

PLANNING STATEMENT

**IN SUPPORT OF A FULL PLANNING APPLICATION
FOR A REPLACEMENT DWELLING**

AT WHINNEY CLOSE FARM, KIRKHEATON

**PREPARED ON BEHALF OF
MR T CROMPTON**



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1.0 INTRODUCTION

- 1.1 Directions Planning Consultancy Ltd has been instructed by Mr T Crompton to prepare a Planning Statement in support of a full planning application for the replacement of a dwelling at Whinney Close Farm, 106 Cockley Hill Lane, Kirkheaton.
- 1.2 This Planning Statement deals with the planning policy framework and material considerations pertinent to the determination of the planning application. It has been prepared with reference to legislation, and national and local planning policy and guidance.

2.0 DESCRIPTION OF DEVELOPMENT

- 2.1 The proposal involves the demolition of the existing dwelling, attached garage and outbuildings at Whinney Close Farm to allow for the erection of a replacement dwelling to provide a new family home for the applicant.
- 2.2 The proposed replacement dwelling is to be located in a similar position to the existing dwelling where alterations are to be made to the landscaping of the domestic grounds around the house to create an appropriate setting to the new dwelling.
- 2.3 The junction of the driveway with Cockley Hill Lane is to be widened to improve visibility and the route of the public right of way that crosses through the application site and follows the boundary is to be improved through levelling of the surface.

3.0 THE PROPOSAL SITE AND SURROUNDINGS

- 3.1 The application site is located on the southside of Cockley Hill Lane, which is a local road that extends eastwards from Kirkheaton towards Upper Hopton and Mirfield.
- 3.2 Kirkheaton is located to the north east of Huddersfield, and on the same south facing valley slope as the application site. Ox Field Beck to the south of the application site flows along the bottom of the valley where the slope rises to the top of Cockley Hill, which is on the opposite side of Cockley Hill Lane to the application site. The slope of the valley extends eastwards and westwards from the application site.
- 3.3 The proposal site consists of a detached dwelling located at the end of a private driveway. The driveway sweeps along the northern elevation of the dwelling where it ends in an area of tarmac in which a single storey outbuilding is located. To the east of the dwelling is landscaped gardens, which extend along the southern side of the dwelling and wraps around the west side of the house. Set within the south east corner of the garden is a tennis court. To the south west of the dwelling is a single storey garage and outbuildings that are attached to the main house by a garden wall. The garage is served by a tarmac drive that connects into the main driveway and extends north westwards.
- 3.4 The driveway extends from Cockley Hill Lane in a south eastwardly direction towards the dwelling. On the northside of the driveway is a belt of woodland that also extends south eastwards from Cockley Hill Lane. The belt of trees separates Whinney Close Farm from Willow Court which is a substantial detached dwelling located to the north east. To the west of the entrance serving Whinney Close Farm and to the north west of the application site are several residential properties that front onto Cockley Hill Lane, which are traditional in

appearance and appear to have once formed a farmstead where the farm buildings have been extended and converted into dwellings.

3.5 There are bus stops within 400m to the east and 500m to the west of Whinney Close Farm that provide regular services to Huddersfield and Heckmondwike. Kirkheaton offers a range of facilities and services, including a school, shops, library, churches and public houses. The village also offers sports facilities, including for cricket, football and bowling.

4.0 PLANNING HISTORY

4.1 The table below explains the planning history of the application site, where the information has been obtained from the Council’s online records.

Application Reference	Decision Date	Description	Outcome
2024/90607	14/05/2024	Erection of Outbuilding	certificate of lawful use granted
2023/90643	07/02/2024	Demolition of existing dwelling and detached garage and erection of replacement dwelling, detached garage and associated landscaping	Withdrawn
2023/92292	08/09/2023	8m single storey rear extension	prior approval not required
2023/92300	26/09/2023	Single storey side extensions	certificate of lawful use granted

5.0 PLANNING POLICY CONSIDERATIONS

5.1 Section 70(2) of the Town and Country Planning Act 1990 (‘the 1990 Act’) states that where an application is made to a local planning authority for planning permission, the authority shall have regard to the provisions of the development plan, so far as material to the application. The development plan in this instance is the Kirklees Local Plan (February 2019).

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (‘the 2004 Act’) requires planning applications to be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF, 2023) and any adopted Neighbourhood Plans or Supplementary Planning Documents are therefore material considerations alongside the Local Plan.

5.3 National Planning Policy Framework

5.3.1 The latest version of the National Planning Policy Framework (‘NPPF’) was published on 20 December 2023 and sets out the government’s planning policies for England and how these should be applied. The Framework makes clear under paragraph 2 that planning applications must be determined in accordance with the statutory development plan, unless material considerations indicate otherwise, and that the Framework is such a material consideration.

5.3.2 The NPPF promotes sustainable development, noting at paragraph 10 how there is to be a presumption in favour of sustainable development.

5.3.3 Further requirements of the Framework will be referred to as appropriate in this Statement, and particularly those policies in sections 2 (Achieving sustainable development); 5 (Delivering a sufficient supply of homes); 11 (Making effective use of land); 12 (Achieving well-designed places); 13 (Protecting Green Belt Land); and 15 (Conserving and enhancing the natural environment).

5.4 Adopted Kirklees Local Plan

5.4.1 The adopted Kirklees Local Plan Policies Map shows that the application site lies outside of any defined settlement and is washed over by Green Belt. The belt of woodland on the northside of the driveway is a designated wildlife habitat network. As such, the following policies are considered to be pertinent in the determination of the application:

- Policy LP30 Biodiversity and geodiversity
- Policy LP32 Landscape
- Policy LP33 Trees
- Policy LP35 Historic environment
- Policy LP47 Healthy, active and safe lifestyles
- Policy LP57 The extension, alteration or replacement of existing buildings

5.5 Kirkheaton Neighbourhood Plan

5.5.1 It is understood that Kirkburton Parish Council has applied to Kirklees Council for the designation of the Kirkheaton Neighbourhood Area. The Neighbourhood Plan is still in draft form and so, at this moment in time, it carries limited material weight.

6.0 THE PLANNING CASE

6.1 The introduction to this Statement makes clear that the application is for the demolition of a dwelling and its outbuildings, and the erection of a new dwelling in replacement for the existing, along with landscaping. On this basis, several key policy matters and material considerations are pertinent to the determination of this planning application. Each is addressed in turn below.

6.2 Fallback Position

6.2.1 Information has been provided alongside the application of how construction works have commenced in respect to three permissions for a rear extension, side extension and garden room as listed in the planning history above. The development that is the subject of the applications is extant because works have been undertaken that are deemed to be material operations by Section 56(4) of the Town and Country Planning Act 1990.

6.2.2 Various court cases have considered the concept of a fallback development as a material consideration. It is described in *Mansell v Tonbridge and Malling BC & others* [2017] EWCA Civ 1314 as “familiar”. Paragraph 27 of that judgment by the Court of Appeal confirms that there should be a “real prospect” of a fallback development being implemented and that the decision-maker should exercise their planning judgment as to whether that would be the case depending on the particular circumstances.

6.2.3 On the basis that the permissions granted have been implemented then a fallback position has been established due to there being a greater than theoretical possibility that the fallback could be undertaken because development has commenced and the permissions are now extant. Consequently, the fallback position is a material consideration in determining the appropriateness of the replacement dwelling.

6.3 Replacement Dwelling within the Green Belt

6.3.1 As the application site is washed over by Green Belt then policy LP57 of the Kirklees Local Plan applies which states that proposals for the replacement of buildings within the Green Belt will normally be accepted provided that the building is in the same use and not materially larger

than the building it is replacing. The wording of policy LP57 repeats that found under paragraph 154(d) of the NPPF and so local policy is consistent with national policy, and is therefore up to date.

- 6.3.2 In this instance, both local and national policy confirm the intention of replacing the existing dwelling with a new dwelling is acceptable, where the only judgement to be reached is whether the replacement dwelling is materially larger than the one it is to replace.
- 6.3.3 The 'Comparative Volume and Area Analysis' statement prepared by Shaw and Jagger Architects provides an understanding of various scenarios and the relative volumes and footprints. The statement makes clear how the total footprint of the existing buildings to be demolished is 292.9m² and the proposed dwelling is explained to have a footprint of 352.8m². In terms of volume, the existing buildings to be demolished is 1433m³ and the proposed dwelling is 2815m³. The proposed dwelling can therefore be considered to be materially larger than the building it is to replace.
- 6.3.4 This is not, however, the end of the consideration of the application given that the planning system makes clear how applications are to be determined with reference to not just the statutory development plan, but also other material considerations.
- 6.3.5 Given that a fallback position has been established then it is a material consideration in determining the appropriateness of the replacement dwelling, which is clear from case law and appeal decisions.
- 6.3.6 In respect to Green Belt policy, paragraph 152 and 153 of the NPPF address circumstances in which other material considerations might determine there are very special circumstances for inappropriate development to be granted permission.
- 6.3.7 Various decisions, including an appeal under reference APP/G5180/W/18/3206906 for a replacement dwelling in the Green Belt in Keston within the London Borough of Broley, make clear how significant weight can be afforded to a fallback position where there is a reasonable prospect of it being carried out. Also, precedence has been set elsewhere in respect to the weight to be attributed to fallback positions, including in respect of a decision concerning the replacement of a dwelling with a larger dwelling in the Green Belt at Lamerwood House, Codicote Road, Hertfordshire under an application referenced 5/2022/2969 that was approved by St Albans. As previously mentioned, material operations are underway at Whinney Close Farm and so the various permissions are extant. The circumstances mean that the fallback position has been demonstrated to have a reasonable prospect of coming forward and is therefore a material consideration to be afforded weight.
- 6.3.8 The figures presented in the 'Comparative Volume and Area Analysis' statement prepared by Shaw and Jagger Architects offer an opportunity to determine whether the proposed dwelling is materially larger than the fallback position.
- 6.3.9 The statement prepared by Shaw and Jagger Architects makes clear how the volume of the fallback position is 3311.7m³ and the footprint of the fallback position is 841m². The statement also sets out how the volume of the proposed dwelling is to be 3436m³ and the footprint 352.8m². There can be no argument that a reduction in volume of 18% and reduced footprint of 58% results in a replacement dwelling that is not materially larger than the fallback position.
- 6.3.10 Additionally, the drawings illustrate the potential spatial and visual impacts of the proposal against both the existing dwelling and the fallback position. In comparing the existing dwelling to the proposal (as shown in the latest version of submitted drawings) it is clear to see how the proposed dwelling is more compact than the existing dwelling with attached outbuildings, where

the proposed dwelling also appears to be smaller in scale and massing. The height of the existing and proposed dwellings is also similar. The significance of the proposed dwelling having a similar visual impact to the existing dwelling is that the proposed dwelling would have, at worst, neutral impact on the openness of the Green Belt. However, removing the outbuildings and tennis court will result in both spatial and visual improvements on the openness of the Green Belt which are therefore benefits of the proposal.

- 6.3.11 In comparing the scale and massing of the proposed dwelling with the fallback position, as shown in the drawings, it is evident how the proposal is substantially smaller in scale and massing, with comparable height within the landscape. This is due to the sprawling nature of the fallback position where the dwelling has extended wings and additional depth due to the approved extensions. In terms of impacts on the openness of the Green Belt, the proposed dwelling will offer both spatial and visual improvements when compared to the fallback position. These benefits are to be given significant weight due to the positive benefits of improving the openness of the Green Belt in accordance with the fundamental aim of Green Belt policy, as explained under paragraph 142 of the NPPF.

6.4 Landscaping

- 6.4.1 Beyond requiring the proposed dwelling to not be materially larger than the existing building, policy LP57 goes on to explain that the proposal should not have a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access. Furthermore, policy LP58 sets out how the Council does not wish to allow the extension of domestic curtilage into Green Belt.

- 6.4.2 In this instance, the proposal does not include extended areas of hardstanding or alterations to the extent of curtilage or enclosure. Instead, new planting is proposed within the extent of the established areas of curtilage, which includes replacing an existing tennis court with new tree planting and meadows.

- 6.4.3 As such, the proposed landscaping does not intend to see the grounds serving the dwelling enlarged. Instead, the proposal will secure a lesser impact on the openness of the Green Belt than the existing external treatments, due to the removal of the existing tennis court. The reduction in spatial impacts is considered to be a benefit of the proposal, as well as according with local planning policy.

6.5 Landscape and Local Distinctiveness

- 6.5.1 Policy LP57 includes criterion d which refers to how the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.

- 6.5.2 The proposal intends to utilise local stone, where the design is explained within the Design and Access Statement to be that of a Georgian gentleman's residence with reference to the history of the area and how there were once a number of classical country houses that have now been lost. In an area that is rich in local history and was once known for its historic country houses and parklands, the application scheme is considered to offer an opportunity to repair the historic significance of the landscape by allowing for the construction of a new dwelling that will uplift the quality of the area through the quality of its design.

- 6.5.3 This is where the design of the proposal offers a real benefit in respect to a number of material planning considerations that arise from reading the Local Plan and NPPF as a whole, besides simply complying with criterion d of policy LP57.

6.6 Other Material Considerations

- 6.6.1 Paragraph 153 of the NPPF sets out how very special circumstance to justify inappropriate

development will not exist unless the potential harm to the Green Belt by reason of inappropriateness is clearly outweighed by other considerations. The reasons why the fallback position is a material consideration to be given significant material weight has already been explained, however, it is important to grasp how the supporting information accompanying the application explains that the proposal offers a number of additional benefits that will deliver wider planning policy objectives and secure development of far greater quality than what might otherwise be found acceptable by alternative schemes or maintaining the existing situation. Such material considerations and how they weigh into demonstrating very special circumstances cannot be ignored given the way in which the planning system is intended to support sustainable development and only see development refused where the application of policies within the NPPF provides clear reasons to do so.

- 6.6.2 In this instance, the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by a number of considerations. This includes those reasons outlined below and how the NPPF allows for permission to be granted in very special circumstances as set out under paragraph 152 of the NPPF.

Benefits of the Fallback Position

- 6.6.3 Having established a fallback, one of the considerations (besides impacts on openness) that flows from the position is whether the application scheme would be more harmful than the fallback position. Clearly, the fallback position and the proposed development are significantly different in their design.
- 6.6.4 The original dwelling with the various later additions is of poor design and therefore does not make a positive contribution to the character of the locality. In contrast, the information in support of the application, including the drawings, Design and Access Statement and peer reviews makes clear the exceptional design quality of the proposed dwelling, especially given how the design is sustainable and will better reveal the historic significance of the area.
- 6.6.5 It is quite clear that the application scheme is preferable to the fallback position. The poor design of the fallback causes visual harm to the character of the area, whilst the replacement new dwelling is clearly of significantly greater design quality that will raise the standard of design in the area. The improvement offered by the proposed dwelling when compared to the fallback position is a material consideration and to be given significant weight in the determination of the application. These benefits are outlined in more detail below.

Sustainable Design

- 6.6.6 The original dwelling and later extensions date from periods in time where energy efficiency and reductions in carbon emissions were not planning policy matters and when building regulation standards did not call for the construction of houses to address climate change. As such, the existing dwelling is not energy efficient due to a general lack of insulation, large window apertures and the need for high levels of heat input and artificial lighting.
- 6.6.7 With the introduction of amendments to Building Regulations in June 2022, the proposed dwelling will now need to take account of the energy hierarchy in relation to fabric and performance, and incorporate passive design measures, as well as incorporate renewable energy. Consequently, the proposed dwelling will make a positive contribution to reducing carbon emissions and saving energy.
- 6.6.8 The Kirklees Local Plan does not appear to contain policies that aim to save energy or reduce carbon emissions through design. However, a policy thread running through the NPPF makes clear how there needs to be a shift towards mitigating and adapting to climate change, which includes reducing greenhouse gas emissions. Replacing an energy inefficient dwelling with one

that is efficient and incorporates passive design and renewable energy is therefore supported by national planning policy and in particular paragraphs 159 and 162.

Local Distinctiveness

- 6.6.9 The classical design of the replacement dwelling was born out of extensive research into the history of the wider area; beyond simply the extent of the red line. This is evident from the explanation within the Design and Access Statement and also the Landscape Visual Assessment, which both reveal how the site falls within an area rich in history. These reports explain in a comprehensive manner how the intention of the proposal is to better reveal the history of the area, repair harm and enhance the setting of various heritage assets. In turn the proposal will make a positive contribution to the historic significance of the area.
- 6.6.10 Such an opportunity cannot be dismissed or belittled as it is not often that an applicant or their architect have a real opportunity to deliver the quality of scheme that is currently being proposed. There has been a genuine attempt to understand not just the local context in terms of the current landscape character, but also its history and how it might be repaired.
- 6.6.11 Paragraph 135 of the NPPF makes clear that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. This policy requirement summarises the achievements of the proposal in a nutshell given that the design of the house and the improvements to the landscaping through the proposed changes are sympathetic to the local character and history of the area. As such, the proposal accords with national policy and the proposed design offers a real benefit.

Outstanding Design

- 6.6.12 Chapter 12 of the NPPF deals with achieving well-designed and beautiful places. The proposal intends to make a positive contribution to achieving this policy objective by securing the replacement of a dwelling of poor design with a high quality, beautiful and sustainable dwelling.
- 6.6.13 The extent of the quality of the proposal is explained in full within the supporting information, whereby the Design and Access Statement explains the background to the design principle for the proposal designing a fine Georgian country house based on fundamental principles in classical design. Given the heritage of classical architectural design in England and the clear abilities of Shaw and Jagger to execute the design of buildings using classical principles then there is no doubt that the proposed dwelling is well-designed and beautiful.
- 6.6.14 The peer reviews accompanying the application serve to confirm the quality of the proposal given they have been prepared by architects of note and authority. It is clear from the peer reviews that the design of the proposal, its orientation, scale, detail, proportions, relationship to its site, the wider context, size, scale, form and layout all represent the highest standards of architecture. Furthermore, these conclusions are consistent with the design rationale set out by the architect themselves within the Design and Access Statement.
- 6.6.15 On the basis of the quality of the design, the proposal is supported under paragraphs 135 and 139 of the NPPF. This is because significant weight is expected to be given to outstanding design that helps raise the standard of design in an area. In this instance, the proposal will add to the quality of the area, and is visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Cumulative Benefits

- 6.6.16 The individual benefits and their cumulative beneficial impacts outlined in this Statement cannot be ignored given they are material considerations pertinent in the determination of the application. Coupled with the lack of harm in respect to policy matters outlined above and the technical considerations addressed below, the proposal cannot be considered to be harmful to

Green Belt policy and so very special circumstances have been demonstrated with reference to paragraphs 152 and 153 of the NPPF.

6.7 Residential Amenity

6.7.1 The site is bounded to the north, east and west by residential properties. The character of the proposed use is therefore considered to be consistent with the neighbouring land uses and so it is expected that the proposed dwelling will not give rise to nuisance and should not be caused nuisance by neighbouring properties.

6.8 Access

6.8.1 The proposal is intended to utilise the existing driveway. The junction onto Cockley Hill Lane is to be widened within the landownership of the applicant, as shown in the drawings, to assist visibility. This will improve highways safety by making it easier to see oncoming vehicles, which is a benefit of the proposal and accords with policy LP21 and reference to how proposals shall provide for improvements to assist safe access.

6.8.2 Given that the proposal is for a replacement dwelling then traffic movements are unlikely to be altered by the resulting development.

6.9 Public Rights of Way

6.9.1 There is a public right of way from the entrance to Willow Court that dissects the tree belt to the north of the application site before crossing the driveway and following the western boundary of the application site.

6.9.2 The route of the public right of way is unaffected by the proposal. However, the views from the public right of way will be impacted upon due to the difference in the appearance and character of the replacement dwelling to the existing.

6.9.3 The proposal is seen to offer an opportunity to improve the views from the public right of way due to the quality of the design of the proposal, which involves constructing a dwelling of architectural merit.

6.9.4 Also, some of the gradients of the route of the public right of way are to be altered to make it easier for the route to be used. The improvement to the accessibility of the public right of way and the quality of the route is therefore a benefit of the proposal that accords with policy LP47 which promotes healthy, active and safe lifestyles.

6.10 Trees

6.10.1 There is an existing belt of trees to the north of the site that bounds the existing driveway. As the proposal involves the replacement of an existing dwelling then the proposal should not impact on the belt of trees. As the development scheme does not intend to remove any existing trees or encroach into the root protection zone of existing trees then the proposal complies with policy LP33 of the Local Plan.

6.11 Ecology

6.11.1 Despite the application site consisting of domestic grounds serving a residential property, a preliminary ecological assessment has been undertaken for the application site. It found no evidence of any protected species. Care is, however, recommended to be taken in respect to hedgehogs, reptiles and birds during initial works.

6.11.2 Due to the presence of ponds within the wider area, but outside of the application site, a Great Crested Newt Risk Assessment has been undertaken. The assessment found it is unlikely that any Great Crested Newts will be found on site and that a Natural England Licence will not be required. No further action is therefore necessary in respect to Great Crested Newts.

6.11.3 With the replacement of the existing buildings being demolished, a bat survey accompanies the application. It makes clear that there are no signs of bats within the building, but that care should be taken in removing the existing roof.

6.12 Biodiversity Net Gain

6.12.1 The metric calculations accompanying the application demonstrate the proposal more than delivers the necessary 10% net gain. As such, the benefit of delivering 12.88% net gain weighs in favour of the proposal as a means of securing habitat and biodiversity improvements.

6.13 Contamination

6.13.1 The site is already in residential use and the history of the site suggests there is no reason to suspect contamination. As such, a condition requiring a remediation strategy to be submitted to the Council for approval in the event unsuspected contamination is found is sufficient and reasonable.

6.14 Flood Risk and Drainage

6.14.1 The site is within Flood Risk Zone 1 and so a Flood Risk Assessment is not required to accompany the planning application, especially as the size of the site falls below the thresholds set out in the NPPF for the preparation of an assessment.

6.14.2 It is expected that existing surface water and foul drainage will be maintained as existing.

7.0 CONCLUSION AND BALANCE OF THE DECISION

7.1 In this instance, the proposed dwelling is materially larger than the building it is to replace. A fallback position has, however, been established, where case law determines that extant permissions and permitted development rights are a material consideration. The proposed dwelling is, however, materially smaller than the fallback position and so this is to be given substantial material weight.

7.2 In respect to openness, the various drawings illustrate how the proposed dwelling will have less of a spatial and visual impact on the Green Belt than either the existing dwelling or fallback position due to the reduced sprawl of development across the application site. The proposal will therefore cause less spatial or visual harm to the openness of the Green Belt than either the existing dwelling or fallback position. This is to be given substantial material weight.

7.3 There are a number of other material considerations that carry weight and confirm very special circumstances exist in favour of the development, which relate to the positive impacts of the proposed design.

7.4 In the first instance, the design of the proposed dwelling is considered to be favourable to the design of either the existing or fallback position. Additionally, the proposed dwelling is considered to be of outstanding design, which will promote high levels of sustainability and raise standards of design more generally within the area. Particularly, as the design will better reveal the historic significance of the landscape by allowing for construction of a dwelling based on classical design of the highest quality. Consequently, paragraphs 135 and 139 of the NPPF expect significant weight to be offered in support of the proposal.

7.5 In considering technical matters, the proposal satisfies necessary standards and should not give rise to harm.

7.6 Even though the proposal is considered to be inappropriate development within the Green Belt due to the size exceeding that of the buildings it is to replace, very special circumstances have

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been demonstrated where the balance of planning considerations fall in favour of the proposed dwelling.