

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	2024/70/90404/W
Site Address:	12 Clough Head Farm, Clough Head, Slaithwaite Gate, Bolster Moor, Huddersfield, HD7 4NW
Description:	Variation of condition 2 (plans) on previous permission 2020/92391 for alterations to convert agricultural building to one dwelling
Recommending Officer:	Tom Hunt

DECISION – VARIATION OF CONDITION APPROVED

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.

John Holmes

AUTHORISED OFFICER

Date: 09-May-2024

Officer Report

Site Description

2024/90404 – 12 Clough Head Farm, Clough Head, Slaithwaite Gate, Bolster Moor, Huddersfield, HD7 4NW

The application site is largely as per the description provided in application ref: 2020/92391. It was noted that the development granted by 2020/92391 had commenced.

Description of Proposal

Variation of condition 2 (plans) on previous permission 2020/92391 for alterations to convert agricultural building to one dwelling

Under this Section 73 application, the applicant proposes the variation of the drawings approved under condition 2 of planning permission ref: 2020/92391 (dated 23/12/2020) which states:

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, to ensure the development is appropriate in the Green Belt and to accord with Policies LP24 and LP60 of the Kirklees Local Plan.*

The 2020 permission was for alterations to convert agricultural building to one dwelling.

The amendments now proposed involve external changes to the fenestration/doorway openings, a greater overhang to its roof over the rear elevation, removal of solar panels and removal of a canopy to its side.

Internally, alterations to the floor layout include removal of integral parking to be given over to a double height lounge, removing a bedroom (the property is now proposed to be a four bedroom dwellinghouse) and other room reconfigurations.

Relevant Planning History

2017/91966	Alterations and extension to agricultural building to form dwelling. <i>Refused.</i> Appealed: APP/Z4718/W/18/3197747 <i>Dismissed.</i>
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2018/93768 dwelling	Alterations and extension to agricultural building to form dwelling <i>Refused.</i> Appealed: APP/Z4718/W/19/3237550 <i>Dismissed.</i>
2020/92391	Alterations to convert agricultural building to one dwelling. <i>Conditional Full Permission.</i>
2023/92599	Discharge conditions 3 (materials), 7 (drainage), 9 (landscape) on previous permission 2020/92391 for alterations to convert agricultural building to one dwelling. <i>Approved.</i>

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 had a final expiry date of 27/03/2024.

With regard to the Listed Building, 14 Pinfold Lane, which is sited roughly 65m north of the application site. The Inspector, in assessing the appeal for the 2018 application, concluded that there would be no harm to the setting of the Building. As such Officers concur that it was not considered necessary to publicise the application via site notice or press notice and further consideration of impacts under LP35 of the Kirklees Local Plan, Chapter 16 of the National Planning Policy Framework and section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) were not required in the assessment of this proposal given the nature of the development.

No representations have been received.

Amended plans were received however they were not readvertised as they did not alter the description of development and did not materially have a detrimental impact on planning considerations.

Consultation Responses

No technical consultees required.

Policy

The following was considered relevant in the consideration of application 2020/92391:

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).

Kirklees Local Plan (LP):

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 3 – Location of new development
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 28 – Drainage
- LP 30 – Biodiversity & Geodiversity
- LP 35 – Historic Environment
- LP 60 – The re-use and conversion of buildings

Supplementary Planning Guidance and other considerations

- Highways Design Guide SPD
- Housebuilders Design Guide SPD (2021)
- Nationally Described Space Standards
- Waste Management Design Guide for New Developments (Oct 2020, v.5)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications (2021)
- Institute of Air Quality Management Land-Use Planning & Development Control; Planning for Air Quality (2017)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Planning (Listed Building & Conservation Areas) Act (1990)

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 December 2023, 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 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful 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
- Chapter 16 – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology
- 5) Representations
- 6) Conclusion

1 – Principle of development:

Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of a condition of a previous permission.

The principle of the works proposed to the building has been established under the previously approved application: 2020/92391. As such, it is considered that the principle of development remains established. The assessment of this proposal will therefore deal with the merits of the proposed variations.

2 –Impact on visual amenity:

The proposal seeks to vary window and door openings to still have an arrangement to the side elevations suggesting a rural barn vernacular with windows of varying proportions, haphazardly placed. Visually the front and rear would appear to erode the original character and design of the ‘barn’ with glazed doorways and sections above however this would appear to resemble a more modern barn and as such acceptable.

The increase in the roof overhang at the rear elevation would be a minor visual variation to the original design with restricted views of this from most vantage points and thus would appear unremarkable.

The design would otherwise appear of simpler form than the previous permission with the removal of solar panels and canopy, and would retain, in essence, a barn like appearance in keeping with its pleasant setting.

Furthermore, no significant visual changes are proposed in respect to the overall scale, size or design of the building itself and to its parking/amenity areas. It is therefore considered that the proposals would be in accordance with Chapters 12, 13 and 16 of the National Planning Policy Framework, LP02, LP24 and LP35 of the Kirklees Local Plan, the Housebuilders Design

Guide SPD and Section 66 of the Planning (Listed Buildings & Conservations Areas) Act (1990).

3 – Impact on residential amenity:

Section B of Policy LP24 of the Kirklees Local Plan states that proposals should:

“...they provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings”

Further to this, Paragraph 135f) of the National Planning Policy Framework 2023 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Principle 6 of the Housebuilders Design Guide SPD was introduced after the previous permission to ensure high standards of residential amenity could be achieved.

It is considered that the proposed amendments to the development's design would be sited a sufficient distance away from any other neighbouring properties not referred to above so as to prevent undue harm to these properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect. This would still be in accordance with Principle 6.

A footnote has been attached to the Decision highlighting KC powers over limiting undue impacts of construction for residential amenity and to accord with LP52 of the Kirklees Local Plan.

Future Occupiers

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”* Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”*

The dwelling would exceed requirements for sufficient internal floor space and daylighting to be acceptable under the NDSS. There would be a neutral impact regarding provision of private outdoor space, which had been found previously acceptable and Officers concur with this assessment.

The proposal would therefore be in general conformance with LP24b of the Kirklees Local Plan, the Principles 6, 16 and 17 of the Housebuilders Design Guide SPD and Chapter 12 of the NPPF.

4 – Impact on highway safety:

Turning to highway safety and parking, policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking. The Highways Design Guide SPD advises that new development should have sufficient off street parking spaces to meet need and to ensure on street parking impact is limited.

For a 4 plus bedroom dwelling, it should have three off street parking spaces to achieve this aim.

The previous assessment concluded that *“The amount of parking provided is considered satisfactory as there would be room to park at least four vehicles (without taking the internal garage into account) and still leave space for the turning of vehicles.”*. Officers concur with this assessment, noting that the previously permitted integral garage was not included in the provision of parking, and the external parking is unaltered with a neutral impact. The reduction of expected occupancy to four bedroom would also reduce parking pressure.

Other arrangements for the collection of waste near to the entrance are unaltered. Provided that the access is left ungated or that any gates are set at least a metre back so as to allow the collection point to be accessed by refuse workers, this was considered satisfactory. This condition can be retained for avoidance of doubt.

The areas for the parking and manoeuvring of vehicles have been provided and as such would no longer require being conditioned.

The proposal would therefore still ensure that the safe and convenient use of the highway is maintained and would accord with the aims of LP21 and LP22 of the Kirklees Local Plan, Principle 12 of the Housebuilders Design Guide SPD, the Kirklees Highways Design Guide SPD and Chapter 9 of the NPPF

Climate Change

When determining planning applications, the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

The most significant alteration to this proposal is the removal of solar panels, while regrettable, solar panels was not considered a significant factor in the determination of the original permission. The site would still retain its ability to

install solar panels in the future with no significant alterations to the roof to deter occupants from doing so.

It was conditioned to have an Electric Vehicle Charging Point however this would be suitably addressed under Building Regulations 2010 Approved Document S and therefore this condition will be altered to an informative to satisfy the requirements of planning conditions to meet the 6 tests.

5 – Other matters:

With regard to other matters that were assessed as part of the previous planning permission – Ecology, Drainage and Minerals safeguarding, the proposal is unchanged in relation to these aspects and any conditions or footnotes imposed in regard to these matters to make the development acceptable will be reviewed or repeated as part of this application.

Conditions Review

As the application is a Section 73 application to vary conditions, it is necessary to re-impose all conditions which remain relevant. A review of the conditions in place upon the 2020 permission is undertaken as follows:

- 1.) The application form states that the development has commenced on 06/11/2023 and therefore condition 1 is removed.
- 1.) Whilst the plans have been updated within the plans table to reflect the amendments applied for, the wording of condition 2 will remain unchanged.
- 2.) This condition was discharged, within application 2023/92599, referencing approved materials. This will be altered to a compliance condition in the interests of visual amenity and the setting of the Green Belt. In addition, the solar panels will be removed from the wording of this condition.
- 3.) This will remain unaltered to protect the openness of the Green Belt and avoid domesticating or urbanising features.
- 4.) This will be retained in the interests of highway safety and limiting visual impact to the Green Belt.
- 5.) This will be retained for efficient waste collection.
- 6.) This condition was discharged, within application 2023/92599. The condition would be reworded as a compliance condition.
- 7.) This will be retained with one minor alteration to make reference to 'Class' instead of 'Classes' for precision. The building is not occupied yet.
- 8.) This condition was discharged, within application 2023/92599, as the landscaping details were approved. The condition would be reworded as a compliance condition with requirements to replace failed or removed planting for 5 years and restricting surfaces still in place.
- 9.) This will be retained as worded.
- 10.) This will be retained as worded in the interests of bird protection. Whilst works have mostly been carried out, there is still cladding of the structure and some associated works to be carried out.
- 11.) This will be retained in the interests of biodiversity.
- 12.) This will be converted to an informative as this matter (EV parking) is covered by building regulations now.
- 13.) This will be reworded to change the colour from dark grey to black.

Other informative notes will remain. It is not known whether the s.184 agreement was agreed yet. The Housebuilders Design Guide SPD and other relevant policies have been added in reasons where necessary given the adoption of this policy document since the previous decision.

6 – Representations:

No representations had 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 material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation: Delegated

Application Number: 2024/90404

Officer Recommendation: Approve

Conditions and Reasons

1. 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, to ensure the development is appropriate in the Green Belt and to accord with the Principles of the Housebuilders Design Guide SPD, Policies LP01, LP02, LP03, LP21, LP22, LP24, LP28, LP30, LP35 and LP60 of the Kirklees Local Plan and Chapters 2, 4, 5, 9, 11, 12, 13, 14, 15 and 16 of the National Planning Policy Framework.

2. The external materials used in the construction of the building shall be in full accordance with the materials and colour finishes submitted to, and approved in writing by application 2023/92599 within the letter of the Local Planning Authority dated 27th October 2023.

Reason: In the interests of visual amenity and to ensure that the development is appropriate to its Green Belt setting, and to accord with the aims of the

Housebuilders Design Guide SPD, Policies LP24(a) and LP60(c) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or reenacting that Act or Order with or without modification), no extensions or outbuildings shall be erected or constructed within the site, including any development falling within Schedule 2, Part 1, Classes A, AA, B, D and E of the above Order, including raised terraces, at any time.

Reason: So as to retain adequate planning control over the site to ensure that inappropriate extensions or outbuildings do not harm the openness of the Green Belt or introduce inappropriate domesticating or urbanising features to the site, and to accord with the aims of Principle 2 of the Housebuilders Design Guide SPD, Policies LP60 and LP57 of the Kirklees Local Plan, and Chapter 13 of the National Planning Policy Framework.

4. All areas indicated to be used for the access, parking and turning of vehicles as shown on the approved plan shall be laid out and surfaced before the new development is first brought into use. The parking and turning areas area shall be surfaced in gravel or hardcore, notwithstanding the details on the application form and approved plans. The access track (measured up to 6m back from the highway boundary) shall be surfaced in porous asphalt or other materials providing a sealed, permeable and cohesive surface. These areas shall thereafter be retained as such.

Reason: So as to ensure that safe and satisfactory arrangements for the access, parking and turning of vehicles is retained within the site at all times in the interests of the safe and convenient use of the highway, to ensure that surfacing materials are appropriate to their rural setting and do not introduce inappropriate domesticating or urbanising features to the site, do not contribute to flood risk and to accord with the aims of Policies LP21, LP22 and LP60 of the Kirklees Local Plan, Principle 12 of the Housebuilders Design Guide SPD and Chapter 13 of the National Planning Policy Framework.

5. The area indicated to be used as a presentation point for the collection of wastes shall be laid out with a hardened surface before the dwelling is first occupied and shall thereafter be retained as such and kept free of all obstructions to its use. The access to the site shall either be left open and ungated, or any gates shall be set back a minimum of 1m from the highway boundary.

Reason: To ensure that satisfactory arrangements for the collection of wastes are retained in the interests of highway safety and to accord with the aims of Principle 19 of the Housebuilders Design Guide SPD and Policies LP24(d)(vi) and LP21 of the Kirklees Local Plan.

6. The drainage arrangements for the hard surface access track leading to the site for the construction of the building shall be in full accordance with the details submitted to, and approved in writing by application 2023/92599 within the letter of the Local Planning Authority dated 27th October 2023.

Reason: In the interests of the safe and convenient use of the highway, to mitigate the potential for flood risk through surface water run off and to accord with the aims of Policies LP21 and LP28 of the Kirklees Local Plan.

7. The boundary fences shown on the approved plans shall be installed before the new dwelling is first occupied. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), the new boundary treatments shall be thereafter retained as such and no fixed boundary treatments other than timber post and rail fences shall be installed within the site at any time.

Reason: To ensure that boundary treatments are appropriate to their rural setting and do not introduce inappropriate domesticating or urbanising features to the site, and to accord with the aims of Principle 2 of the Housebuilders Design Guide SPD, Policy LP60 of the Kirklees Local Plan and Chapter 13 of the National Planning Policy Framework.

8. The details of the landscaping of the site, including finished levels, any new planting to be undertaken, and any new hard surfaces to be laid, including the planting to be carried out in the next planting season after the practical completion of works shall be in full accordance with the details submitted to, and approved in writing by application 2023/92599 within the letter of the Local Planning Authority dated 27th October 2023.

Reason: In the interests of visual amenity, to ensure that the landscaping of the site does not introduce inappropriate domesticating or urbanising features or harm the openness of the Green Belt, and to accord with the aims of Principle 8 of the Housebuilders Design Guide SPD, Policies LP24(a) and LP60 of the Kirklees Local Plan and Chapter 13 of the National Planning Policy Framework.

9. The development shall be completed in accordance with the recommendations within Section 4.1 of the Bat Scoping Survey 1476, dated 1st October 2020. Any removal of roofing material shall be undertaken under the direct supervision of a suitably qualified ecologist. If bats, or signs indicative of bats (eg. droppings, feeding remains) are identified, works shall cease, and a Natural England European Protected Species (EPS) licence obtained.

Reason: In the interests of the biodiversity of the site and to ensuring that no bat roosts are disturbed in accordance with Principle 9 of the Housebuilders Design Guide SPD, Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

10. No works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests within 48 hours prior to works commencing and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to the Local Planning Authority.

Reason: To prevent significant ecological harm in respect of direct impacts to birds, their eggs, nests and young and to accord with Principle 9 of the Housebuilders Design Guide SPD, Policy LP30 of the Kirklees Local Plan and the requirements of Chapter 15 of the National Planning Policy Framework.

11. The scheme of swallow nest box and bat boxes as shown on the proposed elevations shall be installed before the dwelling is first occupied and shall thereafter be retained as such.

Reason: To provide ecological enhancement in accordance with the requirements of Principle 9 of the Housebuilders Design Guide SPD, Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

12. All external joinery to windows and doors shall be finished in black before the dwelling is first occupied and thereafter retained in a black finish.

Reason: In the interests of visual amenity and to ensure that the development is appropriate to its Green Belt setting, and to accord with the aims of Policies LP24(a) and LP60(c) of the Kirklees Local Plan.

FOOTNOTE: Building Regulations (2021 edition) control the provision of Electric Vehicle Charging Points for new residential buildings under Approved Document S 'Infrastructure for the charging of electric vehicles'. Building work must meet all relevant requirements of the Building Regulations. To comply with the Building Regulations, it is necessary both to follow the correct procedures and meet technical performance requirements for building work to be found acceptable.

FOOTNOTE: the planning permission granted is to convert the building as shown on the approved plans and in accordance with the supporting information regarding the 'permanent and substantial' nature of the existing building. It does not confer permission to remove any part of the building which is shown to be retained on the approved plans/within the supporting information. To do so is likely to nullify the permission and a new planning application for the revised proposal would need to be submitted and assessed on its own merits.

FOOTNOTE: – Access. The changes to the access within the adopted highway fronting the property will need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Interference with the highway without such permission is an offence which could lead to prosecution.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan, Proposed Site, Elevation and Floor	Drawing no. 1535/02.	C	03/04/2024

Plan Type	Reference	Version	Date Received
Plans.			

Plans and specifications schedule for application 2020/92391:

Plan Type	Reference	Version	Date Received
Application form			27-Jul-2020
Plans and elevations as existing	0928/01		27-Jul-2020
Inspection report	TC 20510		27-Jul-2020
Structural report	B22661.L001/JAW/srm		27-Jul-2020
Calculations	B22661.SK1		27-Jul-2020
Bat and ecological survey			02-Oct-2020
Design and access statement	JBW/0923	C	27-Jul-2020
Heritage statement	JBW/0928		27-Jul-2020
Envirosearch residential			27-Jul-2020

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 case officer considered the application on review and sought amendments to the fenestration to be more in keeping with the special setting of the Green Belt.

Report Dated: 08/05/2024