

**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: 2021/62/90799/W

Site Address: Barnside Farm, Barnside Lane, Hepworth, Holmfirth,
HD9 1TN

Description: Erection of agricultural building

Recommending Officer: Ellie Worth

DECISION – Full Conditional Permission

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

Neil Bearcroft

AUTHORISED OFFICER

Date: 21-May-2021

Officer Report

Site Description

Barnside Farm is a two-storey stone building seemingly formed through the merging of a traditional farmhouse and barn. It has a garden to the front and rear, with two detached agricultural buildings to the west with a yard between the buildings. Surrounding the site is open land. The agricultural buildings are modern, portal frame constructed. One is substantially larger than the other. The site is accessed via a gated private drive from Barnside Lane.

The site is situated within a sparsely populated area, given its sensitive location within the Green Belt.

Specifically, the application site is located to the west of the larger agricultural building on site and encompasses land cross through a field boundary wall and where the land slopes away to the north.

Description of Proposal

Permission is sought for the erection of an agricultural building, hardstanding and a small access track. This will provide a building to assist the farm and to house, feed, and breed animals.

The building would measure 33m in length by 17m in width and would be 3.6m in height to the eaves, with an overall height of 5.8m. An area of hardstanding will be provided around the new building, along with an access track in which will run to the north.

The proposed materials of construction would be treated Yorkshire boarding and pre-stressed concrete panels. The roof will be constructed from fibre cement sheeting.

The submitted Design and Access Statement states that the holding extends to approximately 87 acres. This farmland is currently used to rear sheep and to produce fodder. In this case, the applicant is looking to expand his flock size from approximately 105 Dorset Ewes to 300, with lambing split to 3 times a year.

History of negotiations/amendments received

Officers have entered into discussions with the agent regarding a Coal Mining Risk Assessment (CMRA), as part of the site lies within a High Coal Area. As such, this was received on the 8th April 2021.

Relevant Planning History

At the application site:

2020/94040 Change of use from agricultural barn to bunk barn tourist/leisure accommodation - Refused

2020/90168 Change of use from agricultural barn to bunk barn tourist/leisure accommodation - Refused

2013/90611 Erection of first floor extension and external alterations (modified proposal) - Granted

2012/90566 Erection of first floor extension and internal alterations – Granted

Representations

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters which expired on the 15th April 2021, whereby no representations have been received.

Holme Valley Parish Council: In support.

Consultation Responses

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

KC Environmental Health: No objections subject to a condition being attached to the decision notice regarding the finding of unexpected land contamination.

KC Highways DM: No objection to the scheme.

The Coal Authority: No objection subject to a pre commencement condition being attached to the decision notice.

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 situated within the Green Belt on the KLP.

Kirklees Local Plan:

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 3 – Location of new development
- LP10 – Supporting the rural economy
- LP 21 – Highway safety and access
- LP 24 – Design
- LP 52 – Protection and improvement of environmental quality
- LP 53 – Contaminated and unstable land
- LP 54 – Buildings for agriculture and forestry

Neighbourhood Development Plans

Holme Valley Neighbourhood Development Plan has been formally submitted to Kirklees Council and Peak District National Park Authority. It covers the whole of the Holme Valley Parish Area. The plan has not been subject to publicity (Regulation 16, The Neighbourhood Planning (General) Regulations

2012) at this time. There are unresolved objections between the Kirklees Council and the neighbourhood plan body therefore the plan has no weight at this stage.

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 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 11 – Making effective use of land
- 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 – Conserving and enhancing the natural environment

Other:

- MHCLG: National Design Guide
- Kirklees Local Plan Supplementary Planning Document – Highways Design Guide

Assessment

The following matters are considered in the assessment below –

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

1. Principle of development

Green Belt

The site is located within the Green Belt on the Kirklees Local Plan. As such, planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

In this case, Policy LP54 of the Kirklees Local Plan sets out the criteria against which proposals for agriculture and forestry in the Green Belt will be addressed, as detailed below. It is against this policy that the agricultural building will be first considered. The wording of this policy states that *'proposals for new buildings for agriculture and forestry will normally be acceptable, provided that:*

- a. The building is genuinely required for the purposes of agriculture and forestry;*
- b. The building can be sited in close association with other existing buildings, subject to the operational requirements of the holding it is intended to serve. Isolated new buildings will only be accepted exceptionally where there are clear and demonstrable reasons for an isolated location;*
- c. There will be no detriment to the amenity of nearby residents by reason of noise or odour or any other reason; and*
- d. The design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.*

Paragraph 19.11 continues stating that when proposals for new agricultural buildings are received the local planning authority will scrutinise the history of the holding to ascertain whether any agricultural or other suitable building has recently been severed from the holding or converted into another use.

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt, the most relevant in this case being to assist in safeguarding the countryside from encroachment. Paragraph 143 of the NPPF states that inappropriate development should not be approved except in very special circumstances. Certain forms of development are exceptions to 'inappropriate development'... these are set out within paragraphs 145 and 146 of the NPPF.

One of the exceptions to 'inappropriate development' in paragraph 145 is the erection of a building to be used for agriculture or forestry. In relation to determining whether or not an agricultural building is inappropriate, the NPPF does not set out any limiting criteria in relation to size or other matters. As the proposal is for an agricultural building to be used to house, breed and feed sheep, the proposal would therefore fall within one of the specific exceptions of paragraph 145 of the NPPF, and for the NPPF alone, would not constitute inappropriate development in the Green Belt.

Assessment of applicant's case

In this instance, the design and access statement states that the applicant currently farms approximately 105 Dorset Ewes but is looking to increase his flock to 300 and split them so he can lamb 3 times a year. More specifically, an argument is made, which states that there is not enough room in the existing buildings to house the current stock levels, store the fodder and to implement the required changes in order to manage the holding.

The statement also goes on to highlight that Defra regulations state that animals are not meant to poach the ground and therefore housing for animals is essential. More specifically, FABBL requirements state that the space allowance for loose-housed sheep on a solid floor during pregnancy is a minimum of 1.2m² - 1.4m² and 2.0m² - 2.2m² after lambing with lambs at foot up to six weeks of age.

The splitting of the flock and continually lambing throughout the year is also considered to help to achieve this enterprise, however in order to achieve a good quality meat, the handling and welfare of the livestock is paramount, hence the applicant's requirement for an additional agricultural building with the space to achieve the standards required. This aspect can further be supported under Policy LP10, supporting the rural economy, which states that an overall balance needs to be struck between providing local employment opportunities, promoting sustainable patterns of development and protecting the character of the countryside and reflecting Green Belt purposes. This will be considered further below.

In this case, the proposed building would be sited adjacent to the larger existing agricultural barn. It is therefore considered that the proposed building would not appear as an isolated feature in the landscape.

Turning to the design of the building, Chapter 12 of the NPPF states that *"good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities"*. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

The submitted plans show the building to be constructed from concrete panels, timber boarding and roof sheets. Such materials would be typical of an agricultural building which are not uncommon features within the open countryside. The proposed building would also be read alongside the existing built form and therefore, it is considered that the development would not be overly prominent feature within the landscape, nor would it materially detract from its Green Belt setting. Nonetheless, given that there is a slight change in levels within the site, the levelling out of topsoil will be required.

Given the above, it is acknowledged that the applicant has a moderate holding with a significant flock of sheep and therefore this type of proposal would not be deemed to be supporting 'hobby farming'. Additionally, within the submitted Design & Access Statement it is outlined that the proposed building is required for the expansion and welfare of the additional flock, to help house, lamb and store the fodder. Furthermore, whilst being relatively large, the building would not appear incongruous or overly dominant in the general context of this site.

Taking this all into consideration it is considered that there is a genuine need for the agricultural building proposed and that the proposals are in line with Local Plan Policies LP10, LP24 and LP54 of the Kirklees Local Plan and guidance contained within the National Planning Policy Framework.

3. Residential amenity

KC Environmental Services have been formally consulted as part of the application process, raising no objection from a residential amenity perspective, as the nearest independent dwelling to the site will be

approximately 100m away. As such, the scheme is unlikely to give rise to any noise or odour concerns in accordance with Policies LP24 and LP52 of the KLP.

4. Impact on Highway safety

KC Highways DM have been formally consulted as part of this application. In this instance the officer has raised no objection as the works would not result in the existing access from Barnside Lane being changed.

The proposal is also unlikely to generate a significant amount of traffic, over and above the existing situation and therefore the scheme will accord with Policies LP21 and LP22 of the KLP.

5. Other matters

High coal

The site is situated within a High Coal Area on the council's internal database and therefore The Coal Authority have been formally consulted. In this case, the Coal Mining Risk Assessment (CMRA) identifies that the application site may have been subject to past coal mining activity. Consequently, the report recommends that intrusive site investigation works would need to be undertaken, in order to establish any necessary remedial measures.

Therefore, it is also important to note that permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property.

For these reasons, The Coal Authority have requested that a pre commencement condition should be attached to the decision notice, to ensure that any site investigations and remedial works are carried out in accordance with UK Guidance.

With regards to Mine Gas, it should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. As such, KC Environmental Health have been formally consulted, outlining that no previous contamination has been recorded at the site. Nonetheless, as a precaution, a condition will be attached to the decision notice regarding the finding of unexpected land contamination/mine gas. This is to accord with Policy LP53 of the KLP.

Climate change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When

determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

In this instance, it has been considered that the development would strengthen a local food producing business. This is preferable to importing food, which has a large environmental impact. Given the scale of the development, this is considered acceptable justification to demonstrate no harm to the climate change agenda.

6. Representations

No representations have been received.

7. 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 materials considerations. It is considered that the development would constitute to sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation: Delegated Powers

Application Number: 2021/90799

Officer Recommendation: Approve

Conditions and Reasons

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

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord Policies LP1, LP2, LP21, LP22 LP24, LP52, LP53 and LP54 of the Kirklees Local Plan.

3. In the event that contamination or the presence of mine gas not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

4. No development shall commence until;

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

5. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

NOTE: The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2019. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group*

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours Mondays to Fridays 08.00 and 13.00hours , Saturdays With no working Sundays or Public Holidays In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and specifications schedule

Plan Type	Reference	Version	Date Received
Location plan	1453-001	-	5 th March 2021
Proposed site/block plan	1453-002	-	5 th March 2021
Proposed elevations	1453-003	-	5 th March 2021
Design and access statement	-	-	5 th March 2021
Coal Mining Risk Assessment	By Geo Investigate LTD	-	8 th April 2021

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 2015 and otherwise actively engaged with the applicant in dealing with the application. In this instance, officers have entered into discussions with the agent regarding a Coal Mining Risk Assessment (CMRA), as part of the site lies within a High Coal Area. As such, this was received on the 8th April 2021.

Dated 20th May 2021

