

**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: 2020/62/93973/E

Site Address: The Old Stone Yard, Near Bank, Shelley,
Huddersfield, HD8 8LS

Description: Erection of workshop

Recommending Officer: Katie Wilson

DECISION – REFUSED

I hereby authorise the refusal of 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: 21-Jul-2021

Officer Report – 2020/93973

Site Description

The application site is land at The Old Stone Yard, Near Bank, Shelley.

More specifically, it is a roughly rectangular, relatively flat piece of land, which is approximately half of wider area to east granted planning permission for change of use from stone yard to tree/log storage yard (ref: 2018/90242).

The land within the red line site boundary has quite recently been cleared, and now contains a large workshop / storage building in the north western corner. It is an unauthorised building, but now subject to a planning application for erection of workshop / storage building (ref: 2021/90237) pending determination. That building appears to have been advertised as Unit 4, off Near Bank Park, to rent as a new build industrial / workshop and may currently be in use by a company selling natural handmade products such as soaps, scented candles etc.

The current proposal for erection of another workshop of 2 units would be adjacent and to the south, with parking and turning spaces to the front and side.

In the wider area, to the north is a private access driveway serving the application site and arboricultural depot at the end. At the arboricultural depot there appears to be another industrial unit under construction and being advertised as Units 3a / 3b, Near Bank Park, Shelley. This is also an unauthorised building.

An existing building at the arboricultural depot also appears to be in the use of a company specialising in seasonal displays for retail / shopping centres and leisure industry.

Further to the north are open fields forming part of south facing Near Bank. To the south is tree lined Shepley Dike, with Barncliffe Mills complex and open fields beyond.

To the east is other tree / log storage land and arboricultural depot (described above) beyond, whilst to the west are two former mill ponds, previously drained and with extant permission for importation of inert waste to infill shallow water collection area (ref: 2019/91542). Beyond this are commercial buildings lining Near Bank, but the surrounding area is predominantly open and rural in character.

More generally, the site is on open land in a valley bottom, which lies within the Green Belt.

Description of Proposal

Planning permission is sought for erection of a workshop.

- Rectangular footprint 25.0m x 15.00m
- Dual pitched roof 5.5m eaves height, ridge approximately 6.6m
- Walls - coursed natural stone to 2.0m high to east (front) elevation reduced to 0.3m high elsewhere with profile metal cladding above. Roof – profiled metal cladding.
- Two large delivery / collection doors to front elevation with adjacent door. Another door on the rear elevation.
- Providing space for 2no workshops and storage units both with small office area and wc.

Associated parking space:

- 10 new parking spaces - 4 immediately in front of the proposed building and 6 more adjacent to the eastern site boundary.
- A further 4no parking bays are indicated on the proposed site plan adjacent to the northern side of the proposed building.

History of negotiations/amendments received

The applicant supplied a flood risk assessment and some photographs of the site during assessment

Relevant Planning History (including compliance)

95/90693 – Use of existing hard standing for storage of coursed stone with associated use to adjacent building – Conditional Full Permission

[Planning application details | Kirklees Council](#)

COMP/14/0139 – alleged breach of condition -no evidence of breach

2018/90242 – Change of use from stone yard to tree / log storage yard – Conditional full permission.

[Planning application details | Kirklees Council](#)

2021/90237 – Erection of workshop / storage building (retrospective)– pending determination

[Planning application details | Kirklees Council](#)

Adjacent land to the east:

95/91812 – change of use of existing building from storage to stone cutting / sawing operations. Conditional full permission.

[Planning application details | Kirklees Council](#)

2001/93336 – Erection of stone cutting industrial unit and settlement pit – Conditional Full Permission

[Planning application details | Kirklees Council](#)

2004/94515 – erection of stone dressing extension. Conditional full permission.

[Planning application details | Kirklees Council](#)

2011/90466 – Change of use of part of stone yard to arboricultural depot – Conditional Full permission

[Planning application details | Kirklees Council](#)

COMP/12/0123 – alleged unauthorised tarmac standing – permitted development

COMP/14/0139 – alleged breach of condition -no evidence of breach

2015/93091 – Erection of two single storey storage/workshop units – Conditional full permission

[Planning application details | Kirklees Council](#)

2020/90917 – certificate of lawfulness for existing use for tree log / timber storage, 6 biomass boilers log drying units and distribution. - Certificate of lawful use granted.

[Planning application details | Kirklees Council](#)

Adjacent land to the west:

2019/91542 – Importation of inert waste and infill of shallow water collection area. Conditional full permission.

[Planning application details | Kirklees Council](#)

2020/91822 – DoC 4 (construction /Vehicle Management Plan) of previous permission 2019/91542. DoC approved.

[Planning application details | Kirklees Council](#)

COMP/20/0294 – alleged breach of condition 2, 3, 4 & 6 of planning approval 19/91542

Representations

Final publicity date Expires: 27th January 2021. Two comments were received.

A summary of the comments received is set out below:

- Acceptable subject to the proposal being screened by trees and hedges, support condition to ensure this happens.
- Impact of the proposed building on openness and character of the Green Belt needs careful consideration of colour, reduction in height, and screen planting.
- Need to soften impact upon landscape character of the valley bottom which is becoming more urbanised.

- Reduce impact upon PROW and view from Near Bank seat view point and local road networks.
- The stone yard has been re-named Near Bank Park, implying a park like character.
- Suggest native trees along the northern boundary and robust belt of planting along the east boundary for improved visual and landscape/wildlife benefits, and decrease carbon footprint. Suggest inclusion of fast growing alder, willow, poplar and birch suited to flood plain location.
- Recommend that the building (including roof cladding) should be dark grey/ black or green / brown colour for valley bottom setting

Kirkburton Town Council comments – No comments received.

Consultation Responses

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

- K C Highways development management: Insufficient information
- K C Environmental health: Potential for adverse impacts from noise; no provision of electric vehicle charging points, and standard condition for reporting unexpected, contaminated land
- K C Lead Local Flood Authority: Object – further information required for flood risk, safe access and egress, and surface water management.
- K C Public Rights of Way: No objections

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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 in the Green Belt on the Kirklees Local Plan.

Kirklees Local Plan:

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway Safety and Access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 27** – Flood risk
- **LP 28** – Drainage

- **LP 30** – Biodiversity and geodiversity
- **LP 33** – Trees
- **LP 51** – Protection and improvement of local air quality
- **LP 52** – Protection and improvement of environmental quality (including pollution from noise, vibration, light, dust, odour, shadow flicker, chemicals and other forms of pollution to soil.
- **LP 53** – Contaminated and unstable land
- **LP 57** – The extension, alteration or replacement of existing buildings in the Green Belt.
- **LP59** – Brownfield sites in the Green Belt

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, 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 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change.
- Chapter 15 – Conservation and enhancement of the natural environment

Assessment

1 – Principle of development and Green Belt issues:

The application site is in the Green Belt and the proposal is to erect a workshop.

The NPPF requires local planning authorities to regard the construction of new buildings as inappropriate development in the Green Belt. It sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, it states that

when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The site used to be part of larger stone cutting and storage yard with use of an associated building located at the end of the access road (outside the application site boundary) and has more recently been granted planning permission for change of use from stone yard to tree / log storage yard (ref:

2018/92018/90242). As such, in officer's opinion the site could be regarded as previously developed land.

Paragraph 145 of the NPPF lists exemptions to when buildings are regarded as inappropriate, this includes the following:

g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

In this instance, an aerial map dated 1965 held on the Kirklees mapping system indicate that the application site and land to the east was open land, with water collection areas associated with Barncliffe Mills to the west. Aerial photographs held on the Kirklees mapping system taken 2000, 2002, 2006, 2009, 2012, and 2018 show that the application site (and adjacent land in blue line) have been used for storage of materials, in the open.

In officers' opinion, the previous and existing use as stone yard now tree / log storage yard have an open-air character and the proposed workshop with associated parking and turning would have a significantly greater impact on the openness of the Green Belt than the existing development. As such, it would be inappropriate development in the Green Belt.

Policy LP59 of the KLP covers brownfield sites in the Green Belt. It states the following:

Proposals for infilling within existing brownfield sites or for their partial or complete redevelopment will normally be acceptable, provided that:

- a. in the case of infilling, the gap is small and is located between existing built form on a brownfield site;
- b. in the case of partial or complete redevelopment the extent of the existing footprint is not exceeded; and
- c. redevelopment does not result in the loss of land that is of high environmental value which cannot be mitigated or compensated for.

In all cases regard should be had to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.

In terms of point a) the policy justification for LP59 says that for the purposes of the policy infilling is defined as a small gap between existing buildings on a brownfield site.

In this case, there are no buildings to the east and west. To the south is Barncliffe Mill complex, it is around 20m away with Shepley Dyke and belt of trees in between, so in officer's opinion there would be a distinct separation. To the north is a recently built industrial workshop / storage building in the north western corner. It is an unauthorised building, but now subject to a planning application for erection of workshop / storage building (ref: 2021/90237) pending determination. In these circumstances the gap between existing buildings is not considered to be small and so is not regarded as infill development.

In terms of point b) the policy justification states that *where sites are already covered by buildings it should be possible to add new buildings without impacting on openness provided that the gap they are to occupy is small and the development can be accommodated within the existing curtilage. Alternatively, the redevelopment of the site, either in the same use or for a new use, may be acceptable provided that the redevelopment is designed so as not to have any more impact on the openness of the Green Belt than the existing built form.*

In this instance, the character of the authorised stone yard and log storage yard was predominantly open air. Whilst there is a recently constructed building to the north it is unauthorised and now subject to a planning application for erection of workshop / storage building (ref: 2021/90237) pending determination. As such in officers opinion the site is not already covered by buildings and the proposed workshop building would have a very significant impact upon openness and detract from its green belt setting, which is contrary to policy LP59 of the KLP.

To conclude it is considered that the proposed workshop would be inappropriate development in the Green Belt. The application has not been submitted with any information that demonstrates very special circumstances to out-weigh the harm that the proposed workshop building and associated parking and turning areas would do to the open character of the Green Belt.

As such the principle of the proposal is unacceptable.

2 –Impact on visual amenity:

Policy LP24 of the KLP states that good design should be at the core of all proposals in the district. Proposals should promote good design by ensuring the form, scale, layout and details respect and enhance the character of the townscape, heritage assets and landscapes.

In this instance the character of the area is of rough ground used as an open yard for the storage of materials, formerly stone and now logs. However, more recently, piles of earth, skips and some containers, with an unauthorised purpose built commercial / storage building together with associated parking and turning erected on the northern section of the application site. This is now subject to planning application 21/90237 pending determination.

The proposed workshop which is the subject of this application (ref: 20/93973) would have a footprint of around 375 sqm and volume of 2250 cubic meters. The walls and roof would be predominantly profile metal cladding with 2.0m high coursed natural stone on the front elevation.

In officer's opinion the proposal by virtue of its size and scale would not respect or enhance the open character of the landscape and as such is contrary to policy LP24 of the Kirklees local plan.

3 – Impact on residential amenity:

The building is some distance from the nearest residential property and as such it is considered that there would be no overshadowing or overlooking issues.

In terms of noise nuisance, environmental health officers have commented on the proposal.

In their response they say that *'It is possible that noise from industrial and commercial sources may negatively impact the nearby noise-sensitive receptors. As such, noise conditions are required'*.

The recommended condition seeks to ensure that the combined noise rating level from any fixed mechanical services, external plant and equipment does not exceed background sound levels at any time.

If the application were to be approved, provided that this condition is applied, the proposal would be acceptable from a residential amenity point of view. However at present the proposal fails to demonstrate that noise from the proposed workshop will not cause harmful noise pollution within neighbouring noise sensitive locations. This is contrary to policies LP24 and LP52 of the Kirklees Local Plan and chapters 12 and 15 of the National Planning Policy Framework.

4 – Impact on highway safety:

The site is accessed from Brook House Lane, via a private driveway leading to arboricultural depot.

The proposed floor plan shows that the workshop would be sub-divided internally into 2 units. 14 parking spaces are shown on the proposed site plan. The proposal has been assessed by the Council's highways officers who gave the following comments:

Planning permission was granted in 2018 for the change of use from stone yard to tree/log storage yard on this site - application number 2018/90242. The proposals included the construction of a concrete base 14m x 17.5m with a covered log store area measuring 5 x 17.5 metres with a maximum height of 4 metres and the erection of a 1.8m high, green powder coated palisade

fence around the boundary. This proposed use was considered like the previous use as a stone yard and no traffic assessment was required.

These plans now show two proposed workshops with parking and turning areas, but no explanation is provided regarding the proposed end use.

This application provides insufficient information.

Can the applicants be asked to provide details of the proposed end use including the use class and anticipated traffic generation and parking demand.

Swept paths should also be provided to demonstrate that the largest vehicle anticipated to regularly use the access from Brook House Lane can enter and exit the site in a forward gear.

No further information has been submitted.

As such, the application fails to demonstrate that the proposal is appropriate for the existing use of the land as tree log storage yard.

5 – Other matters:

Flood risk:

The proposed development site is fully located within Flood Zone 3, according to the Environment Agency's Flood map for planning. The site is also mostly located within surface water flood risk up to high, according to the Environment Agency's Long term flood risk map. The site is located within an area receiving Flood Alerts.

Records show that this area is unlikely to be suitable for infiltration features. Historic maps show mills south and south west of the site – Barncliffe Mills and Brook House Mill respectively. Ponds to the west of the site connect to the Barncliffe Mills

The Council's flood management and drainage section as lead local flood authority (LLFA) objected as they require further information with regard to a flood risk assessment; safe access and egress; and surface water management.

The applicant has provided a flood risk assessment by TJ Booth (consulting civil & geotechnical engineers) dated June 2020. It is linked to planning app 21/90237 for erection of workshop storage building on northern part of application site. It is a retrospective application as the building is in situ.

The conclusion of the document notes that the building has already been constructed. It goes on to say that *the commercial use and low flood risk*

vulnerability along with minimal flood depths noted in the basic search, suggest flood risk to the development is low.

Finished floor levels are elevated from the surrounding ground level by at least 150mm, and higher than this to the north side owing to the gentle site slope ensuring minor surface water flows do not infiltrate the development building.

The residual risks noted are to the safety of the owners/tenants for access egress as the lane to the north of the Site can become a conduit for flood water. These groups should sign up to the emergency flood alert/warning scheme, and emergency flood evacuation plans should be made clear as part of the site health and safety management files and within the building

There is no surface water drainage plan, and although the application form states that surface water run-off would discharge to mains sewer, the flooding officer points out that this is unlikely to be feasible as the combined sewer is to the south of the site and on the opposite bank of Shepley Dike. So at the moment insufficient information has been submitted to assess surface drainage design of the site

The drainage officer also points out that the discharge point should be assessed using the hierarchy of preferences as per para 80 of the Planning Practice Guidance: Flood Risk and coastal change. They go on to say that infiltration is unlikely to be feasible, and surface water records do not show any surface water sewers in the area. However there are a number of watercourses in the area and they are likely to be suitable as a discharge point and that flat valves should be considered on any discharge pipes. Emergency flood evacuation plans should be made clear as part of the site health and safety management files within the building.

The FRA for adjacent site (existing building subject ref: 21/90237) provides an options appraisal to demonstrate the most suitable method of achieving safe access and egress to the site and suggests two sites within walking distance on higher ground where occupants could gather in event of flooding event and that groups should sign up for flood alert/warning scheme. These elements would seem to be appropriate for this site (ref: 2020/93973).

Impact upon Public Right of Way:

PROW KIR/147/10 is to the east of the site and further up the access track. The PROW officer has been consulted and raise no objections to the proposed development.

Impact upon air quality:

Environmental health officers have commented on the proposal and in the interests of air quality enhancement electric vehicle charge points are recommended. These could be sought by condition and fitted retrospectively. Should the application be approved, it is recommended that a condition to this end should be applied to the decision notice.

Contaminated land:

Environmental health officers have reviewed this application and supporting documents and do not consider there to be any significant environmental health impacts with this development. However, since groundworks are proposed, it is appropriate to apply contaminated land conditions should unexpected contamination be encountered. Should the application be approved, it is considered appropriate to apply a condition relating to reporting unexpected contamination.

Procedural matter:

Following discussion with team leader and deputy team leader it was decided that as the PROW does not directly cross the site and access to the application site is before the PROW, in this particular instance there was no need to put up a site notice.

General matters:

It is noted that the most recent planning approval is for change of use from stone yard to tree/log storage yard and there is an unauthorised purpose built commercial / storage building (now subject to planning application 21/90237 – pending determination) on the northern part of the application site and this has been advertised for rent as Unit 4, Near Bank Park. The Kirklees gazetteer gives details of a company called Cliffe House Organics Ltd at Unit 4. They specialise in natural handmade products such as soaps and scented candles etc.

In the wider site, a building used by the former stone cutting business and later arboricultural depot (at end of access road) is now referred to in the gazetteer as Unit 1, The Old Stone yard. It is also the address for a company called JKD3 Ltd who specialise in festive displays for shopping centres, the leisure industries etc.

An adjacent workshop / storage building associated with the arboricultural depot granted planning permission (ref: 15/93091) is also referred to in the gazetteer as Unit 2, and it appears to be the address for Beneficial Tree Care Ltd.

It has also been noted that a large portal frame detached building is being constructed at the arboricultural depot site (adjacent units 1 & 2) and this is being advertised to let as a new build industrial / workshop unit with address Units 3a and 3b, Near Bank Park. This is thought to be an unauthorised building.

Furthermore a stone at the entrance to access road carved with the words Near Bank Park has recently replaced one for The Old Stone Yard.

Beneficial Estates Limited, (a private limited company, letting and operating of own or leased rear estate), also has its registered office address as Near Bank Park, Near Bank, Shelley, Huddersfield. The applicant is one of the directors.

As such the former Stone yard which has planning permission for change of use to tree/log storage yard together with the arboricultural depot at the end of the access drive, now appear to be morphing into a business or light industrial park of multiple units, in the Green Belt.

6 – Representations:

A summary of the comments received is set out below:

- Acceptable subject to the proposal being screened by trees and hedges, support condition to ensure this happens.
Response: This is noted. The application has been carefully considered and the principle of the development found to be unacceptable.
- Impact of the proposed building on openness and character of the Green Belt needs careful consideration of colour, reduction in height, and screen planting.
Response: This is noted. The application has been carefully considered and the principle of the development found to be unacceptable.
- Need to soften impact upon landscape character of the valley bottom which is becoming more urbanised.
Response: this is noted. The application has been carefully considered and the principle of the development found to be unacceptable.
- Reduce impact upon PROW and view from Near Bank seat view point and local road networks.
Response:
- The stone yard has been re-named Near Bank Park, implying a park like character.
Response: This is noted.
- Suggest native trees along the northern boundary and robust belt of planting along the east boundary for improved visual and landscape/wildlife benefits, and decrease carbon footprint. Suggest inclusion of fast growing alder, willow, poplar and birch suited to flood plain location.
Response: This is noted however the principle of the proposal is unacceptable.
- Recommend that the building (including roof cladding) should be dark grey/ black or green / brown colour for valley bottom setting.
Response: This is noted however the principle of the proposal is unacceptable.

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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

Recommendation - refusal

Decision Authorisation - Delegated Powers

Application Number: 2020/93973

Officer Recommendation: Refusal

Reason for Refusal

1. The previous and existing use as stone yard now tree / log storage yard have an open air character and the proposed workshop with associated parking and turning would have a significantly greater impact on the character and openness of the Green Belt. As such, the proposed development would be inappropriate development in the Green Belt. No very special circumstances have been put forward. This is contrary to Chapter 13 of the National Planning Policy Framework and policy LP59 of the Kirklees Local Plan.
2. The proposed workshop, by virtue of its scale and massing would fail to respect or enhance the predominantly open character of the landscape. This would not promote good design and is contrary to policy LP24 of the Kirklees Local Plan and the aims of chapter 12 of the National Planning Policy Framework.
3. It has not been demonstrated that the proposed erection of a workshop would function safely in terms of highway safety as no information has been submitted regarding anticipated traffic generation and parking demand for the intended use, nor swept paths to demonstrate that the largest vehicles anticipated to regularly use the access from Brook House Lane can enter and leave in a forward gear. This is contrary to policy LP21 and LP22 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.
4. The application fails to demonstrate that surface water drainage can be managed so as not to contribute to flood problems locally. This is contrary to policies LP27 and LP28 of the Kirklees Local Plan and the aims of Chapter 14 of the National Planning Policy Framework.
5. The application fails to demonstrate that noise from the proposed workshop will not cause harmful noise pollution within neighbouring noise sensitive locations. This is contrary to policies LP24 and LP52 of the Kirklees Local Plan and chapters 12 and 15 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan			19.11.2020
Existing site plan	Dwg no. 208		19.11.2020
Proposed site plan	Dwg no. 203		19.11.2020
Floor plan as proposed	Dwg no. 204		19.11.2020
Elevations as proposed	Dwg no. 205		19.11.2020
Supplementary information: Flood Risk Assessment by T J	Doc ref: rep-tjba-beneficial-the old stone yard, shelly-		10.05.2021

Plan Type	Reference	Version	Date Received
Booth Associates dated June 2020	FRA-060421		

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 has, 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 agent submitted a flood risk assessment and some photographs of the site during assessment of the application.

Report Dated: 19.7.2021