

**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:	2022/62/93108/E
Site Address:	Cockermouth Farm, Cockermouth Lane, Flockton, Huddersfield, WF4 4BS
Description:	Erection of agricultural building
Recommending Officer:	Alice Downham

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: 04 May 2023

Officer Report

Site Description

The application relates to a parcel of land at Cockermouth Farm, Cockermouth Lane, Flockton. The site forms part of an agricultural holding approximately 2.2ha in size with associated farmhouse. The site slopes downhill to the southeast. There are open fields to the north, east, and south of the application site. There are residential properties to the west of the application site. The site is accessed via a track from Long Lane.

The site is within the Green Belt. The site is not within a conservation area, nor are there any listed buildings or PROW within close proximity to the site.

Description of Proposal

The applicant is seeking permission for the erection of an agricultural building. For clarity, this application is retrospective.

The proposed agricultural building would be measure approximately 9.6m x 9.3m. It would have an overall height of 3.1m and an eaves height of 2.7m, with a butterfly roof which appears to be finished in corrugated metal panels. It would accommodate hay storage and a sheep housing/lambing shed. The proposed building would be finished in breeze block and 'Yorkshire' boarding. There would be a sliding door to the western elevation, and five bar gates to the northern and eastern elevations.

Officers note that there are openings on the western elevation which are not shown on the submitted plans. Moreover, the footprint of the building does not appear to correspond to the submitted plans, being longer on the western elevation than the eastern elevation.

History of negotiations/amendments received

The submitted plans do not appear to reflect the development as built (this is a retrospective application). However, as officers had concerns about the principle of the development, amended plans were not sought.

The submitted plans and information were considered unacceptable in principle due to the impact of the proposal on the Green Belt. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. Justification for the agricultural building was sought and received. However, it is considered that the supporting information received has not reasonably demonstrated that the building is genuinely required for the purposes of agriculture. Moreover, clear and demonstrable reasons for the

design have not been provided. The applicant has also been offered the opportunity to withdraw the application.

Relevant Planning History

At the application site:

2006/93291 – Erection of stable block. Refused.

2007/93420 – Erection of stable block. Conditional full permission.

COMP/22/0036 – Alleged unauthorised outbuilding. Ongoing.

Publicity and 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 28th November 2022.

As a result of the above publicity, one representation has been received. The following is a summary of the material planning considerations which were raised as concerns:

- Impact on the Green Belt
- Impact on visual amenity
- Retrospective application

Other matters raised in the representations are not material planning considerations and as such will not be discussed further.

Kirkburton Parish Council were consulted although no comments were received.

Officer comments will be made in section 5 of this report.

Consultation Responses

KC Environmental Health – no objection subject to conditions (to be detailed within the report).

The Coal Authority – no objection.

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 located within a designated Green Belt on the Kirklees Local Plan.

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. The National Planning Policy Framework 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 under other matters.

Kirklees Local Plan (LP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways and access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 53** – Contaminated and unstable land
- **LP 54** – Building for agriculture and forestry 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 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The National Planning Policy Framework constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 9** – Promoting sustainable transport
- **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 (including impact on Green Belt and visual amenity)

- 1) Impact on residential amenity
- 2) Impact on highway safety
- 3) Other matters
- 4) Representations
- 5) Conditions
- 6) Conclusion

1 – Principle of development (including impact on Green Belt and visual amenity):

Sustainable development

Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.

Impact on the Green Belt

The site is within the designated Green Belt on the Kirklees Local Plan. Therefore, the impact of the development on the Green Belt needs to be assessed.

The National Planning Policy Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The National Planning Policy Framework also identifies five purposes of the Green Belt. Paragraph 147 of the National Planning Policy Framework states that inappropriate development should not be approved “except in very special circumstances”.

Paragraphs 149 and 150 of the National Planning Policy Framework set out that certain forms of development are exceptions to ‘inappropriate development’. Paragraph 149 sets out that buildings for agriculture and forestry could be appropriate.

Policy LP54 of the Kirklees Local Plan is consistent with advice within the National Planning Policy Framework. Policy LP54 relates to the buildings for agriculture and forestry in the Green Belt. It states that these will normally be acceptable, provided that:

- “a. the building is genuinely required for the purposes of agriculture or forestry;*
- b. the building can be sited in close association with other existing agricultural 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.”*

Whether the proposal is inappropriate development in the Green Belt

An assessment is required as to whether the proposal accords with the criteria set out in Policy LP54 of the Kirklees Local Plan.

Further justification was requested and received from the applicant in November 2022 and January 2023. These collectively seek to justify the need for an agricultural building and state as follows:

- The building was constructed because of the expansion of the flock of sheep, and the need for more storage for hay.
- Hay storage would measure 6m x 9.3m; sheep housing/lambing would measure 3.6m x 9.3m.
- There are currently 30 sheep in the flock, 28 in lamb [as of January 2023]. Each sheep can have up to three lambs at each time.
- Applicant is hoping to expand to 50 breeding ewes by summer 2023.
- There is 5.5 acres [~2.2ha] of land at Cockermouth Farm which is used for sheep grazing and hay making.
- The applicant also farms land in Flockton (~6 acres) and Almondbury (~8 acres) which is also used for sheep grazing and hay making.
- The sheep are on alternate grazing between Almondbury and Flockton to ensure as much hay is produced as possible for winter feeding.
- There is an existing stable block which is now too small for the flock of sheep and amount of hay needed over the winter months.
- There is no room to extend the stables in its current position, would impact on view of neighbours, would not provide sufficient room for welfare of livestock, some hay bales would not fit through average stable door.

With regard to Policy LP54(a), it is considered that the information submitted has failed to sufficiently demonstrate that the building is genuinely required in connection to the agricultural enterprise. The applicant states that the building was constructed because of the expansion of the flock of sheep. The applicant also states that there are currently 30 sheep, hoping to expand to 50 breeding ewes by summer 2023. However, no justification has been provided as to the size of the sheep housing/lambing area (for example, in terms of space required per ewe and lamb) and why this could not be accommodated in the existing stable. The applicant states that each ewe can have up to three lambs at each time; however, no information has been provided as to the breed of sheep and it is officers' understanding that it is more common for sheep to have two lambs at each time after their first birth which is usually a single lamb.

The applicant also states that the building was constructed because of the need for more storage for hay. However, no justification has been provided as to the size of the hay storage area (for example, in terms of the volume of hay produced). It is noted that there is 5.5 acres [~2.2ha] of land at Cockermouth Farm which is used for grazing sheep and hay making. It is unclear whether a 5.5acre unit would require a building of the size proposed in order to be satisfactorily operated, or if the unit could produce enough hay on its own (the other land in Flockton and Almondbury notwithstanding) to justify the need for a building of the size proposed.

As such, the genuine need for the building for the purposes of agriculture has not been demonstrated. Therefore, the proposal is considered to constitute inappropriate development in the Green Belt. As outlined in Paragraph 147 of the National Planning Policy Framework, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 148 of the National Planning Policy Framework also states that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. An assessment is therefore required into whether the proposal would cause any other harm to the Green Belt and whether very special circumstances exist which clearly outweigh the harm to the Green Belt by reason of inappropriateness, as well as any other harm to the Green Belt.

Whether there would be any other harm to the Green Belt, including visual amenity

In respect of the openness of the Green Belt, openness has been established to have both a visual and spatial aspect. As outlined above, the proposal introduces built development; therefore, there would be a resultant impact upon the openness of the Green Belt. Furthermore, the site is surrounded by open fields on three sides in an area relatively free from urban development, thereby contributing to the rural character of the locality.

Policy LP24 (Design) states that *“Proposals should promote good design by ensuring:*

- a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape;*
- b. they provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary;”*

With regard to LP54(b), the building is sited in relatively close association with the farmhouse at Cockermouth Farm and the existing stable building. This is considered acceptable.

With regard to LP54(c), as well as LP24(b), it is considered that the proposal would have no significant impacts on residential amenity. Officers consider that the only neighbouring dwelling that could be materially impacted is The Barn, Cockermouth Lane, to the southwest of the proposed building. The proposed building would be partly screened by the existing farmhouse at Cockermouth Farm and a separation distance of approximately 36m would be retained. Officers are satisfied that there would be no detrimental impacts on the residential amenities of The Barn, Cockermouth Lane, as a result of the proposed development.

With regard to LP54(d), as well as LP24(a), it is considered that the design of the proposed development would materially detract from its Green Belt setting. Officers note that there are openings on the western elevation which are not shown on the submitted plans. These appear to be windows which would not serve any obvious purpose for an agricultural building and appear domestic in size and scale. The butterfly roof is an unusual choice which would be less utilitarian than typical agricultural buildings. The use of breeze block to the lower part is not in keeping with an agricultural building. Moreover, the footprint of the building does not appear to correspond to the submitted plans, being longer on the western elevation than the eastern elevation. By reason of the design of the building failing to reflect its agricultural use, and not being built in accordance with the submitted plans, officers consider that the proposal would result in encroachment on the countryside, thereby conflicting with one of the five purposes of including land within the Green Belt.

Thus, officers consider that the design of the proposal would further impact on the openness of the Green Belt, which adds to the substantial harm by reason of inappropriateness in relation to the proposed development.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development

No information has been provided regarding “very special circumstances”.

Conclusion

The development would constitute inappropriate development in the Green Belt. The design of the proposal would result in encroachment on the countryside, thereby conflicting with one of the five purposes of including land within the Green Belt. Very special circumstances which would outweigh such harm caused to the Green Belt have not been demonstrated. The proposal is therefore considered to conflict with Policy LP54 of Kirklees Local Plan and Chapter 13 of the National Planning Policy Framework.

2 – Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24

(b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.

KC Environmental Health were consulted and highlighted that the proposed development is within a residential area where noise from construction activities has the potential to impact the amenity of nearby residents. Although KC Environmental Health recommend a condition to restrict construction site working times (should planning permission be granted). However, officers note that this application is retrospective; therefore, it would not be necessary or reasonable to apply this condition.

Given the nature and location of the proposal, officers consider that the only neighbouring dwelling that could be materially impacted is The Barn, Cockermouth Lane, to the southwest of the proposed building. As the proposed building would be to the north of this neighbour, it is considered that there would be no detrimental overshadowing impact as a result of the proposal. The proposed building would be partly screened by the existing farmhouse at Cockermouth Farm and a separation distance of approximately 36m would be retained; therefore, it is considered that there would be no detrimental overbearing impact on this neighbour. Given the nature and proposed use of the building, officers consider that there would be no overlooking impact on this neighbour. Officers are satisfied that there would be no detrimental impacts on the residential amenities of The Barn, Cockermouth Lane, as a result of the proposed development.

After assessing the above factors, officers consider that this proposal would not result in any significant adverse impact upon the residential amenity of any neighbours, thereby complying with Policies LP24 and LP52 of the Kirklees Local Plan and Paragraphs 130 (f), 174 (e), and 185 (a) of the National Planning Policy Framework.

3 – Impact on highway safety:

The proposal would involve no changes to the access and no removal of parking areas. The proposed agricultural building would accommodate hay storage and a sheep housing/lambing shed. Officers would not expect any additional vehicle trips to occur on the highway during the operation of the site; if there were to be an intensification, officers consider this would not be great enough as to have a severe impact on the operation or efficiency of the local highway network. As such, officers consider the application to be acceptable on highways grounds.

Therefore, the scheme would not represent any additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

4 – Other matters:

Coal Mining Legacy

The Coal Authority were formally consulted. Their response highlights that part of the application site falls within the defined Development High Risk Area. The Coal Authority's information indicates that the access route to the site of the proposed building crosses areas where coal mining is recorded to have taken place at shallow depth, where historic unrecorded shallow coal mining is likely to have occurred and areas where surface (opencast) mining may have taken place. In addition, the potential zones of influence of three off-site recorded mine entries encroach across the access route. However, the part of the site where the building is proposed lies outside of the defined High Risk Area. Therefore, the Coal Authority do not consider that a Coal Mining Risk Assessment is necessary to support this proposal and do not object to this planning application.

Contaminated land

KC Environmental Health were consulted. Their response highlights that the proposed development is not situated on land identified as potentially contaminated; however, there is however a coal mining legacy in the area and the existing structure may have been used to house products associated with farming which have the potential to cause contamination. The proposed structure is naturally well ventilated with openings served by 5 bar gates and an agricultural sliding door, as well as the building being constructed from Yorkshire boarding to the upper part. The proposed development involves groundworks. KC Environmental Health recommend a condition (should planning permission be granted) in relation to unexpected contamination, to protect construction workers during the build and any future site users. However, officers note that this application is retrospective; therefore, it would not be necessary or reasonable to apply this condition. The development would comply with LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Carbon Budget

In this case, due to the nature of the proposal it is considered reasonable not to require the applicant to put forward any specific resilience measures.

There are no other matters considered relevant to the determination of this application.

5 – Representations:

One representation has been received. The following is a summary of the material planning considerations which were raised as concerns:

- Impact on the Green Belt
- Impact on visual amenity
- Retrospective application

Officer comment: *These matters have been addressed in this report.*

6 – Conditions

None as the application is recommended for refusal.

7 – Conclusion:

The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the National Planning Policy Framework 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 National Planning Policy Framework and other material considerations.

Recommendation

Refuse

Decision Authorisation - Delegated Powers

Application Number: 2022/93108

Officer Recommendation: Approve

Conditions and Reasons

1. The application site is located within the designated Green Belt, whereby, as set out in the National Planning Policy Framework, most development, subject to certain exceptions, is regarded as inappropriate. The information submitted has failed to sufficiently demonstrate that the building is genuinely required for the purposes of agriculture. In addition, the design of the proposal would result in encroachment on the countryside, thereby conflicting with one of the five purposes of including land within the Green Belt. No very special circumstances that clearly outweigh the harm to the Green Belt are demonstrated. To permit the development would be contrary to Policy LP54 (a), and (d) of the Kirklees Local Plan and Chapter 13 of the National Planning Policy Framework.

Plans and specifications schedule:

Plan Type	Reference	Web ID	Date Received
Location Plan	-	955238	20/10/2022
Plan General	-	957319	20/10/2022
Proposed Elevations	-	957318	20/10/2022

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 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.

The submitted plans do not appear to reflect the development as built (this is a retrospective application). However, as officers had concerns about the principle of the development, amended plans were not sought.

The submitted plans and information were considered unacceptable in principle due to the impact of the proposal on the Green Belt. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. Justification for the agricultural building was sought and received. However, it is considered that the supporting information received has not reasonably demonstrated that the building is genuinely required for the purposes of agriculture. Moreover, clear and demonstrable reasons for the design have not been provided. The applicant was given the opportunity to withdraw the application.

Report Dated:

03/05/2023