

**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:** 2017/62/92939/W

**Site Address:** Flowery Field House, 52, Penistone Road, Hade  
Edge, Holmfirth, HD9 2JG

**Description:** Change of use of land to domestic curtilage, erection  
of garage and store and formation of driveway forming  
parking/turning area

**Recommending Officer:** Farzana Tabasum

**DECISION – Full Conditional Permission**

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

Neil Bearcroft

***AUTHORISED OFFICER***

**Date: 18-Dec-2017**

### **Site Description**

The application red line relates to a proportion of land situated between an established turkey farm to the south and fairly new detached dwelling to the north-west. the red line includes the vehicular access from Penistone road which serves the fairly new detached dwelling. Land levels rise gently to the west. To the east lies a small block of terraces which is separated from the application site with a stone wall.

### **Description of Proposal**

The application is seeking the change of use of the area of land within the application red line to domestic curtilage, erection of garage /store and formation of driveway to form an extended parking and turning area in association with the existing dwelling known as Flowery Field House. The plans have been revised following local residents and officer concerns in relation to the siting, scale and what is required to meet the essential needs of the applicant for additional storage and garage space.

The plans have been revised to show a smaller structure to that initially proposed and is now shown moved further away from the boundaries with neighbouring sites, achieving a distance of 3m between them.

The garage store would measure approximately 11m by 7m with an overall height of 4.50m to the ridge

### **History of negotiations/amendments received**

10/10/17 – agent advised of concerns in relation to developing this site and impact on neighbouring business and residential properties

07/11/17 – following a site inspection, the case officer considered the proposals would unlikely cause an adverse impact on adjacent turkey farm but concerns remain to adjacent residential property, namely no. 54 Penistone Road & requested the proposed structure be reduced in scale and footprint to minimise impact on amenities of no. 54 and in the interests of visual amenity.

15/11/17- revised plans – reduced scale and footprint and moving away from party boundaries with neighbouring sites.

### **Relevant Planning History**

2014/92465 – reserved matters for one dwelling – approval of reserved matters Oct 14.

2014/90100 – reserved matters application for one dwelling -refused Apr 2014 (appeal dismissed)

2012/92383 – outline application for one dwelling - granted Feb 2013

2006/91194 – outline application for erection of one detached dwelling - refused on grounds of developing a Greenfield site.

2005/93215 – outline for erection residential development (one dwelling) - refused Sept 2005 (on Greenfield grounds)

2004/95315 - outline for erection residential development -refused Jan 2005 (on Greenfield and highway grounds)

## **Representations**

Final publicity date expired 29th November as advised by case officer in emails direct to both objectors. A summary of the comments received is set out below:

- Loss of light and causing an obtrusive impact to no. 54 Penistone Road
- Noise, drainage and land stability concerns to no. 54 Penistone Road
- Noise and light concerns to turkeys on adjacent turkey farm
- Proposals would remove the 20m distance which was advised to be retained from proposed garden area and dwelling on previous application no. 12/92383
- Air quality was also form any building close to the turkey sheds
- None compliance of conditions on previous permission requiring a fence to be erected and earth bund, prior to occupation of the dwelling
- 20m distance should be retained form turkey farm to avoid impact on the long term viability of the operations of the farm and effect on turkeys.
- Existing dwelling has adequate parking provision and not a dangerous layout.
- Response from environmental Health does not consider the impact on turkeys from noise and light which will have a greater impact on the welfare of the turkeys

Holme Valley Parish Council comments – support the application in principle

## **Consultation Responses**

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

DM Highways – support subject to condition

Environmental Health – no objections subject to advisory note.

## **Policy**

The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular,

where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the UDP Proposals Map and unallocated on Kirklees Publication Draft Local Plan.

**Kirklees Unitary Development Plan:**

D2 – Unallocated Land  
BE1 – Design principles  
BE2 – Quality of design  
BE11 – Materials  
EP4 – noise sensitive locations  
T10 – Highway safety  
T19 – Parking standards

**Kirklees Publication Draft Local Plan (PDLP):**

PLP24 - Design  
PLP52 - Protection and improvement of environmental quality  
PLP 21 – highways safety and access

**National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, together with Circulars, Parliamentary Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Requiring good design - section 7  
Promoting healthy communities - Section 8  
Conserving and enhancing the natural environment – section 11

**Relevant background:**

At the time of the outline application being considered, at least 20 metres from the boundary with the Turkey Farm situated to the south of the development was required to be retained to avoid any adverse impact on the amenities of the future residents of flowery field house. On this basis, the application red line under the outline permission for the new dwelling was reduced.

In addition it is noted the supporting information on the reserved matters application indicated a 1m bund with a 0.8m close boarded fence on top to be provided along the southern boundary. However, condition no. 9 on the outline application required a screen fence of solid construction up to 1.80m to 2m in height from finished ground levels to be erected on the entire length of

the southern boundary, which was considered more acceptable. This was required to be erected prior to the dwelling being occupied.

On site observations conclude the earth bund was formed adjacent to the boundary with the turkey farm site and no fence has been erected between the dwelling and the turkey farm.

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

**Assessment:**

**Principle of development:**

Policy D2 of the UDP, given the site is unallocated on the UDP proposals map. This policy has a presumption in favour of development unless the proposal has a detrimental impact on highways, the environment or surrounding dwellings. These issues are considered in the assessment below.

Other UDP Policies of relevance include BE1 and BE2 (development should be visually attractive and contribute to a sense of local identity and T10 (development should not create or materially add to highway safety problems).

**Impact on visual amenity:**

The proposals have been amended to reduce the scale, footprint and siting of the structure which is indicted to be used as a garage/store and open car port with canopy area to one side. The proposals would also include formation of a driveway which would be an extension. The design is considered typical for a garage/store. It is proposed to construct the walls using a timber frame with stud spacing and a membrane filled between the exterior cladding and frame. External cladding is shown to be stained dark brown wood.

Roof construction will consist of trussed rafters to sustain the weight of tiles, wind and snow loads. The roofing materials are shown to be natural slates or stone tiles. To the front and side, oak beams will support the open canopy and car port.

Although the garage/store will be largely screened from road side views, it would be visible when travelling down Penistone Road from the north. However, in the scale, design and siting as revised I am of the opinion it would represent a simple design form and seen against the backdrop of the turkey farm site, to the south it would not be detrimental to the character of the area and its immediate surroundings and accord with Policies D2, BE1 and BE2 of the Unitary Development Plan and advice within the National Planning Policy Framework.

**Impact on residential amenity:**

The residential properties which will be closest to the location of the proposed structure are No's 54-60 Penistone Road.

Concerns have been received from the occupier of no. 54. These relate to loss of light, noise and drainage issues and given the proximity to no. 54 it is stated the proposals would be obtrusive, potentially cause stability issues to no. 54 and question the use of the garage/store.

The proposed garage would be sited directly to the rear of no. 54. This property has a single storey rear extension which has a blank elevation facing the application site. The host property has an opening at ground floor level which serves the landing at the bottom of a stair case and a first floor opening to a bedroom. A further opening exists to the side of the landing window at ground floor which is unlikely to be affected as this is obscured by the existing single storey extension.

The distance that will be achieved between the proposed garage/store and first floor bedroom window of no. 54 will be 9m. The proposed garage would be slightly off form the direct line of the bedroom opening to no. 54. This together with the garage to incorporate a pitch roof with an overall eaves height of approximately 2.80m, is unlikely to cause an obtrusive impact nor a significant loss of light to the occupiers of no. 54. The ground floor opening is already obscured by the existing single storey extension. In the siting shown the garage would not have any direct impact on this or the other opening on the rear elevation of the property.

With regards to noise concerns, the enclosed garage area with blank elevation would be nearest to the boundary with no. 54. This will be served by a drive to be extended from the existing driveway to the front (north) of the garage/store. All activity associated to the proposed garage store is likely to be concentrated to the front and west side of the proposed garage/store. The use of the proposals are to be ancillary to the domestic use of the dwelling on this site. In view of this the proposals are considered would not cause any noise concerns to warrant a refusal.

With regards to drainage issues these are matters to be dealt with under building control however, the imposition of the condition suggested by highway officers would ensure surface water from the proposed driveway is managed though the use of permeable surfacing.

Finally turning to land stability concerns, Paragraphs 120 and 121 of the NPPF clearly state that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account. Where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

In view of this it is considered the proposals would not cause undue harm to the residential amenities of the neighbouring properties and the proposal is acceptable in terms of residential amenity and would accord with Policy D2 and EP4 of the Kirklees Unitary Development Plan and advice within the National Planning Policy Framework.

**Impact on highway safety:**

UDP Policy T10 states that “New development will not normally be permitted if it will create or materially add to highway safety or environmental problems or, in the case of development which will attract or generate a significant number of journeys, it cannot be served adequately by the existing highway network...”

The proposals would result in an enlarged driveway and turning area serving the existing dwelling. Whilst the existing drive/turning area is adequate to serve the existing dwelling and allows vehicles to turnaround and leave the site in forward gear, DM Highway Officers see the creation of additional parking and extended turning area as a safety improvement.

To summarise, the proposals are considered acceptable from a highway perspective, and would accord with UDP Policies D2 and T10 as well as PLP 21 of the Publication Draft Local Plan and Guidance in the NPPF

**Other issues:**

The Council's Environmental Services department have been formally consulted regarding the scheme and although no serious concerns have been raised regarding these proposed hours, Environmental Services consider that an advisory note restricting the hours of construction should also be added to the decision notice to protect the amenity of neighbouring properties.

**Representations:**

- Loss of light and causing an obtrusive impact to no. 54 Penistone Road
- Noise, drainage and land stability concerns to no. 54 Penistone Road

**Response:** addressed in assessment above.

- Noise and light concerns to turkeys on adjacent turkey farm
- Proposals would remove the 20m distance which was advised to be retained from proposed garden area and dwelling on previous application no. 12/92383
- Air quality was also form any building close to the turkey sheds
- None compliance of conditions on previous permission requiring a fence to be erected and earth bund, prior to occupation of the dwelling
- 20m distance should be retained form turkey farm to avoid impact on the long term viability of the operations of the farm and effect on turkeys.
- Response from environmental Health does not consider the impact on turkeys from noise and light which will have a greater impact on the welfare of the turkeys

**Response:** In response to the above concerns the Environmental Officers advice:

*“Environmental Health as a consultee consider the Human Health impacts of a development, whether it be noise/odours/land contamination. Our remit does not cover the effect of a development on animals/livestock. The previous application response referred to (2012/92383) does indeed specify a minimum distance of 20m from the turkey farm boundary. This was recommended from a human health standpoint in terms of odours/noise to potentially affect occupiers of the new property. A by-product of that condition would also be to protect the operators of the farm from complaint..*

*It would appear that condition no. 9 has not been complied with and the land in question (to the Turkey Farm boundary) has been used as extended garden by the occupiers. There has been no record of complaint regarding the turkey farm on this site for many years from any property.....For these reasons outlined above I would not wish to approve/formalise the use of this 20m strip of land as domestic curtilage.*

*Regarding the Garage/outbuilding, I do not see how light from this can affect the Turkey sheds as these are the other side of a solid earth bund, and providing no security lighting was positioned on the farm side of the proposed building, there should be no light issues. With regard to noise affecting the turkeys, this should not be a problem as long as the building is used as a normal domestic garage, i.e. storage, and parking. Therefore there is still no objection from this service regarding the siting of this garage building”.*

It is acknowledged previous conditions/details as approved on the outline and reserved matters permissions have not been complied with. This is an enforcement issue which the agent and enforcement officers have been made aware of. However, in considering the impact of the current proposals on the adjacent turkey farm business and site, I do not consider the proposals would cause a significant impact on the long term viability of the turkey farm business and welfare of the turkeys. This is because the existing earth bund along the boundary with the turkey farm, which is now established and of a height which would screen and act as a barrier preventing any light into the turkey buildings from vehicles using the proposed garage store. Furthermore, any noise and light generated from within the building would cause minimal impact on the surrounding sites, particularly as the proposed garage/store would be orientated with openings away from the boundary with the turkey farm and neighbouring residential properties to the east.

- Existing dwelling has adequate parking provision and not a dangerous layout.

**Response:** addressed in assessment.

## **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 would constitute sustainable development and is therefore recommended for approval.

**Recommendation – Full Conditional Approval**

## **Decision Authorisation - Delegated Powers**

**Application Number:** 2017/ 92939

**Officer Recommendation:** C.F.P

### **Conditions and Reasons**

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.

**Reason:** Pursuant to Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Order 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion and to accord with Policies D2, BE1, BE2 and T10 of the Kirklees Unitary Development Plan, guidance within the National Planning Policy Framework as well as Policies PLP 24 and 52 of the Kirklees Publication Draft Local Plan.

3. The development shall not be brought into use until all areas indicated to be used for parking and turning on the approved drawing no. 17/461/03 rev A, have been laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' 2009 or any successor guidance; Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these shall be so retained, free of obstructions and available for parking and turning.

**Reason:** In the interests of amenity and traffic safety, to ensure adequate space within the site for vehicle movements, parking, and to avoid an increase in surface water run-off, in accordance with Policy T10 of the Kirklees Unitary Development Plan as well as the aims of chapter 10 of the National Planning Policy Framework and the Kirklees Publication Draft Local Plan Policies PLP24 and T10.

**NOTE:** To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours Mondays to Fridays

08.00 and 13.00hours , Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and specifications schedule:-

| Plan Type                          | Reference       | Version | Date Received |
|------------------------------------|-----------------|---------|---------------|
| Existing block plan                | 17/461/02       |         | 11/09/17      |
| Application red line location plan | 17/461/01       |         | 11/09/17      |
| Proposed site block plan           | 17/461/03       | A       | 15/11/17      |
| Proposed elevations and floor plan | QS201733275_1_b |         | 15/11/17      |
| Planning Statement                 | 17/461          |         | 11/09/17      |

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 pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The plans were revised to avoid any adverse impact on the amenities of the nearby residential property and to ensure the proposals responds well to the local character of the area. The decision is based on the revised scheme.

**Report Dated:** 18/12/17