

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:	2024/62/90003/E
Site Address:	Upper Marsh Farm, 204, Marsh Lane, Shepley, Huddersfield, HD8 8AY
Description:	Erection of agricultural building
Recommending Officer:	Nina Sayers

DECISION – Conditional Full 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.

Sarah Longbottom

AUTHORISED OFFICER

Date 02 May 2024

Officer Report

Site Description

The application relates to a parcel of land associated with Upper Marsh Farm in Shepley. The site forms part of an agricultural holding approximately 7.45ha in size with associated dwelling. The application site is set north-west of Marsh Lane, approximately 20m south-east of the existing dwelling. The site is surrounded by open fields.

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.

The proposed agricultural building would measure 9m x 18m. It would have a shallow pitched roof with a ridge height of 4.6m. The exterior would be finished in natural larch cladding above a stone (north-east and south-east elevations) and blockwork (north-west and south-west elevations) plinth. There would be a large timber doorway in the north-eastern elevation. The building would be used to store straw, hay and machinery.

History of negotiations/amendments received

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. No amendments were sought or provided.

Relevant Planning History

2023/91833 Prior notification for erection of agricultural building. Approval of details withheld.

2014/91588 Prior approval of proposed change of use of agricultural building to dwellinghouse. Details approved.

94/92458 Agricultural notification erection of feed store. Withdrawn.

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 11th March 2024.

As a result of the above publicity, no representation has been received.

Kirkburton Parish Council were consulted although no comments were received.

Consultation Responses

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

KC Highways – no comments received.

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 27th March 2012 and updated 20th December 2023, 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 and beautiful places
- **Chapter 13** – Protecting Green Belt Land
- **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) Conclusion

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

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 152 of the National Planning Policy Framework states that inappropriate development should not be approved “except in very special circumstances”.

Paragraphs 154 and 155 of the National Planning Policy Framework set out that certain forms of development are exceptions to 'inappropriate development'. Paragraph 154 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;*
- a) 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;*
- b) there will be no detriment to the amenity of nearby residents by reason of noise or odour or any other reason; and*
- c) 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."*

It must be noted that a prior approval application was approved in 2021 (2014/91588), for an existing agricultural building to be converted to a dwelling. Part of the justification for converting the agricultural building provided by the agent at the time was that the *"agricultural barn is now surplus to the requirements of the owner and an alternative use is now sought"*. The recent loss of an agricultural building on the site is a material consideration.

Following this, the applicant submitted a prior notification application (2023/91833) which was refused on the grounds that the proposal was for the erection of an agricultural building on an established agricultural unit where development under Class Q has been carried out within the last 10 years and therefore fails to accord with sub-paragraph A.1(b) and would not be permitted under Schedule 2, Part 6, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015.

Within the submitted planning statement for this application the applicant has outlined how they believe they meet the requirements of LP54 of the Kirklees Local Plan. Regarding criteria a) the proposed agricultural building is required for the applicant's longstanding agricultural business which covers 7.45ha. The applicant produces species rich hay from their wildflower meadows and the proposed building would be for storage of hay prior to it being sold. The building would also allow the applicant to safely park and store their agricultural equipment.

As there was a previous building on the site which was converted to a dwelling because it was not required for agricultural use, Officers did have some concerns regarding whether the proposed building is necessary. It is however clear from the applicant's submission that the small scale and design of the existing structure (now dwelling) did not meet the required standards for a practical and useable agricultural building for modern day use. Taking this into consideration, particularly the scale of the existing structure, it is considered on balance that the proposal would meet the criteria of LP54(a).

Referring to criteria(b) of LP54, the proposed agricultural building would be located in the northwestern corner of the field, south of the applicant's dwelling. It is noted that the applicant does not own any other agricultural buildings and therefore the proposed location, in close proximity to the only existing structure within the ownership of the applicant is considered acceptable. The proposed location can also utilise an existing access.

Referring to criteria(c) of LP54, the nearest residential dwelling, other than the applicant's farmhouse, is located approximately 80m from the application site. Therefore, it is unlikely the proposal would result in any harm to neighbouring occupants. No significant additional noise or odour is considered to be caused as a result of storage of hay in a barn. An existing boundary hedge would provide separation between the new building and the applicant's dwelling. Therefore, no significant concern is considered to be caused to residential amenity.

Referring to criteria(d) of LP54 and LP24(a), the proposed structure would be a relatively standard agricultural design and would be finished in timber above a stone/blockwork plinth. The proposed design would be in keeping with the rural setting and use of the proposed unit. It is noted that the building would be in a prominent location and visible from the highway. This is considered acceptable given the design and as the proposal would need to be accessible by vehicle and located near the existing structure. Therefore, the proposal is considered acceptable for the purposes of LP54 and LP24.

The principle of development and impact on visual amenity is therefore considered acceptable and the proposal will not be assessed against all other material planning considerations.

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.

As outlined above the scheme has also been assessed against and LP54(c) with regard to impact on residential impact. This concludes that significant harm is not likely to occur to the residential amenity of nearby occupants 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, LP52 and LP54 of the Kirklees Local Plan and Paragraphs 135 (f) and 180 (e) 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 primarily accommodate hay storage and some agricultural equipment. KC Highways have been consulted and no comment was received. Officers would not expect significant additional vehicle trips to occur on the highway during the operation of the site; given the site currently provides access to the agricultural holding anyway. 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:

Contaminated land

KC Environmental Health were consulted on the proposal. A Coal Mining Risk Assessment (CMRA) by Rodgers Geotechnical (ref: C3849/23/E/5820) (dated: 09/10/2023) has been submitted in support of the application. The report has identified that two local coal seams outcrop in the local area namely Hard Bed coal and Soft Bed coal. However, no coal seams are anticipated to be present at depths of less than 30m below the surface of the site, and any potential deep mine workings are considered to represent a low risk of mine gas. It is therefore considered that further intrusive site investigation is not required. In addition to the CMRA, council records indicate that the proposed development is within 250m of a former landfill site (our ref: (65/22)). Given that the proposed development is for an agricultural building with concrete hardstanding and Yorkshire boarding we recommend a condition relating to unexpected contamination being encountered during the construction phase. The development would therefore comply with LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Coal Mining Legacy

It is noted that the section of the site where development would occur is in a Low Risk Development High Risk Area. The Coal Authority were therefore not consulted on this proposal.

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:

No representation was received.

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.

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and it is, therefore, recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2024/90003

Officer Recommendation: Approve

Conditions and Reasons

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

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 to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP1, LP2, LP21, LP22, LP24, LP53 and LP54 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. If contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works 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. Works 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 Verification 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 Verification 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. 189 and 190 of the National Planning Policy Framework.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. 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.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location Plan			09/01/2024

Plan Type	Reference	Version	Date Received
Proposed Plans and Elevations	SK04	D	09/01/2024
Block Plan	SK05	C	09/01/2024
Planning Statement			09/01/2024
Appendix A – Land within the applicants ownership			09/01/2024
Coal Mining Risk Assessment	C3849/23/E/5820		09/01/2024

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. No amendments were sought or received.

Report Dated: 01/05/2024