

**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: 2018/62/92375/E

Site Address: Lower Chatts Farm, 155, Cliff Hollins Lane, East Bierley, BD12 7ET

Description: Erection of storage building for agricultural machinery.

Recommending Officer: Anthony Monaghan

DECISION – Conditional Full 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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 24-Sep-2019

SITE DESCRIPTION

The application relates to Lower Chatts Farm, Cliff Hollins lane, East Bierley; the site appears to be mainly used for equestrian activities; there is large outdoor arena and stables within the site. Adjacent to the arena is a large agricultural type building which is now used as an indoor arena.

The site is mainly surrounded by open fields apart from across Cliff Hollins Lane is Cliff Hollins Farm, a large cattle farm.

The site was a former livery which has recently changed ownership.

Footpath SPE/19/10 runs through the site whilst Footpath SPE/17/40 runs to the north east.

The site is located within the Green Belt on the Kirklees Local Plan.

DESCRIPTION OF PROPOSAL

The proposal is an application for the erection of a building for the storage of agricultural machinery. The building would measure 15m x 7.5m x 4.5 m to the ridge and 4m to the eaves and would have a shallow, mono-pitched roof. The building would be constructed from natural reclaimed stone with olive green boxed profile metal sheeting above and roller shutter doors in olive green. The roof would also be in olive green metal sheeting.

The described use would be as a storage barn to store farm equipment. The Design and Access Statement states that the building is also required due to the theft of expensive equipment.

The submission includes a supporting statement which includes a Coal Mining Statement.

HISTORY OF NEGOTIATIONS (including revisions to the scheme):

30/04/19 Additional information received in support of the requirement for the new building.

7/07/19 Further information received in support of the requirement for the new building.

RELEVANT HISTORY

2018/91694 Prior notification for the erection of an agricultural building. Refused.

2016/91679 Erection of detached garage and formation of replacement outdoor paddock/arena. Approved.

2005/92996 Re-use and adaptation of existing barn to form granny flat. Approved.

2003/93622 – Re-use and adaptation of existing barn to form dwelling – approved

2001/92831 Erection of stable blocks and agricultural barn and formation of car parking. Approved.

CONSULTATION RESPONSES

The Coal Authority : The Coal Authority is satisfied that the proposed foundation design as detailed on page 2 of the Design & Access Statement (July 2018, prepared by Cadvis) to mitigate the risks posed by coal mining legacy is appropriate. The Coal Authority therefore has no objection to the proposed development.

The Coal Authority recommends that the LPA consider imposing a Planning Condition should planning permission be granted for the proposed development, to ensure that these works form an integral part of the development.

KC Public Rights of Way Unit: No comments received.

PUBLIC/MEMBERS RESPONSE

Final date of publicity: 2/09/18

No letters of objection received

POLICY

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

The site is within the Green Belt on the Kirklees Local Plan.

Kirklees Local Plan (KLP):

LP 1- Presumption in favour of sustainable development

LP 10 – supporting the rural economy

LP 24- Design

LP 53- Contaminated and unstable land

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF)

published 19th February 2019, and the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- **Chapter 6-** Building a strong, competitive economy.
- **Chapter 12** Achieving well designed places.
- **Chapter 13** protecting green belt land.
- **Chapter 15** - Conserving and enhancing the natural environment.

Assessment

Principle:

Policy LP 1 of the Kirklees Local Plan, Presumption in favour of sustainable development, suggests that the Council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with the policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.

NPPF policy in paragraph 83 suggests that planning policies and decisions should enable:

- a) The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- a) The development and diversification of agricultural and other land-based rural businesses; and
- b) Sustainable rural tourism and leisure developments which respect the character of the countryside (among others).

Policy in Chapter 12 of the NPPF, Achieving well designed places and LP 24 of the KLP is relevant in relation to design, materials and layout.

The application site also lies within an area which is allocated as Green Belt in the adopted Kirklees Local Plan. Consequently as indicated in the National Planning Policy Framework (NPPF) the proposed development should maintain the openness of the Green Belt or, if not, the applicant must demonstrate that 'very special circumstances apply' to outweigh the harm caused.

Inappropriate development in the Green belt is, by definition, harmful. When considering any planning application the local planning authority should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' to approve such development will only exist where the harm caused by reason of inappropriateness, *and any other harm* resulting from the proposal, is clearly outweighed by other considerations.

Chapter 13 of the NPPF, protecting Green Belt Land, paragraph 145 of the NPPF refers to exceptions to the above where the erection of new buildings may be considered as not inappropriate:

- a) Buildings for agriculture and forestry,
- a) Provision of outdoor sport and recreation facilities,
- b) Extension or alteration of a building,
- c) The replacement of a building.
- d) Limited infilling in villages,
- e) Limited affordable housing,
- f) Limited infilling or the partial or complete redevelopment of brownfield sites (previously developed land) which would not have greater impact on the openness of the Green Belt than the existing development.

Paragraph 146 also refers to certain other forms of development which are considered as not inappropriate in the Green Belt such as engineering operations.

The main issues are:

- Whether the proposed development would be inappropriate development in the Green Belt;
- The effect of the development on the openness of the Green Belt;
- The effect of the development on the character and appearance of the site and surrounding area;
- If the development is inappropriate development in the Green Belt, whether the harm arising from inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether inappropriate development.

The proposed building would be for the storage of machinery for the maintenance of the land associated with the livery. The land is used for a combination of grazing and cutting to provide hay/haylage be used for feed for the stabled horses.

The description of the proposal is for the erection of an agricultural building however the site is no longer in agricultural use and as such the building cannot be said to be in connection with an agricultural enterprise which policy LP 54 of the KLP would support. Furthermore, the external appearance of the building, using profiled metal sheeting and roller shutter doors, necessary to provide the security for machinery, would be more akin to an industrial building rather than agricultural. As such it is considered that the building would not fall within exception a) of paragraph 145 of the NPPF.

The use (or last use) of the site was as a livery and this seems to be an established use over a number of years. The proposed building would not be used for purposes such as an arena or stable block and as such would not be considered as essential outdoor sport or recreation facilities which could be considered as appropriate development and supported by policy LP 56 of the KLP and paragraph 145 b) of the NPPF.

As the site is part of an established livery it could be considered as brownfield, particularly as the location for the building forms part of the existing car park and has been surfaced. However the wording of paragraph 145 g) of the NPPF states that the resulting development should not have a greater impact on the openness of the Green Belt than the existing development; and policy LP 59 of the KLP states that, in the case of partial redevelopment, the extent of the existing footprint is not exceeded.

It is clear from the fact that a new building would be erected that the resultant development would have a greater impact on the openness than the existing and as such could not be regarded as an exemption covered by either of these policies.

In addition to the above the proposed building would not fall under any of the other exceptions listed under paragraph 145 of the NPPF nor would it be considered as any other forms of development falling under paragraph 146 of the NPPF.

Given the above the proposals are considered to be inappropriate development and as such, in accordance with paragraph 144 of the NPPF the application should be refused or the applicant must demonstrate “very special circumstances”.

Effect on the openness of the Green Belt

As the building is considered “inappropriate development” it follows that it will have a certain amount of impact on the openness of the Green Belt. As noted above there are no buildings which are to be replaced and other buildings and as such there would be a new building where none exists.

In terms of the visual impact on the openness the site is screened to some extent by the roadside hedge and due to the topography of the site the building would tend to sit within the contours of the site when seen from the distance to the west and north. In this respect the impact on openness is considered to be limited.

With regard to the spatial impact on the openness the new building would be 7.6m x 15m and would be 4m high to the ridge. As such the building would have a considerable spatial impact on the openness of the Green Belt.

Therefore the proposed development would cause harm to the Green Belt through loss of openness which would carry weight against the proposal.

Effect of the development on the character and appearance of the site and surrounding area.

In terms of the existing character of the site it is clear both from the history and from site visits that there has been a substantial amount of development within the site including conversions to residential use and extensions to buildings. More recently the construction of a large detached garage and an outdoor riding arena has taken place.

Policy LP 24 of the KLP suggests that proposals should promote good design by ensuring that the form, scale, layout and details of all development respects the character of the landscape (among others).

Overall this development is generally concentrated close to the highway, with the residential part to the south west and the equestrian facilities to the north east of the site. The proposed building would be located on an area of the existing car park serving the livery and close to the outdoor and indoor arena. In this respect it would tie in with the existing character of the site.

The proposed building would be constructed from profiled steel sheeting in an olive green colour; this would match the materials used on the existing indoor arena which is located close by and is a much larger building. Given the proposed use, for the storage of agricultural machinery the use of these materials, in these circumstances is considered appropriate.

In terms of the effect of the development on the character and appearance of the site and surrounding area therefore it is considered that the proposals comply with the aims of policy LP 24 of the KLP and paragraph 127 of the NPPF.

Other Considerations

Where a new building is proposed in the Green Belt, a consideration, in accordance with core planning principles, is to look at whether any other buildings on the site would be suitable or could be replaced.

During the site visit it was noted that most of the buildings were in or had last been in equestrian use. In the centre of the site adjacent to the stables is a large steel frame building with profiled sheet cladding, this is used as an indoor arena and has been surfaced accordingly. The type of surface used would not be suitable for the parking of vehicles, furthermore the access to this building is directly onto the yard where the livery stables are located. There is justifiable concern that the movement of vehicles close to the stables would cause distress to the horses which are to be kept in the livery.

Further into the site are a number of other smaller buildings however it was clear that due to a combination of the scale and the change in levels, none of these buildings were suitable for the storage of large tractors and equipment. Neither were any of these buildings suited to replacement due to the poor access and their position in relation to the stables and residential properties.

With regard to the above it is considered therefore that a new building is the only viable solution to the requirement for the storage of the machinery.

Rural Economy

As noted above Chapter 6, Paragraph 83 of the NPPF gives a clear support from the Government for rural businesses, particularly land based rural businesses and for the erection of well-designed new buildings required to support these businesses.

The applicant has submitted supporting information which states that the site is to be re-used as a commercial livery as was the previous use of Lower Chatts Farm.

During the course of application 2016/91679 for the erection of a garage and replacement outdoor arena a plan was submitted showing how the site was zoned into the commercial side and the domestic side of the site. This plan was included as part of the approval and the report stated that "It is acknowledged that the equestrian element of the site has operated on a commercial basis in the past, and that it is the applicant's intention to continue this".

The history of the site therefore shows an acknowledgment of the use of the site as a livery and which also includes the parking area where the proposed building would be sited. It is clear therefore that LPA has previously supported the commercial use of the site and where a case has been put forward for additional development this previous planning history and the LPA's comments is a material planning consideration.

Whilst the site is no longer in agricultural use, there is a substantial area of land which needs to be cut and maintained in a similar way as would an agricultural enterprise. There is therefore a need to either use contracting businesses or for the business to use their own machinery. Given the area and extent of land involved it is not unreasonable to use the latter.

The aims of the NPPF are to support the rural business, and based on the above the proposals are considered consistent with the aims of policy in the NPPF Chapter 6. This would weigh in favour of the proposals.

Residential amenity

The building would be located well away from the nearest unrelated residential property and given the nature of the proposals would not affect the residential amenity of the occupiers.

Crime prevention

The applicant has stated that there has been a number of thefts and attempted thefts on the site in relation to the farming machinery. The site is close to the

motorway network which the applicant states makes this site particularly vulnerable. The design of the building and use of materials mean that the development would provide a secure place for the storage of the machinery.

Policy LP 24 of the KLP and Chapter 13 of the NPPF support proposals that help to design out crime and minimise the risk of crime by enhanced security. Given the very real problems that both farms and rural businesses suffer from crime this consideration carries weight in favour of the proposals.

Whether Very Special Circumstances Exist

The proposals do not fall within any of the exemptions for development in the Green Belt given in the NPPF and therefore amount to inappropriate development. The proposals would also cause harm to the Green Belt by loss of openness.

In terms of the benefits of the proposals the building has been shown to be required in support of a livery business and for safe storage in an accessible position which fits in with the existing character and appearance of the site.

On balance therefore it is considered that the benefits of the proposals outweigh the harm to the Green Belt and very special circumstances are considered to exist. The proposals are therefore in accordance with paragraph 144 of the NPPF.

Other Matters

PROWS.

A public right of way crosses the site to the north east of the proposed development. At the time of the site visit the footpath was blocked and the officer was unable to gain access to view the site from the footpath. The PROW team has been consulted but has not responded to the request, however it is noted that the previous application 2016/91679, for development on the site raised the following objection.

“PROW objects to the application as made, which does not recognise or cover the material consideration of the public footpath at the site, unlawfully obstructed within the blue/red line boundary.

PROW suggests that further information is sought by the LPA regarding the treatment of the footpath, including marking its length on submission plans, and e.g. addressing the path in the D&A, or otherwise.”

A footnote should be included advising the applicant of this issue.

Coal Mining Legacy

The site is within a high risk coal mining area as defined by the Coal Authority. A statement has been submitted specifying the foundations of the building would be a reinforced concrete raft foundation with ring beam. The Coal

Authority has been consulted and are satisfied that this would address the potential risk; a condition is required to this effect.

Description of Development

The description of development is for the erection of a storage building for agricultural machinery. Whilst it is acknowledged that the site is no longer in agricultural use there is still the need as discussed above for the maintenance of land. The term agriculture in this respect is descriptive of the machinery and does not refer to a use.

Conditions

In addition to any conditions mentioned in the report, the standard conditions relating to the timescale for commencement of development and the plans and particulars are required; conditions are also required regarding proposed materials of construction to ensure the development ties in with the character of the site and surrounding area.

A further condition should be imposed to tie the building to the equestrian use of the site to ensure it would not be used for any domestic purposes.

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.

Decision Authorisation - Delegated Powers

Application Number: 2018/92375

Officer Recommendation: Approve.

Conditions and Reasons:

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990

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 LP 1, LP 10, LP 24 and LP 53 of the Kirklees Local Plan and guidance contained within the National Planning Policy Framework.

3. The facing stone used on the lower wall of the building shall be coursed natural stone.

Reason: In the interests of visual amenity and to accord with Policy LP 24 of the Kirklees Local Plan and guidance contained within Chapters 12 and 13 of the National Planning Policy Framework.

4. The upper walls and roof of the building hereby approved shall be of box profile cladding in an olive green colour on first instalment and retained as such thereafter.

Reason: In the interests of visual amenity and to accord with Policy LP 24 of the Kirklees Local Plan and guidance contained within Chapters 12 and 13 of the National Planning Policy Framework.

5. The development shall be carried out in complete accordance with section 6.2 of the Design and Access statement, Ref: 1828 dated July 2018.

Reason: To ensure the safe development of the site with regard to the Coal Mining Legacy and to accord with policy LP 53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

6. The building hereby approved shall be used solely for the storage of machinery in connection with the equestrian and livery business known as Lower Chatts Farm.

Reason: To clearly define the use approved by this permission in recognition of the assessment undertaken of this use on Green Belt land, in order to retain the building in business use, in the interests of the rural economy in accordance with Chapters 6 and 13 of the National Planning Policy Framework.

NOTE: Public Footpath SPE/19/10 is obstructed at the site. The applicant is advised to contact the Council's Public Rights of Way Unit on 01484 225575 with regard to this matter

Position of public footpath Spen 19/10 can be viewed using the link below:
<http://map.kirklees.gov.uk/publicrightsofway/map.aspx?lon=417875&lat=428175&zoom=7&layers=&triggerClick=true&searchText=spe/19/10>

Details relating to landowner responsibilities with regard to public rights of ways can be viewed at: <https://www.gov.uk/public-rights-of-way-landowner-responsibilities>

Plan Type	Reference	Version	Date Received
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Location Plan 1/1250	1828 A(10)-02	1	30/07/18
Site plan and grouped plans and elevations.	1828 A (10)-01	1	30/07/18
Site zoning plan	1596 A (90)-02	Rev A	12/10/16
Design and Access Statement.	1828	1	30/07/18
Additional supporting information.	e-mail from Agent	1	30/04/19
Additional supporting information	e-mail from agent.	1	7/07/19

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 Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter and otherwise actively engaged with the applicant in dealing with the application. Discussions took place with the Agent during the course of the application in order to ascertain the exact use of the site and additional supporting information was provided. The decision and conditions are based on this additional information.

Report dated 17/09/19.