the design of the roofline should relate well to the site context, including topography, views, heights of buildings and the roof types.

As part of the change of use of the public house, external alterations are proposed to the building. All these changes within the application relate to openings and these are considered to have a negligible impact to the character and appearance of the area. Of note, it is considered that the use of uPVC double glazed in this location is acceptable in principle, especially as the site is not within a conservation area. Details regarding landscaping are limited but could be conditioned should permission be granted.

Turning to the proposed erection of a three-bedroom dwelling, this would be set behind the existing building of the White Hart public house and No. 3 Huddersfield Road, to be located within the area which currently serves as the pub car park. The location of the proposed dwelling is considered to be

acceptable in accordance with Principle 5 of the Housebuilders Design Guide SPD.

It is considered that the building of the dwelling would maintain appropriate separation distances from shared boundaries with surrounding neighbouring properties in accordance with Principle 6 of the Housebuilders Design Guide SPD. The dwelling would be significantly separated from the shared boundaries with No. 3 Huddersfield Road, West Garth, 3C Huddersfield Road and 10A Penistone Road, as well as from the proposed dwellings to be created following the conversion of the White Hart. Whilst the building would maintain a separation distance of approximately 1.7 metres from the shared boundary with New Stone House, given the overall height of the building and the topographical relationship between these two properties, this extent of separation is considered acceptable on the individual merits of the application and site.

The height of the dwelling is considered to be appropriate to the site context, relating well to the topography of the land upon which it is to be erected. The dwelling will have a gable roofing style, which will match the gable roofing form above the White Hart pub building, proposed to be converted. It is also considered that the gable roofing form would relate well to the visible projection of New Stone House from the highway of Huddersfield Road. As such, it is concluded that the dwelling appropriately complies with Principle 15 of the Housebuilders Design Guide SPD.

The dwelling will be a coursed stonework finish, which is a near match to the pub exterior. No details of materials for the roof of the dwelling have been submitted, however, upon any grant of approval a condition would be imposed to secure the use of coursed stonework and to ensure the use of stone slate roof tiles, to match the roof of the White Hart building. With the inclusion of such a condition, it is considered that the dwelling would appropriately comply with Principle 13 of the Housebuilders Design Guide SPD.

Access to the new dwelling would be via the existing driveway.

Parking spaces are proposed for all residential units within the existing car park area of the public house.

The block plan submitted shows each dwelling to benefit from an area of private outdoor amenity space. The submitted Planning, Design and Access Statement sets out that boundary treatments will consist of hedging and fencing. The block plan does not show any details of fencing and, whilst it is considered that this boundary treatment would likely be appropriate from a visual amenity perspective, upon any grant of approval, it is considered reasonable to include a condition regarding the submission of boundary treatments for clarity.

Given that excessive works to increase slab / land levels could have a detrimental visual impact, a condition requiring the submission of the finished

slab and floor levels of the proposed detached dwelling is recommended for inclusion upon any grant of permission.

Given the above, it is therefore considered that the proposal would not cause harm to the character and appearance of the area and the proposal is therefore in accordance with Policy LP24 of the Kirklees Local Plan, Policies 1 and 2 of the Holme Valley Neighbourhood Development Plan, Principles 2, 5, 6, 13, 14 and 15 of the Housebuilders Design Guide SPD and Chapter 12 of the NPPF.

Notwithstanding this, it is considered reasonable and necessary to remove Permitted Development rights for all enlargement works and outbuildings to both the residential units proposed as a result of the change of use of White Hart and the new dwelling upon any grant of approval. This is in the interest of preventing the overdevelopment of the site.

3) Impact on Residential Amenity

Sections B & C of the Kirklees Local Plan Policy LP24 which states that alterations to existing buildings should: '*Maintain appropriate distances between buildings*' and '*...minimise impact on residential amenity of future and neighbouring occupiers*'.

Further to this, paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future occupiers.

Principle 6 of the Housebuilders Design Guide sets out that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.

The text supporting Principle 6 of the Kirklees Housebuilder Design Guide SPD states set out recommended minimum separation distances for two storey properties, these being:

- 21 metres between facing windows of habitable rooms;
- 12 metres between windows of habitable rooms that face onto windows of non-habitable rooms;
- For a new dwelling in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metre distance from the side wall of the new dwelling to a shared boundary.

Impact to Neighbouring Properties:

The alterations proposed to the building of White Hart, which relate to openings, are considered to be minor ones that would prevent undue harm to the amenity of residential properties in terms of loss of light, overlooking or loss of privacy, or the creation of an overbearing affect.

Whilst it is noted that above the existing entrance, a window will be reinstated, this is in an elevation with first floor windows and it is considered that this would not result in additional adverse harm to the residential property across the road from the site, this being No. 6c, especially as the windows within No. 6c are set at an angle to the front elevation of the public house building.

With regard to the proposed summer house to serve Plot 3, based on the submitted location plan, it is considered that this structure is existing.

The positioning and height of the new dwelling is not considered to result in any significant impacts of undue overbearing or overshadowing to surrounding properties as a result of its separation from shared boundaries and due to the topographical relationship, it would have between neighbouring properties, especially New Stone House to the east.

One of the side elevations of the new dwelling would face towards the rear elevation of No. 3 Huddersfield Road. Whilst this side elevation would host a number of windows, with it acknowledged that No. 3 hosts a number of windows to its rear elevation, it is considered that the new dwelling is configured and angled so that the windows would be slightly off set from facing directly towards each other. To mitigate harm of overlooking, upon any grant of approval, a condition could be imposed to obscure glaze the kitchen and dining room windows in the side elevation, with glazed-bi-fold also proposed on another elevation to serve the same space internally.

It is also noted that, the same elevation of the new dwelling would be separated from the rear elevation of the proposed Plot 1 within the existing White Hart building by approximately 17.5 metres. The rear elevation of Plot 1 is to host a kitchen window at ground floor level. Kitchens (that are not dining kitchens) are not considered to be habitable rooms. Therefore, the separation distance between windows in the case of Plot 1 and the new dwelling is considered to be acceptable with regard to privacy.

Glazing proposed in the northern elevation of the new dwelling would not be directly adjacent to a residential property and would retain a separation distance of approximately 10 metres from the nearest shared boundary. As such, it is not considered that glazing in this elevation of the new dwelling, which is to serve non-habitable spaces internally, would result in any undue impacts of overlooking.

All windows proposed in the eastern side elevation of the new dwelling will serve bathrooms internally. Therefore, these windows are likely to be obscure glazed (this could be secured via condition) and in turn, would not result in undue impacts of overlooking towards New Stone House.

To the southern elevation of the new dwelling, glazed bi-fold doors are proposed to serve the dining room and a Juliet balcony is proposed to serve a bedroom at first floor level. These forms of glazing would be separated from the rear elevation of No. 10A Penistone Road by approximately 10 metres. Based on planning history at 10A Penistone Road (2016/91381), it is

considered that glazing on the rear elevation of this property does not serve habitable rooms. As such, it is not considered that the bi-fold doors or Juliet balcony would result in undue impacts of overlooking.

The parking area to the rear of the site, which would be accessed to the side and rear of No. 3 Huddersfield Road, could be a source of disturbance to the occupiers of No. 3. That being said, No. 3 is currently next door to the public house use, which had a rear pub garden, and the access to the side of No. 3 exists and serves the car park. Thus, it is not considered that the use of the area to the rear of the site for parking for residential purposes is likely to be a significantly greater source of disturbance to the living environment of No. 3 in terms of noise, than existing if the public house were to be operational.

Noise / Dust / Odour:

Paragraph 191 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impact resulting from noise from new development Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable.

Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level.

Upon any grant of approval, an informative note which recommends restricting noisy construction related activities during construction works would be included within the decision notice.

Impact to Future Occupiers of the Proposed Dwellings:

Consideration must also be given to the amenity of future residents of the proposed dwelling. Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accord with the 'Nationally Described Space Standards' document (March 2015).

Internally, the proposed dwellings would all comply with the space standards as set out within the Nationally Described Space Standards and all habitable rooms are appropriately served by windows.

All of the dwellings would have a provision of private outdoor amenity space, which is considered to be of an appropriate scale in relation to the number of bedrooms. It is also considered that the amenity spaces would be adequately served by levels of sunlight.

Officers therefore consider that the proposed dwellings would provide an adequate standard of amenity for future occupiers in this regard.

Upon formal consultation with KC Environmental Health, Environmental Health officers recommended the inclusion of a condition relating to the submission of a noise assessment report and mitigation scheme, to protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises.

Overall, with the inclusion of the aforementioned conditions, it is considered that the proposals would not result in significant impacts on the privacy and amenity of any neighbouring or future occupants, complying with Policies LP24 and LP52 of the Kirklees Local Plan and policies within Chapters 12 and 15 of the National Planning Policy Framework. The proposals are also considered to accord with Policy 2 of the Holme Valley Neighbourhood Development Plan and Principles 6, 16 and 17 of the Council's Housebuilders Design Guide SPD.

4) Impact on Highway Safety

Turning to highway safety, Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Principle 12 of the SPD sets out, amongst other things, that parking to serve dwellings should not dominate streets and should be to the side / rear.

Principle 19 of the SPD states that provision for waste storage and recycling must be incorporated into the design of new developments in such a way that it is convenient for both collection and use whilst having minimal visual impact on the development.

As part of the determination of this application, formal and informal consultations were undertaken with KC Highways Development Management.

KC Highways Development Management officers made the following assessment:

The proposed parking space adjacent to plot 3 with access shown directly onto Huddersfield Road is not considered to be in the best interests of Highway safety and should be omitted. Only 5 spaces are shown to be provided adjacent to the bungalow. 6 spaces are needed to meet the minimum recommended standard of 2 spaces for 2/3 bedroomed units

Following the submission of amended plans, Highways officers concluded the proposals to be acceptable to Highways Development Management with regard to access arrangements and parking provisions.

The submitted block plan shows the location of bin storage areas for all of the proposed dwellings. Officers consider the bin storage areas to be suitably sited.

Given the above, the impact upon highway safety is considered to be acceptable and the proposal is considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the NPPF and Policies 6 and 11 of the Holme Valley Neighbourhood Development Plan.

5) Other Matters

Climate Change:

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Principle 18 of the Housebuilders Design Guide SPD sets out that *“New proposals should contribute to the Council’s ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy.”*

Policy 12 of the Holme Valley Neighbourhood Development Plan sets out that 'all development' should provide a sustainability statement which outlines how the development will contribute promoting renewable energy, energy efficiency and encouraging sustainable living. The Policy notes that the requirements of this policy will be expected to be met unless it can be demonstrated that this would render the development unviable.

As part of this application, a Climate Change Statement was submitted, which set out several mitigation measures.

In this case, it is considered that the resultant residential development would have an acceptable impact on Climate Change, given the requirement in relation to building regulations.

Biodiversity / Ecology:

Chapter 15 of the National Planning Policy Framework is relevant, together with The Conservation of Habitats and Species Regulations 2017 which

protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

Principle 9 of the Housebuilders Design Guide SPD states that *“Proposals are required to provide net gains in biodiversity, with ecological enhancement integral to the design of the development.”*

The application site is located within an area with a known presence of bats.

Given the nature of the proposals and the works proposed, it is considered that it is unlikely to cause harm to protected species. However, Policy LP30 of the Kirklees Local Plan and Policy 13 of the Holme Valley Neighbourhood Development Plan outline that development should provide net gains and biodiversity enhancements should be conditioned should permission be granted, with regard to the installation of bat boxes.

With regard to biodiversity net gain, the submitted application form sets out that the scheme is exempt under the de-minimis exemption, with the site currently entirely hardstanding and of no ecological value. Having undertaken a site visit, the case officer considers this exemption applicable as put forward by the applicant within the application form. The development is therefore considered to benefit from the de-minimis exemption as set out by The Biodiversity Gain Requirements (Exemptions) Regulations 2024 and there is no required for BNG to be provided in respect of the aforementioned legislation.

6) Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government’s view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF taken as a whole.

Recommendation: Refuse
Decision Authorisation – Delegated Powers
Application Number: 2024/92304
Officer Recommendation: Refuse

Reasons for Refusal:

1. The proposed development would result in the loss of a public house which is a valued community facility use, and the application has failed to demonstrate that it would meet the criteria outlined within Policy LP48 of the Kirklees Local Plan. Specifically, it has not been conclusively demonstrated that the use is unviable, that there is no longer a need for the facility and that there is adequate alternative provision in the locality to serve the local community which is in an equally accessible location. The proposal is therefore contrary to Policy LP48 of the Kirklees Local Plan, Chapter 8 of the National Planning Policy Framework and Policy 9 of the Holme Valley Neighbourhood Development Plan.

2. The proposed change of use from a public house to residential dwellings, would result in the loss of this 'main town centre use' within New Mill Local Centre and as such would adversely compromise the role and function of this Local Centre. The proposal is therefore contrary to Policy LP13 of the Kirklees Local Plan.

Plans and Specifications Schedule: -

Plan Type	Reference	Version	Date Received
Proposed Bungalow – Elevations	PL-06	A	16.08.24
Proposed Bungalow – Floor Plans and Roof Plan	PL-05	A	16.08.24
Proposed Elevations	PL-04	-	16.08.24
Proposed First Floor and Roof Plan	PL-03	-	16.08.24
Proposed Basement and Ground Floor Plan	PL-02	-	16.08.24
Existing Elevations	EX-04	-	16.08.24
Existing First Floor and Roof Plan	EX-03	-	16.08.24
Existing Basement and Ground Floor Plan	EX-02	-	16.08.24
Site Location Plan and Existing Block Plan	EX-01	-	16.08.24
Proposed Block	PL-01	D	29.10.24

Plan			
Planning, Design and Access Statement by Planning Design	-	-	16.08.24
Planning, Design and Access Statement Appendix A by Planning Design	-	-	13.09.24
Climate Change Statement	-	-	21.08.24

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

During the course of this application, an amended application form was submitted, with Certificate B, for reasons of matters relating to land ownership. As well as matters relating to land ownership, additional information was submitted regarding the loss of a pub and a revised block plan was submitted to address concerns raised by KC Highways Development Management.

Report Dated: 20.11.2024