

Re: Planning application 19/07228/FU

Re: Demolition of existing bungalow and erection of a pair of two storey semi-detached dwellings (two new dwellings)

Re: Land at Sheri Dene, Elmwood Lane, Barwick In Elmet, Leeds LS15 4JX

Further objections made by Mr. D Hardy of Elmwood House, 44 Main Street, Barwick in Elmet, LS15 4JQ

1. Introduction

1.1 These further objections are in response to:

- 4 no. additional drawings submitted by DEN architecture on 6th April 2020
- Revised conservation comments dated 11th May 2020
- Officer report prepared by Steven Wilkinson

1.2 Aside from clear and obvious legal errors in the decision making process (in a number of important respects, the revised officer report has made things worse for the Council), it remains the case that planning permission should be refused for this application for the following reasons:

- The proposed development would represent overdevelopment of the site, the clear manifestation of which are multiple breaches of policy and guidance in relation to design and protection of a high standard amenity both for (1) future residents of the dwellings themselves and (2) existing neighbours
- The proposed development would cause unacceptable harm to the significance of Elmwood House (Grade II Listed)
- The proposed development would cause unacceptable harm to the character and appearance of the Barwick in Elmet Conservation Area

2. Additional drawings

2.1 On 6th April 2020, 4 no. new drawings were submitted by DEN in an attempt by the Applicant to depict:

- View along Elmwood Lane looking South
- View from Carrfield Road
- View along Elmwood Lane looking North
- View between 44 and 42 Main Street

2.2 Such drawings are misleading to the point of dishonesty. Indeed, the creator of the drawings cannot have been to the site. As a consequence, any professional view which has been formed based on them, most notably the revised conservation comments dated 11th May 2020 and now the officer report prepared by Steven Wilkinson are infected with the same problems.

2.3 There are problems with all of the drawings but to make the point very clearly, in **Appendix DH1**, a comparison is drawn between a real life image extracted from Google Earth and the additional view along Elmwood Lane looking north. In **Appendix**

integrity maintained. Overall, the impact of the development on the conservation area will be neutral and will therefore “preserve”.”

- 3.15 Mr. Ward identifies the boundary wall as an element which positively reveals the significance of the toft and croft layout within the conservation area. For no reason other than that the developer opportunistically wishes to have two smaller semi-detached dwellings, such a positive feature will be irreparably harmed. It is well understood law that “preserve” means to do no harm or better (see *South Lakeland District Council v Secretary of State for the Environment and Carlisle Diocesan Parsonages Board* [1992] 2 WLR 204) and puncturing an intact historic wall and permanently removing historic fabric to create a modern vehicular access cannot result in ‘no harm’ on any rational basis.
- 3.16 Again, Mr. Ward’s assessment is inaccurate, incomplete and does not answer the detailed assessment of the statutory qualities and policy significance of the Conservation Area and the impact that the proposed development would have made by Pegasus Group.

4. Officer report of Steven Wilkinson

Pre-determination/bias

- 4.1 As has been said previously, notwithstanding the allegation of pre-determination made, Steve Wilkinson, the case officer from the original delegated report has remained the case officer for the re-submitted application. There is clear evidence of pre-determination on his part including (but not limited to) the following statement written by him in an email dated 3rd December 2019:

"I spoke to.....at Panel meeting last week and I advised him that the current discharge of conditions information needs to be submitted with this current application (given that the existing pp is likely to be quashed). This will ensure that I do not have to reattach the conditions on any new permission which could cause further delays"

Clearly, in discussing the discharge of conditions, Mr. Wilkinson was envisaging the grant of a fresh planning permission and considering ways to make things easier and faster for the developer. There is no other rational explanation for his comments. As you will be aware from recent, widely reported matters, the High Court is vigilant to guard against pre-determination. Given the past history, it is disappointing that Mr. Wilkinson has not recused himself from dealing with this case.

Absence of local engagement

- 4.2 In clear breach of national policy, the failure of the applicant to engage with those affected in the local community was previously noted. Notwithstanding the detailed concerns raised in relation to Elmwood House and the passage of 9 months, it is disappointing to report that the applicant has not made any attempt to contact me or gain access to the premises to undertake a proper assessment of impacts on heritage or residential amenity.

Re: Planning application 19/07228/FU

Re: Demolition of existing bungalow and erection of a pair of two storey semi-detached dwellings (two new dwellings)

Re: Land at Sheri Dene, Elmwood Lane, Barwick In Elmet, Leeds LS15 4JX

Further objections made by Mr. D Hardy of Elmwood House, 44 Main Street, Barwick in Elmet, LS15 4JQ

1. Introduction

1.1 These further objections are in response to:

- 4 no. additional drawings submitted by DEN architecture on 6th April 2020
- Revised conservation comments dated 11th May 2020
- Officer report prepared by Steven Wilkinson

1.2 Aside from clear and obvious legal errors in the decision making process (in a number of important respects, the revised officer report has made things worse for the Council), it remains the case that planning permission should be refused for this application for the following reasons:

- The proposed development would represent overdevelopment of the site, the clear manifestation of which are multiple breaches of policy and guidance in relation to design and protection of a high standard amenity both for (1) future residents of the dwellings themselves and (2) existing neighbours
- The proposed development would cause unacceptable harm to the significance of Elmwood House (Grade II Listed)
- The proposed development would cause unacceptable harm to the character and appearance of the Barwick in Elmet Conservation Area

2. Additional drawings

2.1 On 6th April 2020, 4 no. new drawings were submitted by DEN in an attempt by the Applicant to depict:

- View along Elmwood Lane looking South
- View from Carrfield Road
- View along Elmwood Lane looking North
- View between 44 and 42 Main Street

2.2 Such drawings are misleading to the point of dishonesty. Indeed, the creator of the drawings cannot have been to the site. As a consequence, any professional view which has been formed based on them, most notably the revised conservation comments dated 11th May 2020 and now the officer report prepared by Steven Wilkinson are infected with the same problems.

2.3 There are problems with all of the drawings but to make the point very clearly, in **Appendix DH1**, a comparison is drawn between a real life image extracted from Google Earth and the additional view along Elmwood Lane looking north. In **Appendix**

DH2, a comparison is drawn between a real life image extracted from Google Earth and the view along Elmwood Lane looking south.

Appendix DH1

- 2.4 As will be seen from the photograph and as members will no doubt recall from the site visit which started on Elmwood Lane, the high stone wall depicted along the frontage of Birch Lodge simply doesn't exist as it is depicted. There is a wrought iron gate and a stone wall which measures 1.6 m at its highest. The return of the listed wall steps down to the northernmost gate pier. In real life, the stone wall offers nothing like the screening effect suggested by the drawing.

Appendix DH2

- 2.5 As will be seen from the photograph, the outline of the former bungalow is absurdly low when compared with the ridgeline of Birch Lodge on Elmwood Lane. Without digital data, it is not possible to align the viewpoint precisely but it is sufficiently close as to make no substantive difference. The proportions of the former bungalow are misleading.
- 2.6 Interestingly, the drawing does acknowledge a direct line of sight between my office on the first floor of Elmwood House and Elmwood Lane, with the rear extension of the proposed dwellings being as close as 23.5 m to my principal rear elevation.

3. Revised conservation comments

- 3.1 Significantly, the detailed criticisms of the previous heritage consultation responses submitted by both myself and my specialist advisors, Pegasus Group, appear to have been accepted. The revised conservation officer response from Mr Ward starts by saying that:

“These comments supersede previous Conservation Team consultation responses.”

In particular, Mr. Ward has been forced to correct a basic mistake that the baseline for assessment is a cleared site. The former bungalow no longer exists. Indeed, the previous officer report to committee was based upon now superseded consultation responses which the Council itself now acknowledges to be wrong.

- 3.2 However, Mr. Ward himself then promptly fails to identify or apply the required tests which are set out in:
- Section 66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
 - Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
 - Chapter 15 of the NPPF
 - Advice contained in Historic Environment Good Practice Advice in Planning: 3 (2nd Edition) (published 22 December 2017)

- 3.3 Erroneously, Mr. Ward does not even attempt to undertake a policy compliant assessment of the significance of Elmwood House, including any contribution to such significance made by setting before considering potential impacts and mitigation. Nor does he identify the primary statutory test which is to be applied.
- 3.4 Similarly, in relation to the Conservation Area, Mr. Ward does not attempt to undertake a policy compliant assessment of the significance of the Conservation Area, including any contribution to such significance made by the application site before considering potential impacts and mitigation. Nor does he identify the primary statutory test which is to be applied. This assessment would naturally be different to any assessment undertaken previously on the flawed basis that the baseline included the previous bungalow. On any sensible view, the application site now makes a greater contribution to the Conservation Area and any assessment of significance and harm will need to reflect this.

Treatment of Elmwood House

- 3.5 A seemingly important part of Mr. Ward's penultimate paragraph does not make sense:
".....It will be visible from the garden of Elmwood Lane but offset in views looking west and seen as the pattern of "back line" development along Elmwood Lane"

There is no "garden of Elmwood Lane".

- 3.6 As set out above, Mr. Ward appears to have been misled in his assessment by the incorrect additional visualisations. Mr. Ward does not state whether he has been to the site and if not, he has relied on misleading information. The existing property at Birch Lodge would not "shelter" the proposed development in the way that is suggested. The high stone wall which is shown on the drawing and relied on by Mr. Ward is a fiction. The inaccurate drawings are clearly no substitute for a site visit.

- 3.7 In his penultimate paragraph, Mr. Ward states that:

"It [the proposed development] will not affect the view of the listed building along Main Street where the new houses will not be seen together with the listed building"

and

"The new development will be glimpsed in views through the narrow access between listed building and the house to the north but in this glimpsed and momentary view is not dominating as shown in the recent 3D view submitted by the applicant"

Self-evidently, these assertions contradict each other. The additional view between Number 42 and Number 44 clearly shows the north flank wall of Elmwood House and the listed wall in combination with the new houses; the listed building and the new houses absolutely will be seen together, as demonstrated by the Applicant's own visualisation.

- 3.8 Moreover, the point relied on by Mr. Ward is the very reason why impact on the significance of Elmwood House through the contribution made by setting. There are

few remaining opportunities for pedestrians, cyclists and horse riders on Main Street to see and interpret the connection between the regular sized house plots (tofts) on Main Street and the long narrow garden plots (crofts) lining west side of Elmwood Lane. The gap between Elmwood House and Number 42 is one such opportunity to stop and appreciate the significance of the toft and croft layout.

- 3.9 Whilst matters of impact on significance are subjective, the conclusion of Mr. Ward that the

“Impact of the houses on the setting of the listed building will be neutral”

is irrational. Acknowledging as he does that the current cleared site is within the immediate setting of Elmwood House and a clear vestige of the toft and croft pattern, it is incredible to suggest that the construction of two modern houses at a distance of 23.5 m would cause no harm to significance. The assessment of Mr. Ward has all the appearance of writing to an agenda, as a clumsy attempt to ‘backfill’ the errors in relation to heritage previously made by the Council.

- 3.10 Mr. Ward completely fails to assess the heritage significance of the listed wall and in so doing fails to comply with the primary statutory duty in section 66(1) and the policy duties contained in Chapter 15 of the NPPF.
- 3.11 Mr. Ward’s assessment is inaccurate, incomplete and does not answer the detailed assessment of the significance of Elmwood House and the impact that the proposed development would have made by Pegasus Group.

Conservation Area

- 3.12 The tests applicable to Conservation Areas are completely separate and distinct from those which apply to a listed building; they are not “similar considerations” as suggested by Mr. Ward.
- 3.13 The “deep history” of the toft and croft settlement pattern has been clearly revealed by demolition of the former bungalow. It was readily intelligible when the bungalow was present because the lateral walls were clear and obvious to all those walking along Elmwood Lane. Subdivision of the plot by a pair of cramped semi-detached properties which provide few opportunities for glimpses through to the backs of the tofts on Main Street will inevitably take away such appreciation.
- 3.14 Moreover, it is extraordinary for Mr. Ward to suggest on the one hand that

“The spatial frame of the plot is defined by tall side walls extending from Main Street and returning along Elmwood Lane (although reduced in height and partially rebuilt in brick) demarcating the rear of the historic toft and croft”

and on the other hand conclude that:

“The positive boundary wall onto Elmwood Lane would be punctured to create separate access points for the houses but the majority of the wall would remain and the visual

integrity maintained. Overall, the impact of the development on the conservation area will be neutral and will therefore “preserve”.”

- 3.15 Mr. Ward identifies the boundary wall as an element which positively reveals the significance of the toft and croft layout within the conservation area. For no reason other than that the developer opportunistically wishes to have two smaller semi-detached dwellings, such a positive feature will be irreparably harmed. It is well understood law that “preserve” means to do no harm or better (see *South Lakeland District Council v Secretary of State for the Environment and Carlisle Diocesan Parsonages Board* [1992] 2 WLR 204) and puncturing an intact historic wall and permanently removing historic fabric to create a modern vehicular access cannot result in ‘no harm’ on any rational basis.
- 3.16 Again, Mr. Ward’s assessment is inaccurate, incomplete and does not answer the detailed assessment of the statutory qualities and policy significance of the Conservation Area and the impact that the proposed development would have made by Pegasus Group.

4. Officer report of Steven Wilkinson

Pre-determination/bias

- 4.1 As has been said previously, notwithstanding the allegation of pre-determination made, Steve Wilkinson, the case officer from the original delegated report has remained the case officer for the re-submitted application. There is clear evidence of pre-determination on his part including (but not limited to) the following statement written by him in an email dated 3rd December 2019:

"I spoke to.....at Panel meeting last week and I advised him that the current discharge of conditions information needs to be submitted with this current application (given that the existing pp is likely to be quashed). This will ensure that I do not have to reattach the conditions on any new permission which could cause further delays"

Clearly, in discussing the discharge of conditions, Mr. Wilkinson was envisaging the grant of a fresh planning permission and considering ways to make things easier and faster for the developer. There is no other rational explanation for his comments. As you will be aware from recent, widely reported matters, the High Court is vigilant to guard against pre-determination. Given the past history, it is disappointing that Mr. Wilkinson has not recused himself from dealing with this case.

Absence of local engagement

- 4.2 In clear breach of national policy, the failure of the applicant to engage with those affected in the local community was previously noted. Notwithstanding the detailed concerns raised in relation to Elmwood House and the passage of 9 months, it is disappointing to report that the applicant has not made any attempt to contact me or gain access to the premises to undertake a proper assessment of impacts on heritage or residential amenity.

- 4.3 Members of the planning committee have of course got the advantage of the knowledge they gained on the site visit; the harm was clear and obvious. Perhaps that is why the applicant has not sought to come on to my property because it knew that it would be very difficult to justify what it saw.

Site and surroundings

- 4.4 Paragraph 7 of the officer report is incorrect. Planning permission, which included demolition, had not been lawfully implemented. The Applicant was acting in breach of planning and the criminal law. The Council did not police this breach of planning properly.
- 4.5 Notwithstanding that the Council wrote to the applicant requiring all works to cease on 10th October 2019, demolition and site clearance works continued on 11th October 2019 and the Council did nothing about it. Indeed, on the 11th October 2019, the contractor seriously damaged the listed wall on the southern boundary of the site which was a separate criminal offence which went unpunished.
- 4.6 Paragraph 8 is incorrect. The site is not flanked by “two, two storey residential dwellings built of stone”. As you will have observed on your site visit, adjacent the site to the north is an electrical contractors and engineering business.
- 4.7 The topographical survey submitted on 27th January 2020 (which misleadingly shows the previous bungalow as if it still existed) shows a high point of 84.73 mAOD to the west and a low point of 82.27 mAOD to the east. That is a substantial fall of 2.5 m across the site.
- 4.8 The land level then drops abruptly to 81.46 mAOD behind numbers 38-42 Main Street. No measurements are provided for any part of the land belonging to Elmwood House, including the private patio area which steps down much lower than the site itself. Whilst it is acknowledged in paragraph 9 of the officer report that Elmwood House and garden are situated “on a lower land level than the development site”, the measured height differential is missing from the officer report and it is stark.

History of negotiations

- 4.9 The minor changes listed in paragraph 15 of the officer report do nothing to address the substance of the shortcomings regarding this application. They are very basic changes, required only because the original design was so poorly executed. To take but one example, in a sensitive location in Barwick Conservation Area where most of the surrounding properties have white painted timber windows, it should not be counted as any great victory that they will no longer be grey.
- 4.10 The so called “improved hard and soft landscaping” is undefined and without a section 106 legal undertaking for maintenance, the retention of any planting scheme is completely unenforceable. The border planting along the southern boundary lacks any specificity. Without enforceable planning controls the border planting is unlikely to be created at all, not maintained or removed at a very early stage to create more lawn in what are two narrow gardens. The difficulty facing the applicant is that any tree planting

which could potentially have a screening effect for Elmwood House, such as trees, would be likely to undermine the listed wall.

Public/local response

- 4.11 Nobody other than the Applicant has expressed support for this development. Both the Parish Council and local residents are unanimously against this development. Noone is against development on the site but it should be sympathetic and appropriate and that means a replacement, single, single storey dwelling.

Consultation Response (Summary)

- 4.12 As set out in detail above, the revised consultation response from Mr. Ward is flawed in a number of important respects.

Appraisal

The principle of the development/housing supply

- 4.13 Paragraph 49 of the officer report is misleading. Applying the definition in Annex 2 to the NPPF, the majority of the site is automatically excluded from the definition of previously developed land because it formed residential garden. This is self-evident from looking at the topographical survey which shows the footprint of the previous bungalow.
- 4.14 Moreover, 10 months have now elapsed since the bungalow was unlawfully demolished and there is now an argument that the entire site is greenfield. Previously developed land is defined in Annex 2 to the NPPF as follows:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

- 4.15 As will be seen from the photograph at **Exhibit DH 3**, the application site has now revegetated to a point where any remains of the bungalow cannot be discerned. A wooden stick can just be seen where the bungalow was, in the middle of self-seeding varieties. What is suggested in paragraph 62 of the officer report is simply wrong.
- 4.16 Contrary to what is asserted in paragraph 51, the application site clearly makes a valuable contribution to the “visual, historic and/or spatial character of an area”. It is a sensitive site within the Barwick Conservation Area; that is the very purpose of the designation. As a consequence, the application site does not comply with Policy H2 of the Core Strategy and starts with a statutory presumption against it.

- 4.17 Interestingly, in paragraph 51 of his officer report, Mr. Wilkinson is himself also forced to accept that the proposal is considered only to be in “general conformity with Policy H2”. It clearly is not.
- 4.18 The Council itself accepts that there is no need for the additional housing. This scheme does not attract any weight attaching to the provision of a net gain of one dwelling which the Council does not need.

Design and Character/Impact on Conservation Area

- 4.19 Paragraph 52 of the officer report is misleading. This application does not represent an “alteration to existing”. This is a new scheme on the site of an unlawfully demolished bungalow.
- 4.20 Paragraphs 64 of the officer report is a verbatim recitation of the flawed consultation response from Mr. Ward which is dealt with in detail above; as a result, the problems which beset the consultation response also infect Mr. Wilkinson’s report.
- 4.21 Paragraph 66 of the officer report is misleading. Just as Mr. Ward does, Mr. Wilkinson indicates that a “key aspect of the conservation interest at the site is the historic stone front boundary wall”. It is factually incorrect to say that the proposal would retain the majority of the stone wall; with the existing gap and the newly created puncture, only 50% of the historic wall would remain. For no reason other than that the developer opportunistically wishes to have two smaller semi-detached dwellings, such a “key aspect” will be irreparably harmed and its visual integrity will be lost. It will no longer read as a boundary wall at all. Puncturing an intact historic wall and permanently removing historic fabric to create a modern vehicular access cannot result in a “neutral effect’ or ‘no harm’ on any rational basis.
- 4.22 Mr. Wilkinson’s assessment is inaccurate, incomplete and does not answer the detailed assessment of the statutory qualities and policy significance of the Conservation Area and the impact that the proposed development would cause, undertaken by Pegasus Group.

Setting of the listed building

- 4.23 Paragraph 70 of the officer report confirms Mr. Wilkinson has relied on the consultation response from Mr. Ward. Accordingly, he is burdened by the same factual and legal mistakes. As with the Conservation Area, paragraphs 71 and 72 of the officer report are verbatim recitations of Mr. Ward’s work which are dealt with in detail above.
- 4.24 In paragraph accepts that the development plot as a cleared site contributes positively to the setting of the Elmwood House listed building.
- 4.25 Visual domination has got very little to do with impact on heritage significance in this case. Mr. Wilkinson has been forced into saying that there is no harm because he knows very well that if any harm were acknowledged by him, which there clearly is, then he would not be able to support the grant of planning permission.

- 4.26 Just as with Mr. Ward, Mr. Wilkinson has failed to comply with the statutory duty, national policy contained in the NPPF and ignored the systematic approach to assessment of heritage significance contained within the Good Practice Advice Notes produced by Historic England.

Residential amenity-Neighbouring residents

- 4.27 The distance from the rear elevation of the closest property to the rear elevation of Elmwood House is 23.5 m. In paragraph 77, Mr. Wilkinson confirms that the two storey element of the proposed dwellings will be “situated approximately 4.8 m” from the garden area of my house.
- 4.28 It is incomprehensible why Mr. Wilkinson concludes that a distance of 23 m to principal rooms, with a substantial drop in levels and with uninterrupted views from principal first floor windows in the new houses is acceptable. Any off-set between the new houses and Elmwood House actually serves to increase the problem and not decrease it; lines of sight from principal rooms on the first floor of Elmwood House are centered straight on to the new houses at too close a distance for privacy or comfort, either way round.
- 4.29 As indicated previously, the Householder Design Guide SPD specifically states that it is not applicable on sloping sites. The distance provided on the Proposed Site Layout between the closest property and Elmwood House is both misleading and inappropriate. Given the height differential, which has been ignored, views from the upper storey windows of both dwellings will be available into the dining room, sitting room, office and principal bedroom of Elmwood House as well as surveillance over the entirety of the garden and private amenity space available to the property. The proposed dwellings would be overbearing as well as resulting in an unacceptable loss of privacy for myself and my family. Elmwood House will be left with no outdoor private amenity space that is not overlooked.
- 4.30 It is clear that Mr. Wilkinson acknowledges harm; in paragraph 77 he concludes that the new dwellings will not “unduly dominate” (that is, they will dominate but to an unacceptable degree) and in paragraph 78 he concludes that “overall, it is considered that the proposal will not be unduly detrimental to the amenity of any neighbouring properties in terms of loss of light, over-dominance or loss of outlook”. That harm is clearly underplayed by Mr. Wilkinson because, again, he knows that to acknowledge the degree of harm which will obviously result would cause him embarrassment.

Residential Amenity-Future occupants

- 4.31 Paragraphs 81 and 82 of the officer report miss the point once more; I have never argued that the proposed dwellings cannot meet minimum space standard requirements. However, Mr. Wilkinson still does not deal with the fact that the bedroom windows would be less than 7.5 m away from the boundary which divides the two properties down the middle of the plot; overlooking of both primary rooms through the lantern and all private garden amenity space is unavoidable. The very design of the properties, attempting to eke out further internal space by the addition of inappropriate extensions to the rear means that they do not comply with the Householder Design Guide SPD. It all goes back to the same point; this site is suitable for a single, single storey development which is what was there before.

Highway Safety

- 4.32 As set out above, paragraph 85 does not deal with the impact on heritage significance of punching a large hole in a historic boundary wall, simply in order to provide a second vehicular access.

Climate Emergency

- 4.33 It is interesting to see how paragraph 86 has been scaled back from the previous iteration of the officer report which described the site as “largely brownfield land”. It is quite the reverse. The site is largely, if not all, greenfield land and to describe the benefit of developing on the footprint of the former bungalow as a climate emergency benefit is absurd.
- 4.34 No detail is provided of the “net increase in vegetation and landscaping”. Indeed, given the relative size of the previous garden to what is proposed, this proposition cannot be right. Moreover, in the absence of enforceable controls, domestic pressure on what are narrow gardens will be for removal of any planting borders and a likely handover to lawn. Biodiversity and carbon capture benefits of small scale garden planting are negligible. No assessment is made of the carbon cost incurred by the construction of two new dwelling houses including materials manufacture and construction HGV movements.

Representations

- 4.35 In paragraph 87, it is interesting to note the change in language employed by Mr. Wilkinson. In dealing with traffic and impact on the character of the area, he states that “no significant harm identified”. The threshold of “significant harm” is a different and higher threshold than that used in others parts of the assessment and finds no provenance in statute, national planning policy or adopted development plan policy. It is also indicative of the fact that Mr. Wilkinson does believe that there is harm but is deliberately setting too high a yardstick by which to judge it.

5. Additional conditions and legal agreement

Landscaping

- 5.1 Saved Policy LD1 of the Leeds Unitary Development Plan provides as follows:

“LD1: ANY LANDSCAPE SCHEME SHOULD NORMALLY:

- i. REFLECT THE SCALE AND FORM OF ADJACENT DEVELOPMENT AND THE CHARACTER OF THE AREA;
- ii. COMPLEMENT AND AVOID DETRACTION FROM VIEWS, SKYLINES AND LANDMARKS;
- iii. PROVIDE SUITABLE ACCESS FOR PEOPLE WITH DISABILITIES;

iv. PROVIDE VISUAL INTEREST AT STREET LEVEL AND AS SEEN FROM SURROUNDING BUILDINGS;

v. PROTECT EXISTING VEGETATION, INCLUDING SHRUBS, HEDGES AND TREES. SUFFICIENT SPACE IS TO BE ALLOWED AROUND BUILDINGS TO ENABLE EXISTING TREES TO BE RETAINED IN A HEALTHY CONDITION AND BOTH EXISTING AND NEW TREES TO GROW TO MATURITY WITHOUT SIGNIFICANT ADVERSE EFFECT ON THE AMENITY OR STRUCTURAL STABILITY OF THE BUILDINGS;

vi. COMPLEMENT EXISTING BENEFICIAL LANDSCAPE, ECOLOGICAL OR ARCHITECTURAL FEATURES AND HELP INTEGRATE THEM AS PART OF THE DEVELOPMENT;

vii. BE PROTECTED, UNTIL SUFFICIENTLY ESTABLISHED, BY FENCING OF A TYPE APPROPRIATE TO THE PROMINENCE OF THE LOCATION, AROUND ALL THOSE PARTS OF THE LANDSCAPING SUSCEPTIBLE TO DAMAGE.

- 5.2 If, contrary to the above, planning permission is granted then a detailed landscaping scheme which effectively softens the heritage and amenity impacts (so far as it is possible to do so) and which complies with Policy LD1 should be secured by way of condition or legal agreement. Detailed control will be required given the narrowness of the site and the proximity of historic, boundary walls which are susceptible to destabilisation. Judicious planting of trees to protect the privacy of Elmwood House would be an essential component of such a scheme and I would like to be involved in the process. Facilitating my involvement through use of a suitably worded scheme is perfectly achievable in law.

Privacy glass

- 5.3 If, contrary to the above, planning permission is granted then a condition requiring use of reflective/privacy glass in the new dwellings should be attached. This should require all windows to the rear of the property, including the rear extensions to use such glass. Without it, I will be able to see straight in to principal rooms, including family accommodation and bedrooms.
- 5.4 Given the proximity of Birch Lodge to Elmwood House, impacts on amenity were mitigated by use of planting and reflective/privacy glass across all windows to the rear. This should be repeated at Sheri-Dene.

6. Concluding remarks

- 6.1 Mr. Wilkinson's revised officer report bears the hallmarks of an officer who has strained yet further to write for a purpose rather than to provide an objective assessment of the planning merits of the application. Given his previous involvement and the evidence of pre-determination, Mr. Wilkinson ties himself in knots to not find any harm to heritage or residential amenity. What he says simply isn't credible.
- 6.2 This remains a misconceived, opportunistic planning application which, very disappointingly, 'slipped through the net' on the first occasion.

- 6.3 The carrying capacity of this site is what was there before; that is, a single, single storey bungalow albeit of an updated, sensitive design. In attempting to shoe horn two new dwellings on to a painfully narrow historic toft, the applicant has submitted a scheme which will fail to protect the amenity of future residents and that of existing nearby occupiers.
- 6.4 If planning permission is granted, the consequence will be a total invasion of privacy across all private amenity land available to myself and my family at Elmwood House. The historic design of the property means that it faces directly on to Main Street and the only private space is that to the rear. The difference in height levels will also mean that there is intervisibility between main windows in the new dwellings and our living room, dining room and bedrooms. The cumulative effect of these impacts is an unacceptable feeling of being overlooked at close distance, without respite.
- 6.5 The application has singularly failed to engage with impacts on the historic environment both in relation to Elmwood House and the Barwick in Elmet Conservation Area. Housing development and the appropriate protection of heritage interests are not mutually exclusive. However, change has to be managed properly and this application fails entirely to deal with protection of important heritage assets.
- 6.6 For the reasons set out above, the application fails to accord with relevant policies in the adopted development plan at all levels. The starting position is that planning permission should be refused unless material considerations indicate to the contrary. Properly assessed, material considerations, most notably the National Planning Policy Framework, the Barwick in Elmet Conservation Area Appraisal and the Householder Design Guide SPD provide further strong reasons why this application should be refused.

DAVID HARDY

7th July 2020

**Elmwood House
44 Main Street
Barwick in Elmet
LEEDS
LS15 4JQ**

Appendix DH 1



View Along Elmwood Lane Looking North

C:\Users\jason\OneDrive - Den Architecture Ltd\2019\3092 Elmwood Lane\3092
 3092 Elmwood Lane - Site 001.rvt

Copyright of this drawing remains the sole property of Den Architecture Ltd
 unless otherwise stated in writing. Do not scale from this drawing. Figures
 dimensions are to be worked in of cases with any discrepancies reported to
 Den Architecture Ltd prior to commencement of any work.

Northpoint:

Rev	Date	Amendments	By	Chkd

--- Outline of Existing Building

den
 architecture

8 Wharf Street, Leeds, LS2 7EQ
 23 Hanover Square, London, W1S 1J8



T: 0844 844 0070
 F: 0844 844 0071
 info@den.uk.com
 www.den.uk.com

Project:
 Residential Development
 Elmwood Lane, Barwick in Elmet

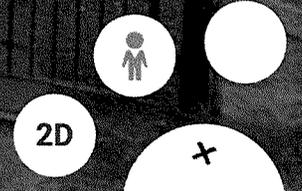
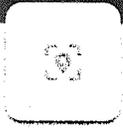
Client:
 Selby Road Homes

Dwg Title:
 View Along Elmwood Lane Looking
 North

Date:	Scale:	Site:	Drawn:	Checked:
Jan 19		A3	ST	DJR

Project No.:	Dwg No.:	Rev.:	Status:
3092	903		Planning

← Elmwood Ln Barwick in Elmet, England



GB

100%

Report a problem

© 2020 Google

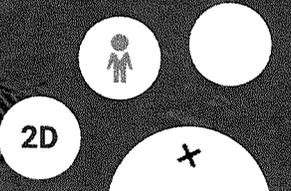
Camera: 86 m

Appendix DH 2

← Elmwood Ln Barwick in Elmet, England



Google



GB 100% Report a problem © 2020 Google

Camera: 86 m

