

**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: 2021/62/91792/E

Site Address: Lower Sowood Farm, Healey Lane, Bristfield,
Dewsbury, WF12 0NT

Description: Erection of extension and alterations to outbuilding to
create dwelling forming annex accommodation
associated with Lower Sowood Farm, Healey Lane,
Bristfield, Dewsbury, WF12 0NT

Recommending Officer: Lyle Robinson

DECISION - REFUSE

**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.**

Sarah Longbottom

AUTHORISED OFFICER

Date: 26 November 2021

Officer Report

Site Description

The application site relates to a single storey detached building at the junction of two metalled tracks in the open countryside, south of the settlement of Dewsbury. The building in question is built of blockwork, with a timber lean-to element used for storage purposes. A large two storey dwellinghouse, Lower Sowood Farm, and its associated residential curtilage is sited to the north. Levels rise southwards with the lay of the land and the site has a sylvan character. The site is washed over by the West Yorkshire Green Belt.

Description of Proposal

This is a full application for planning permission for an approx. 13m x 6.8m building, with an additional approx. 2.8m overhang at the south east facing side elevation. The building would be a conversion of an existing storage blockwork and timber structure. The proposed structure would reach some 3m in height from natural ground level, notwithstanding the overhang.

The proposed building has been stated by the applicant to be intended for ancillary use of Lower Sowood Farm to the north however as this property is not within the planning unit, the proposal will be assessed as a new building in its own right.

History of negotiations/amendments received

This planning application has been assessed on the basis of drawings originally submitted with the current application apart from drainage detail submitted in response to a request from Environmental health. The case officer has communicated to the applicant and planning agent the need for the proposed building to be in the same planning unit as Lower Sowood Farm to be considered ancillary. As this would necessitate a revised increased area Location Plan this cannot be assessed as such within the scope of this planning application; which has been communicated to the applicant.

Relevant Planning History

2020/93521 Demolition of outbuilding and erection of single storey extensions
Approved 17/MAY/2021

2003/94962 Erection of two storey extensions and alterations (Lower Sowood Farm)
Approved 15/JAN/2004

Representations

Publicity is being taken in accordance with statutory requirements. In this instance neighbour letters have been sent out with an expiry date of 25th June 2021.

Consultation Responses

KC Environmental Health - no objection subject to further drainage detail. N.B. Such detail has now been provided by the applicant in response to this request. Environmental Health have judged this to be acceptable in principle but request that further detail is submitted.

The Coal Authority – no objection

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 unallocated in the Kirklees Local Plan.

Kirklees Local Plan (KLP):

- • **LP 01** – Achieving sustainable development
- • **LP 02** – Place shaping
- • **LP 21** – Highway safety and access
- • **LP 22** – Parking
- • **LP 24** – Design
- **LP 52** – Protection and improvement of environmental quality
- **LP 53** - Contaminated and Unstable Land
- **LP 57** - Extensions and alterations in the Green Belt.
- **LP 59** - Brownfield Sites in the Green Belt
- **LP 60** - Re-use and conversion of buildings

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, 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 6 – Building a strong competitive economy
- • Chapter 8 – Promoting healthy and safe communities
- • Chapter 11 – Making effective use of land
- • Chapter 12 – Achieving well-designed places
- • Chapter 15 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity

- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion/Planning Balance

1 – Principle of development:

Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.

The National Planning Policy Framework (the Framework) makes clear at paragraph 149 that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions. One of these is 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.

A further relevant exception is subsection c; the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building.

The spatial difference between the existing and proposed building would be as follows:

Existing volume: 196.8m³

Proposed volume: 247m³

Existing max. height: 3.2m

Proposed max. height: 3m

(Figures approximate)

Firstly, whilst the height would be acceptable in assessing the spatial increase, the volume indicates a clear spatial increase in volume, affecting the spatial aspect of the openness of the Green Belt negatively. The increases in massing, overall raising of the roof profile and domestication of the building present a negative impact on the visual aspect of the Green Belt also.

Secondly, the history of the site does not indicate an equestrian use here and the site edged red is not drawn around any adjacent host dwellinghouse, therefore in any case it is not clear whether this site is a brownfield site in the first instance. Notwithstanding this, this exception would not be complied with for the reasons given above. Policy LP59 of the Kirklees Local Plan on brownfield sites in the Green Belt, largely re-iterative of this NPPF policy exception, would not be complied with.

In terms of subsection c, the spatial calculations above and the visual increase in bulk and massing would result in a disproportionate addition in the Green Belt. Were the building included in the site edged red of the nearby dwellinghouse, it could in principle be assessed as an extension to this building and would potentially comply with the policy. As the Location Plan site edged red includes this site only; it is not appropriate development the Green Belt when assessed on these terms. The site is not within the curtilage of the dwellinghouse known as Lower Sowood Farm, and it not considered to form part of the same planning unit. Policy LP57 on extensions and alterations in the Green Belt would therefore also not be complied with.

A further relevant exception can be found in NPPF paragraph 150, namely the re-use of buildings provided they are of permanent and substantial construction, provided they preserve the openness of the Green Belt. In this instance it has already been discussed how the increases in massing would negatively impact the spatial and visual aspects of the Green Belt. However, it is worth bearing in mind that not all of the building as it stands can be reasonably called permanent and substantial. The lean-to element at the northernmost part of the structure did not have permanent footings at the time of the case officer's visit, unlike the main timber element and the blockwork element. It therefore is a shed type lean-to structure, and further points to inappropriate development.

Case law (Turner v Secretary of State for Communities and Local Government [2016] EWCA) establishes that the concept of openness is open textured and that several factors are capable of being relevant when applying it to the particular facts of a specific case. National Planning Practice Guidance (NPPG) broadly identifies openness as being divisible into spatial and visual aspects. In this case, whilst there is a increase in massing and relatively prominent overhang at the south east elevation; it would be shielded by the lay of the land and the surrounding context of vegetation. However, this does not negate the spatial increase in footprint and aforementioned massing which would incur an additional harm to openness in addition to the automatic harm afforded by inappropriateness.

The proposed development is therefore considered to be inappropriate in the Green Belt.

Very Special Circumstances?

Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There are no VSCs before the case officer.

2 –Impact on visual amenity and character of the area:

Policy LP24 of the Kirklees Local Plan, consistent with chapter 12 of the NPPF, states, inter alia, that the form, scale, layout and details of all development respects and enhances the character of the townscape.

Notwithstanding considerations regarding openness the proposed design is considered to be acceptable in respect of the character of the area. The form would be contemporary, and the materials palette would to some extent reference the existing timber. Whilst the increase in bulk would be obvious from eastern and western vantage points, the lay of the land and the overall flat roof profile of the building would render the proposal acceptable in design terms alone, notwithstanding Green Belt concerns.

The development therefore would also be acceptable in terms of general visual amenity and would accord with policy LP24 of the KLP and chapter 12 of the NPPF.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan require of developments, inter alia, a good standard of amenity for future occupants and neighbouring occupiers, as well as a minimising of the impact on residential amenity of future and neighbouring occupiers.

The operational development or the use thereof once complete is not considered to precipitate any noise, overlooking or activity associated with its use which would cause undue disturbance to residential amenity in the wider area; given the space that would be retained about the site. Some 23m would be retained from the proposed north facing fenestration to the south facing façade of Lower Sowood Farm, which would have an intervening feature of the large wall between. This is considered to be acceptable in respect of the requirements of the Kirklees Housebuilders SPD in terms of distance guidelines.

All told therefore policy LP24 in terms of residential amenity would be complied with.

4 – Impact on highway safety:

The application proposal would not affect access or parking arrangements as the proposed use does not entail significant habitable accommodation. The nearby PROW would not be affected by the works.

The development therefore is considered to be acceptable in terms of highway safety and parking and inconsistent with policies LP21 and LP22 of the KLP.

5 – Other matters:

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 pre-dates 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.

The proposal is for the replacement of a small building. Further conditions attendant to the climate change agenda are on balance not considered necessary in this instance in light of the six tests of planning conditions set out in National Planning Practice Guidance (NPPG).

Coal Mining Legacy

The site is located within a High Risk Area as defined by the Coal Authority. The Coal Authority records indicate that the application site lies in an area of recorded underground coal mine workings at shallow depth which pose a potential risk to surface stability and public safety.

Whilst a Coal Mining Risk Assessment would be required to be submitted in this instance, the Coal Authority have confirmed that it does not appear that the creation of a dwelling forming the annex accommodation, and its associated extension and alternations will require substantial foundations or earthworks. On this basis they do not consider that requiring a Coal Mining Risk Assessment would be proportionate to the nature of the development proposed in this particular case and do not object to this planning application. An informative footnote is however recommended, should planning permission be granted for this proposal, to ensure that the proposals accord with Policy LP 53 of the KLP and guidance contained within Chapter 15 of the NPPF.

Contaminated Land

With respect to the proximity of the site to a mine shaft, KC Environmental Health have commented in relation to this and advised that as a minimum, this would require a preliminary risk assessment to establish the risks from contamination including ground gas at the site. In absence of a Phase I assessment, the site's historical land use, site setting and the associated risks from contaminants to receptors are unspecified. As such, it is unclear whether all potential risks to site receptors have been identified and assessed. Contaminated land conditions would therefore be necessary if the application was to be approved, to ensure compliance with Policy LP 53 of the KLP.

Foul Drainage

The applicant has indicated that a package treatment plant would be required to serve the development and would be connected to the existing foul drainage system that serves Lower Sowood House. Whilst this is acceptable in principle, further evidence would need to be provided to demonstrate that the existing system is of a sufficient size and capacity to serve the development.

6 – Representations:

None.

7 – Conclusion/Planning Balance:

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 not constitute sustainable development and is, therefore, recommended for refusal.

Recommendation: Refuse

Decision Authorisation – Delegated Powers

Application Number: 2021/91792

Officer Recommendation: Refuse

Conditions and Reasons

1. The proposal would constitute inappropriate development in the Green Belt and result in additional harm to the spatial and visual aspects of the openness of the Green Belt. No very special circumstances have been demonstrated that would clearly outweigh the harm caused by reason of inappropriateness or other harm. The proposal would therefore not comply with policies LP57, LP59 or LP60 of the Kirklees Local Plan or chapter 13 of the National Planning Policy Framework.

Plans Specification

Plan Type	Reference	Version	Date Received
Location Plan			14/MAY/2021
Ground Floor Plan	2100		14/MAY/2021
Proposed Elevations	3000		14/MAY/2021
Proposed Building Calculations	8100		14/MAY/2021
Drainage Plan	2101		20/OCT/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 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 case officer has communicated to the planning agent and applicant of the issues ahead of determination. The Council cannot accept a revised site edged

red Location Plan that includes land outwith that of the existing site edged red within the scope of this same planning application.