

**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: 2020/44/93756/E

Site Address: Lenacre Farm, Lenacre Lane, Emley Moor,
Huddersfield, HD8 9TW

Description: Discharge conditions 3 and 4 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 CONDITION 3 APPROVED, DISCHARGE OF
CONDITION 4 REFUSED**

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

Paul Dowd

AUTHORISED OFFICER

Date: 22-Dec-2020

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

Condition 3

Condition 3 Wording:

Notwithstanding the details submitted a scheme detailing the proposed surface and foul water drainage of the site shall be submitted to and approved in writing by the Local Planning Authority before any foul or surface water is discharged from the site. There shall be no discharge of foul or surface water until such approved drainage scheme has been provided on the site to serve the development and thereafter be retained.

Reason: To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

Officer Assessment

The applicant has provided 'Drainage Plan as Proposed' ref 429-A20 rev A.

Outbuilding 1 and 2 The proposal is to drain surface water to individual soakaways located to the north-east of the buildings, and foul water to individual septic tanks also located to the north-east of the building.

Barn Unit 3 –The proposal is to drain surface water to a soakaway located to the west of the building and to drain foul water to a septic tank to the north-east of the building.

It is also proposed to remove the septic tank which serves the existing farmhouse and Lenacre Lodge, and to install a new tank, outside of the proposed curtilage area for outbuilding 2.

The use of soakaways accords with the hierarchy of sustainable drainage. In respect of the proposed use of septic tanks, their sitting is on land within ownership of the applicant, but sufficiently away from neighbouring residential properties. There are no known private water supplies in the vicinity of the site, and a vehicle can get within a reasonable distance to service them. The details of surface and foul water drainage are considered satisfactory for the purposes of Condition 3. The applicant will need to secure appropriate Building Regulations approval, and furthermore, the works are likely to require a permit from the Environment Agency.

Condition 4

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 and Boundary Plan as Proposed’ drawing reference 429-A19 rev B

The condition requires the proposed curtilage areas to be 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 amenity space primarily to the north-east of the building. 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 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.

Although the proposed area of curtilage has been reduced in scale from that proposed in a previous application to discharge conditions (application ref 2020/91937) the area still extends beyond the existing red line boundary and agricultural curtilage, and is larger than the land area occupied by the existing agricultural building. 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.

Outbuilding 2 – The proposal is to create an amenity space to the north-west and south-east of the building. 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’. A 900mm high dry-stone wall is proposed along the boundary with the adjacent undeveloped land to the east and south, and a 1.8m close boarded fence is

proposed along the boundary with the existing farmhouse. As for outbuilding 1, whilst the proposed area of curtilage has been reduced in scale, it still extends beyond the existing red line boundary and agricultural curtilage. The proposal would not therefore accord with the definition of “curtilage” in part X and the proposed area of curtilage should be further 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 appropriate.

In summary, condition 4 cannot be discharged, the proposed curtilage areas to serve ‘Outbuilding 1’ and ‘Outbuilding 2’ need to be further 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). This may result in a relatively small curtilage area to serve the proposed converted buildings, 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).

Recommendation: Spilt Decision

Discharge condition 3
Unable to discharge condition 4

Report Dated: 22nd December 2020

Decision Notice Text

Condition 3

The details of surface and foul water drainage as detailed on ‘Drainage Plan as Proposed’ ref 429-A20 rev A are considered satisfactory for the purposes of Condition 3. The applicant will need to secure appropriate Building Regulations approval, and furthermore the works are likely to require a permit from the Environment Agency.

Condition 4

You have provided plan Ref ‘Residential Curtilage and Boundary Plan as Proposed’ drawing reference 429-A19 rev B. The condition requires the proposed curtilage areas to be 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 area of curtilage has been reduced in scale from that proposed in a previous application to discharge conditions (ref 2020/91937). It still extends however, beyond the existing red line boundary and agricultural curtilage, and is larger than the land area occupied by the existing agricultural building. 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.

Outbuilding 2 – As above, whilst the proposed area of curtilage has also been reduced in scale it still extends beyond the existing red line boundary and agricultural curtilage and is larger than the land area occupied by the existing agricultural building. The proposal would not accord with the definition of "curtilage" in part X.

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 appropriate.

In summary, condition 4 cannot be discharged, the proposed curtilage areas to serve 'Outbuilding 1' and 'Outbuilding 2' need to be further reduced in size to 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). This may result in a relatively small curtilage area to serve the proposed converted buildings, 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).

This matter can be addressed as part of this application and a fresh application and fee are not required. Please can you submit revised boundary treatment details that accord with the above definition of 'curtilage' within 28 days of the date of this letter.

