

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No:	2020/44/91937/E
Site Address:	Lenacre Farm, Lenacre Lane, Emley Moor, Huddersfield, HD8 9TW
Description:	Discharge conditions 4, 6, 7 on previous permission 2019/93676 for prior notification for change of use from agricultural building to 3 dwellings and associated operational development
Recommending Officer:	Louise Bearcroft

DECISION – Discharge of Conditions – Approve

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.

Victor Grayson

AUTHORISED OFFICER

Date: 14-Feb-2022

UPDATED REPORT 9th February 2022 – Condition 4

This application was originally submitted in June 2020 to discharge Conditions 4, 6, 7 on previous permission 2019/93676 for prior notification for change of use from agricultural building to 3 dwellings and associated operational development.

Condition 7 was discharged by letter dated 19th August 2020.

Condition 6 was discharged by letter dated 10th March 2021 subject to advice that to secure full compliance with the condition, all work must be carried out in full accordance with the revised Ecological Design Strategy (BE-1133-02B) dated 3rd September 2020.

The letter dated 19th August 2020 confirmed that Condition 4 could not be discharged at that time because the proposed curtilage areas to serve 'Outbuilding 1' and 'Outbuilding 2' needed to be substantially reduced in size to accord with the definition of "curtilage" as stated in as stated in Part X, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Additional information has now been submitted to discharge Condition 4.

Condition 4:

Notwithstanding the submitted details and before any residential curtilage areas are formed revised details of the residential curtilage areas and full details of the position, material and height of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. Details submitted should accord with the definition of "curtilage" as stated in Part X, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The development shall then be completed in accordance with the approved details before residential curtilage is used and thereafter retained.

Reason: *In the interest of visual amenity and so as to ensure that there is no encroachment of the curtilage associated with the new dwellings into the open Green Belt, in accordance with the aims of Policies LP24 and LP59 of the Kirklees Local Plan as well as Chapter 12 and 13 of the National Planning Policy Framework.*

A revised curtilage plan 429-A19 Rev E was submitted on 8th February 2022. The revised boundary details were not considered appropriate on that revision on the basis that close-boarded fencing is more appropriate to a suburban area than farm conversion. Consequently, a further revised curtilage plan 429-A19 Rev G was submitted on 11th February 2022.

Rev F indicates the following:

For 'Outbuilding 1', the curtilage is identified immediately around the building. It allows for two parking spaces and a pedestrian area around it. It no longer

extends into open countryside. No boundary treatment is proposed to the south-eastern boundary, which is already hard surfaced. The remaining boundary is either a stone wall or a post and rail fence, which is not untypical in a rural location. The curtilage and boundary treatment for 'Outbuilding 1' is therefore considered acceptable.

For 'Outbuilding 2', the curtilage is also drawn tightly to the building. It runs adjacent to the building to the east to exclude any open countryside. To the west/south-west, it includes a path towards the double garage and a small hard-surfaced area to the front, which is considered reasonable. No boundary treatment is required as this area is already part of a hard-surfaced yard. The curtilage and boundary treatment for 'Outbuilding 2' is therefore considered acceptable.

The curtilage to 'Barn Unit 3' was identified as being acceptable in the Council's letter dated 19th August 2020. It would be wholly within the red line boundary and its proposed location and size is considered to be appropriate. It would be bounded by a stone wall to its perimeter, which is also acceptable.

Summary

Condition 4 is discharged subject to advice that to secure full compliance with the condition, the development shall be completed in accordance with the approved details set out on Plan 429-A19 Rev G received 14th February 2022 before the residential curtilage is used and it shall thereafter be retained

Report Dated: 11th February 2022

Decision Notice Text

Condition 4 is discharged subject to advice that to secure full compliance with the condition, the development shall be completed in accordance with the approved details set out on Plan 429-A19 Rev G received 14th February 2022 before the residential curtilage is used and the curtilage and boundary treatments shall thereafter be retained as approved.

For final clarification:

Condition 7 was discharged by letter dated 19th August 2020.

Condition 6 was discharged by letter dated 10th March 2021 subject to advice that to secure full compliance with the condition, all work must be carried out in full accordance with the revised Ecological Design Strategy (BE-1133-02B) dated 3rd September 2020.

10.03.21 Update Report for Condition 6 (Ecological Design Strategy)

Condition 6 Wording:

Prior to any external repair or internal works an Ecological Design Strategy (EDS) to secure relevant mitigation shall be submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following.

- a. Purpose and conservation objectives for the proposed works.
- b. Review of site potential and constraints.
- c. Detailed design(s) and/or working method(s) to achieve stated objectives.
- d. Extent and location/area of proposed works on appropriate scale maps and plans.
- e. Type and source of materials to be used where appropriate, to include replacement of 'barn swallow' nests in the retained agricultural building and the provision of bat boxes on a southern /western elevation
- f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g. Persons responsible for implementing the works.
- h. Details of initial aftercare and long-term maintenance.
- i. Details for monitoring and remedial measures.
- j. Details for disposal of any wastes arising from works.

The EDS shall be fully implemented in accordance with the approved details within one month after first occupation of any dwellinghouse hereby approved and all features shall be retained in that manner thereafter.

Reason: To ensure that mitigation proposals are sufficient to ensure the favourable conservation status of the bat species present will be maintained and nesting birds, prior to any damaging works being undertaken. Securing appropriate mitigation is a requirement of Policy PLP30 of the Kirklees Publication Draft Local Plan, chapter 11 of the National Planning Policy Framework, and a prerequisite in order to obtain the appropriate protected species licence.

Officer Assessment

The applicants have submitted a revised Ecological Design Strategy (BE-1133-02B) dated 3rd September 2020.

The Council's ecologist notes that provided all work is carried out in accordance with the revised Ecological Design Strategy the measures are determined to be sufficient, and they support the discharge of Condition 6.

Recommendation: Discharge condition 6

Report Dated: 10th March 2021

Decision Notice Wording

You have submitted a revised Ecological Design Strategy (BE-1133-02B) dated 3rd September 2020. The measures are determined to be sufficient for the purposes of satisfying Condition 6 provided all work is carried out in full accordance with the revised Ecological Design Strategy.

Discharge conditions 4, 6, 7 on previous permission 2019/93676 for prior notification for change of use from agricultural building to 3 dwellings and associated operational development

Condition 4 Wording:

Notwithstanding the submitted details and before any residential curtilage areas are formed revised details of the residential curtilage areas and full details of the position, material and height of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. Details submitted should accord with the definition of “curtilage” as stated in Part X, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The development shall then be completed in accordance with the approved details before residential curtilage is used and thereafter retained.

Reason: In the interest of visual amenity and so as to ensure that there is no encroachment of the curtilage associated with the new dwellings into the open Green Belt, in accordance with the aims of Policies LP24 and LP59 of the Kirklees Local Plan as well as Chapter 12 and 13 of the National Planning Policy Framework.

Officer Assessment

The applicant has provided plan Ref ‘Residential Curtilage & Boundary Plan as proposed’.

In the previous prior notification application, the applicant was asked to provide details of the amenity spaces to serve the proposed dwellings. A block plan was submitted which proposed amenity spaces for ‘outbuilding 1’ and ‘outbuilding 2’ to be substantially located outside of the red line boundary. Although they were within the blue line boundary and therefore could be provided, the extent of curtilage was considered too extensive as it would encroach into undeveloped green belt land. Revised details of amenity spaces and boundary treatments were therefore requested as part of a condition, and it was stipulated that these areas be submitted in accordance with the definition of “curtilage” in Part X, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This states:

‘curtilage’ means, for the purposes of Class Q, R or S only –

- a) *The piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or*
- b) *An area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building.*

Outbuilding 1 – The proposal is to create an elongated amenity space which extends further than the red line boundary of the application site. The proposed boundary treatment includes the erection of a 1.8m high close boarded fence to the rear of the building, where it abuts the agricultural building to be retained, and the erection of a 900mm high dry stone wall where the curtilage area extends beyond the red line boundary. On the plan it shows this new wall would adjoin an existing fence, and an existing block wall. To separate the curtilage from that of ‘outbuilding 2’ a 900mm high dry stone wall with a 1.8m high close boarded fence behind is proposed.

The proposed area of amenity space extends beyond the existing agricultural curtilage. Whilst this land could be secured as it is within the applicant’s ownership, the proposal would not accord with the definition of “curtilage” in part X. The proposal would result in a domestication of undeveloped green belt land which would have a detrimental impact on openness, and the proposed area of curtilage should therefore be reduced in size. This may result in a relatively small curtilage area to serve the proposed converted building, however this reflects the extent of the existing agricultural curtilage and the parameters of Part 3 of Schedule 2 of the Town and Country Planning(General Permitted Development)(England) Order 2015 (as amended).

Outbuilding 2 – A substantial amenity area is shown to serve ‘outbuilding 2’ which is significantly larger than the existing agricultural building proposed to be converted. The proposed boundary treatments include erecting a 900mm high dry stone wall with a 1.8 metre fence behind to separate the curtilage from that proposed to serve ‘Outbuilding 1’. On the plan it proposes this would adjoin an existing block wall and existing wall/fence. A 900mm high dry stone wall is proposed along the proposed boundary with the existing farmhouse.

As above, the proposal would not accord with the definition of “curtilage” in part X. The proposal would also result in a domestication of undeveloped green belt land which would have a detrimental impact on openness. The proposed area of curtilage should therefore be substantially reduced in size.

Barn Unit 3 – The proposal is to create an area of curtilage to the front of the building to be converted. The proposed curtilage area would be wholly within the red line boundary and its proposed location and size is considered to be appropriate.

Summary

Condition 4 cannot be discharged, the proposed curtilage areas to serve ‘Outbuilding 1’ and ‘Outbuilding 2’ need to be substantially reduced in size to

accord with the definition of “curtilage” as stated in as stated in Part X, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Condition 6 Wording:

Prior to any external repair or internal works an Ecological Design Strategy (EDS) to secure relevant mitigation shall be submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following.

- a. Purpose and conservation objectives for the proposed works.
- b. Review of site potential and constraints.
- c. Detailed design(s) and/or working method(s) to achieve stated objectives.
- d. Extent and location/area of proposed works on appropriate scale maps and plans.
- e. Type and source of materials to be used where appropriate, to include replacement of ‘barn swallow’ nests in the retained agricultural building and the provision of bat boxes on a southern /western elevation
- f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g. Persons responsible for implementing the works.
- h. Details of initial aftercare and long-term maintenance.
- i. Details for monitoring and remedial measures.
- j. Details for disposal of any wastes arising from works.

The EDS shall be fully implemented in accordance with the approved details within one month after first occupation of any dwellinghouse hereby approved and all features shall be retained in that manner thereafter.

Reason: To ensure that mitigation proposals are sufficient to ensure the favourable conservation status of the bat species present will be maintained and nesting birds, prior to any damaging works being undertaken. Securing appropriate mitigation is a requirement of Policy PLP30 of the Kirklees Publication Draft Local Plan, chapter 11 of the National Planning Policy Framework, and a prerequisite in order to obtain the appropriate protected species licence.

Officer Assessment

The applicants have submitted Ecological Design Strategy (BE-1133-02A).

The Council's ecologist advises in the context of the scheme, the details provided within the Ecological Design Strategy are sufficient provided the following points are amended:

- Within the body of the report the location of the bat roosting feature is stalled on the south aspect of ‘Building 2’, on the gable as close to the apex as possible. However, this is not reflected on the Ecological Enhancement plan as the feature has been positioned to the southwest which is not the gable of the building
- The swallow nests are to be installed on the exterior of the southeast of ‘Building 1’. The condition stated that barn swallow nests must be situated within the retained agricultural building to the north. The

Ecological Design Strategy appears to depict two buildings in the place of this building which is inconsistent with the approved plans.

- The report is worded as a series of recommendations which does not provide a suitable level of certainty regarding positive ecological outcomes on the site.

Condition 6 cannot be discharged until the above matters have been addressed.

Condition 7 Wording:

7. No development shall take place in any circumstances to “outbuilding 1” as specified on approved Site Plan as Proposed drawing no. 429-A03 revC unless the Local Planning Authority has been provided with either:

- a. a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development to go ahead;
- b. written confirmation of Site Registration under the Low Impact Bat Class Licence;
- c. a statement from a suitably qualified ecologist, agreed in writing by the Local Planning Authority, to the effect that suitable measures are in place to ensure the development can proceed without resulting in an offence under regulation 43 of the Conservation of Habitats and Species Regulations 2017.

Reason: To ensure the proposed works do not result in a criminal offence under the Conservation of Habitats and Species Regulations 2017.

Officer Assessment

The applicant has submitted a Licence issued by Natural England (2020-47843-EPS-MIT)

The Council's ecologist notes that a licence has been provided authorising work on the site, therefore they support the discharge of this condition. Condition 7 can be discharged.

RECOMMENDATION:

- Discharge condition 7
- Unable to discharge conditions 4 and 6

Report Dated: 18th August 2020

Decision Notice Text

Condition 4

You have submitted plan Ref 'Residential Curtilage & Boundary Plan as proposed'.

Outbuilding 1 – The proposal is to create an elongated amenity space which extends further than the red line boundary of the application site. The proposed area of amenity space extends beyond the existing agricultural curtilage and the proposal would not accord with the definition of "curtilage" in part X of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This states:

'curtilage' means, for the purposes of Class Q, R or S only –

- c) The piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or*
- d) An area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building.*

The proposed area of curtilage should accord with this definition and will need to be substantially reduced. This may result in a relatively small curtilage area to serve the proposed converted building, however this reflects the extent of the existing agricultural curtilage and the parameters of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Outbuilding 2 – A substantial amenity area is shown to serve 'outbuilding 2' which is significantly larger than the existing agricultural building proposed to be converted. As above, the proposal would not accord with the definition of "curtilage" in part X of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposed area of curtilage should therefore be substantially reduced in size.

Barn Unit 3 – The proposal is to create an area of curtilage to the front of the building to be converted. The proposed curtilage area would be wholly within the red line boundary and its proposed location and size is considered to be appropriate.

On the basis of the above assessment Condition 4 cannot be discharged, the proposed curtilage areas to serve 'Outbuilding 1' and 'Outbuilding 2' need to be substantially reduced in size to accord with the definition of "curtilage" as stated in as stated in Part X, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Condition 6

You have submitted Ecological Design Strategy (BE-1133-02A). The Council's ecologist has provided the following comments:

In the context of the scheme, the details provided within the Ecological Design Strategy are sufficient provided the following points are amended:

- Within the body of the report the location of the bat roosting feature is stalled on the south aspect of 'Building 2', on the gable as close to the apex as possible. However, this is not reflected on the Ecological Enhancement plan as the feature has been positioned to the southwest which is not the gable of the building
- The swallow nests are to be installed on the exterior of the southeast of 'Building 1'. The condition stated that barn swallow nests must be situated within the retained agricultural building to the north. The Ecological Design Strategy appears to depict two buildings in the place of this building which is inconsistent with the approved plans.
- The report is worded as a series of recommendations which does not provide a suitable level of certainty regarding positive ecological outcomes on the site.

Condition 6 cannot be discharged until the above concerns have been addressed. These matters can however be considered as part of this current application and there is no requirement for a fresh application and fee.

Condition 7

You have submitted a Licence issued by Natural England (2020-47843-EPS-MIT). A licence has been provided authorising work on the site and accordingly condition 7 can be discharged.

10.03.21 Update Report for Condition 6 (Ecological Design Strategy)

Condition 6 Wording:

Prior to any external repair or internal works an Ecological Design Strategy (EDS) to secure relevant mitigation shall be submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following.

- a. Purpose and conservation objectives for the proposed works.
- b. Review of site potential and constraints.
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- d. Extent and location/area of proposed works on appropriate scale maps and plans.
- e. Type and source of materials to be used where appropriate, to include replacement of 'barn swallow' nests in the retained agricultural building and the provision of bat boxes on a southern /western elevation
- f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g. Persons responsible for implementing the works.
- h. Details of initial aftercare and long-term maintenance.
- i. Details for monitoring and remedial measures.
- j. Details for disposal of any wastes arising from works.

The EDS shall be fully implemented in accordance with the approved details within one month after first occupation of any dwellinghouse hereby approved and all features shall be retained in that manner thereafter.

Reason: To ensure that mitigation proposals are sufficient to ensure the favourable conservation status of the bat species present will be maintained and nesting birds, prior to any damaging works being undertaken. Securing appropriate mitigation is a requirement of Policy PLP30 of the Kirklees Publication Draft Local Plan, chapter 11 of the National Planning Policy Framework, and a prerequisite in order to obtain the appropriate protected species licence.

Officer Assessment

The applicants have submitted a revised Ecological Design Strategy (BE-1133-02B) dated 3rd September 2020.

The Council's ecologist notes that provided all work is carried out in accordance with the revised Ecological Design Strategy the measures are determined to be sufficient, and they support the discharge of Condition 6.

Recommendation: Discharge condition 6

Report Dated: 10th March 2021

Decision Notice Wording

You have submitted a revised Ecological Design Strategy (BE-1133-02B) dated 3rd September 2020. The measures are determined to be sufficient for the purposes of satisfying Condition 6 provided all work is carried out in full accordance with the revised Ecological Design Strategy.