

**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:	2024/62/91448/E
Site Address:	Cockleshaw Beck Farm, Hunsworth Lane, East Bierley, BD4 6RN
Description:	Change of use from farming land to wellbeing centre
Recommending Officer:	Edward Cheseldine

DECISION - REFUSED

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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 6-SEP-2024

Officer Report

2024/91448 - Cockleshaw Beck Farm, Hunsworth Lane, East Bierley, BD4 6RN

Site Description

Cockleshaw Beck Farm is a farm estate that is located within the wider area of East Bierley. The location of the development is a field with an access formed off Hunsworth Lane. A section of the site has been hard surfaced, which according to aerial imagery has been present since 2002. Beyond is a wider agricultural field that sits approximately ~87.00m off Hunsworth Lane. The field is positioned at a higher level than the public road due to a gentle gradient, sloping downwards at the adjacent field, giving the appearance of a hilltop. Within the hardstanding area there is a stack of pylons which have been present on the land since 2018.

Proposal Description

The application is seeking planning permission for a change of use from farming land to a wellbeing centre.

The change of use application also includes the installation of buildings and ancillary facilities as follows:

- Tipi: 21.00m(w) x 1.40m(d), will be formed of two-peaked canopies which will reach a height of 7.40m. The tipi will have a canvas fabric material wrapped around wooden poles. The sides of the tipis can fold up to create an open-sided canopy. The tipi will be permanently erected.
- Three ice baths will be placed on the south-west aspect of the site. These will be ~2.40m in diameter, ~0.60m height. They will be clad in timber.
- A W/C block will be erected adjacent to the ice baths. They will be ~6.20m(w) x ~2.50m(d) x 2.50m(h). It will be clad in timber.
- 28 car parking spaces will be installed on the hard surfacing that is present on site.
- A hedgerow will surround the perimeter of the site.

Amendments/Negotiations

Further details relating to outdoor use, use of the tipi, dimensions of the proposed facilities and evidence of very special circumstances were requested by the case officer. Further details were requested regarding access to safe water and sewage discharge. Details were submitted which formed the basis of the determination of the application.

Relevant Planning History

None.

Consultation Response

KC Environmental Health – Requested further details regarding details on the provision of drinking water supply and provisions for foul drainage

KC Crime Prevention – The suggested safety measures would conflict with the purposes of the Green Belt and are not considered necessary for the development.

KC Highways DM – Informal consultation response, please see *Highway Safety* section of the report.

Public Representations

The application was advertised by a site notice which expired on the 07 August 2024. No representations were received.

Policy & Legislation

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 the 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. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway Safety
- **LP 22** - Parking

- **LP 24** – Design
- **LP 30** – Biodiversity
- **LP34** – Conserving and enhancing the water supply
- **LP52** - Protection and improvement of environmental quality
- **LP56** – Facilities for outdoor sport, outdoor recreation and cemeteries 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 December 2023, and the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision making
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places 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

Other Material Considerations

- Kirklees Highways Design Guide SPD (2019)

Assessment

- 1) Principle of development
 - a. Green Belt
- 2) Impact on visual amenity
- 3) Impact of residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Conclusion

Principle of development

Green Belt

The site is located within the designated Green Belt on the Kirklees Local Plan Proposals Map. As such, Green Belt policies contained within the

National Planning Policy Framework (NPPF) and the Kirklees Local Plan (KLP) are relevant.

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt. Paragraphs 154 and 155 of the NPPF set out that certain forms of development are exceptions to “inappropriate development”.

The proposal seeks permission for the erection of wellbeing facility, stated within the exception is the *‘provision of appropriate facilities for outdoor recreation’, ‘as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it’.*

Policy LP56 expands this by stating proposals should ensure that

a. the scale of the facility is no more than is reasonably required for the proper functioning of the enterprise or the use of the land to which it is associated;

b. the facility is unobtrusively located and designed so as not to introduce a prominent urban element into a countryside location, including the impact of any new or improved access and car parking areas

Recreation

The site will be used for activities including yoga, guided meditation, fitness classes and corporate retreats. The term ‘recreation’, whilst being included within the NPPF and Local Plan, is not defined within their respective glossaries. The use of the word therefore is considered to be defined through its ordinary definition - leasurable activities, outside of work.

Amongst the prescribed uses of the site are corporate retreats which would make use of the tipi space as a corporate venue with the opportunity to take part in wellbeing activities on the site.

Although only an individual element of the established use of the site, activities outside of the meaning of the word recreation would take place. The tipi would be converted into a meeting venue that could accommodate a maximum of 20 customers. The applicant has applied for opening times between 08:00-20:00 Monday-Friday, which would give a wide timeframe for work related activities to take place. As the facilities available for on-site work-related activities would largely take place inside the tipi, it therefore cannot be stated that the use of site will fall under the term ‘outdoor recreation’.

Whilst it is apparent that a core part of the business relates to recreational wellbeing, it is clear from the submission that the facility provides work related activities which are more akin to a commercial use than what might reasonably be expected to take place on a site for direct outdoor recreation.

Outdoor use

The site will have the capacity to host some of the prescribed activities including yoga, guided meditation, breathwork, sound bath healing, craft clubs, workout sessions, and mental health meetings within the tipi in the instances of poor weather.

It is clear from the submitted evidence that these activities that take place will benefit from the outdoor experience. The tipi can be adjusted to let natural light and fresh air in while taking shelter from harsher elements of the weather. There are no additional canopies to be erected to support a more sheltered environment when accessing the toilet blocks, neither are the cold-water baths covered. These functions appear to be akin to a use that might be reasonable to take place on a site for direct outdoor recreational purposes.

Openness

In respect of the openness of the Green Belt, openness has been established to have both a visual and spatial aspect. The submitted plans confirm a tipi, ice baths and toilet block would be erected on a field 0.37ha in area. Elements to the front of the field would accommodate car parking which could accommodate up to 24 vehicles at a time.

In terms of buildings, there will be a collection of built form present on the site. The largest of which is the tipi structure which is 21.00m(w) x 1.40m(d) x 7.10m high at points. There is a gentle gradient to the land that rises from south-east to north-west. The structure will be visibly present within the landscape at several points when viewed along Hunsworth Lane and the public right of way that runs westward along the M62. The scale of the of the tipi indicates that the structure will cause a visual intrusion to the open character of the agricultural field. A large majority of the site will be enclosed by a shrub border which may provide some screening, however will not prevent the views of the entire site, due to the topography of the land, with the structures being overly prominent within the field and the wider scale of the site.

Considering the scale of the site, the activity field spans ~75.00m x ~49.00m. Whilst the area includes the built structures, there is a significant amount of undeveloped curtilage. Although space and landscape can be intrinsic to the outdoor functions of wellbeing, the scale of land is over and above what is considered reasonable for the prescribed use when considering the maximum number of customer on the site and balancing against the harm to openness.

In spatial terms, the change in use of the site will provide an intensification of the land. The site is an agricultural field at present, and whilst there is an amount of hardstanding material, there is no evidence that the land has been in use for an alternative or transient reason.

A loss of openness can result from a number of forms leading to encroachment. This can arise not only from buildings but from a change of use which could result in intrusion. Whilst an element of intensification is by its

very nature intrinsic to development, an accumulation of factors which would provide an urbaneness within the Green Belt should be avoided. In this case, there are a number of different functions that could operate throughout the day. Classes such as yoga are commonly short by their very nature, considering the maximum number of customers present on site, which could amount to a high turnover of patrons at many points throughout the day.

Development in the Green Belt should not result in a prominent urban element which would be contrary to its country character. The site is highly visible from public viewpoints located near the site. The most prominent material change of which will be the erection of the permanent tipi. The appearance of the tipi is unsympathetic to the agricultural setting of the wider area. Whilst a tipi would usually be temporary, this structure would be permanent. Cumulatively, when considering the toilet block, the formation of car park and the visual intensification of patrons, it would harm the very nature of the rural setting. The buildings and their associated use would create noise and require lighting, causing a further creation of urbaneness of the area.

Whilst the intensification and urbaneness can be mitigated through location, due to the proximity of the public viewpoints and the agricultural field which it is set in, the site will appear stark within the landscape.

Very Special Circumstances

As outlined in Paragraph 152 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 153 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.

The officer requested evidence from the applicant of very special circumstances that could be provided, which would outweigh the harm to the Green Belt.

In response it was noted that the Town and Country Planning Act (2015) (GDPO) (amended 2024), allows the diversification of agricultural buildings to residential or commercial buildings. Whilst it is considered that a change of use to these types of buildings could increase the intensification of agricultural areas, the impact to the open character of the Green Belt is balanced by existing buildings on site, which in this case there are none. The implication for the Green Belt is therefore amplified in this case by new permanent buildings. The Permitted Development fallback would therefore hold minimal weight as there are no buildings within the field which could be converted to a commercial use and no permissions that can be taken into consideration in the planning balance.

Other referenced very special circumstances include the location of the site being away from the main farm group, and the erection of the tipi and its

appearance which have already been considered as inappropriate development in the Green Belt.

Also stated in the information supplied in relation to very special circumstances is paragraph 150 of the NPPF which *'seeks to provide opportunities for uses in the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land'*.

It is considered that development that proposes outdoor recreation within the Green Belt should be balanced by its impact to openness and the purposes of including land within it, including introducing an urbaneness. The very purpose of providing outdoor recreation cannot outweigh an impact to openness or an urban element within the Green Belt unless it is materially greater than these impacts, which in this case as outlined above, is not the case.

It is, however, the case that some weight can be given to the removal of the steel pylons that have been present on site since 2018. In essence, the pylons are static and whilst they are visibly present on site, the mass of which cannot account for the visual intrusion of the entire site, including the visual intensification, volume of people and the introduction of noise and lighting.

Impact on visual amenity

Notwithstanding the impact to the Green Belt, the application provides a tipi, toilet block and three ice baths. The tipi will appear large, in part due to its height, in what otherwise is an agricultural field. The erection of the permanent structure would appear at odds with the agricultural surroundings introducing an incongruous structure within a highly visible area. Whilst this type of structure may appear within a rural setting, they are usually temporary or within existing building groups. Given the setting of the area, a permanent tipi would appear incongruous within the agricultural setting.

The development would not enhance the landscape and would detract from its Green Belt character, contrary to Policy LP24 a) of the Kirklees Local Plan.

Impact on residential amenity

LP 24 b) of the Kirklees Local Plan calls to respect the amenity of future and neighbouring occupiers. Notwithstanding, impact to the character of the Green Belt, the site is located in a relatively isolated site with the nearest habitable dwelling being located ~155.00m away. Due to the distance, there will be no impact to the residential amenity.

Impact on highway safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on

highway safety and provide sufficient parking. Furthermore, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposed development would materially intensify the use of the site. The wellbeing centre would utilise the existing access onto Huntsworth Lane, which is a category C, 40mph road. In order to demonstrate the site would have safe access onto the road, in the event that planning permission is approved, it recommended that a condition be attached, that suitable visibility splay according to Design Manual for Roads and Bridges guidance could be demonstrated.

The plans propose 24 car parking spaces, given the capacity for the number of customers and the total number of full-time staff, there would be one car parking space per person. As the hardstanding material is already present on site, the number of spaces is acceptable.

The development is therefore acceptable in terms of LP21 & LP22.

Environmental Matters

Water Supply

No information has been provided in relation to wholesome water supply to the proposed business. Additional details were request by the planning officer, however supplementary information regarding details for the water supply were not received.

Paragraph 180 e) of the NPPF states, 'decisions should contribute to and enhance the natural and local environment by: preventing new development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water'.

It is currently unclear how the water supply will be provided which would neither promote a safe environment, nor enhance the natural local environment. The plans are therefore unacceptable in terms of access to drinking water and water safety, Policy LP24 & LP52.

It is to be noted that the planning agent requested that if the details and specification for the provision of safe water and foul drainage were to be at a cost to the applicant, then these matters should be disclosed if the principle of development was accepted.

Foul Drainage

The application form has stated a septic tank would be installed to manage waste, which would be connected to the mains sewage system. Details and

the specification of this type of discharge has not been received. The location of the system is not indicated on the site plan.

A loss of amenity by way of foul effluent polluting the local environment and impacting drinking water quality is therefore unfounded which is contrary to Policy LP34 & LP52 of the Kirklees Local Plan.

It is to be noted that the planning agent requested that if the details and specification for the provision of safe water and foul drainage were to be at a cost to the applicant, then these matters should be disclosed if the principle of development was accepted.

Historic Coal Legacy

The site does not rest in a High Risk Coal area.

Opening Hours

KC Environmental Health have recommended a condition relating to the hours of opening for the site.

08:00 and 20:00 Monday to Saturdays.
12:00 to 20:00 Sundays or Bank Holidays

In order to prevent undue noise during protected times, in the event that planning permission be approved, it is recommended that a condition be attached that the use of the site is restricted to the above times to accord with Policy LP24 of the Kirklees Local Plan.

Electric Vehicle (EV) Charging Points

The installation of EV chargers is covered by other regulations. It is not in the interest of the applicant to include an additional planning condition for the installation of such machinery.

Ecology

Paragraphs 180, 186, 187 and 188 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

The site is not located in an area that is included as a priority habitat for any protected or notable species. It is noted that the application proposes the planting of 734.4m of new hedgerow, including blackthorn, hawthorn, hornbeam and rowan trees which is a sufficient uplift to meet the guidance of LP30.

In terms of Biodiversity Net Gain (BNG) as set out by the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021), it is noted that the applicant has only submitted baseline data for BNG which is sufficient for the purposes of this application. It would be controlled under separate legislation that BNG net gain is provided, and it is recommended that this be attached as a footnote should the application be approved.

Conclusion

The application for a change of use from farming land to a wellbeing centre has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework, the Kirklees Local Plan and other material considerations. The principle of development does not meet the exemptions set out in the NPPF and does not meet the criteria of building in the Green Belt, as set out in the Kirklees Local Plan, with no very special circumstances that outweigh its harm. The application is therefore not acceptable.

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.

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 not constitute sustainable development and is therefore recommended for refusal.

Recommendation

Refusal

Reason(s) for Refusal

1. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The change of use would result in purposes outside of the exemptions list defined under paragraph 154 & 155 of the NPPF. It would introduce an indoor commercial use which cannot be considered as outdoor recreation under the ordinary definition of the term. Furthermore, the open character of the Green Belt would be compromised due to the scale and appearance of the proposed development. The intensification of the site would promote an urbaneness with the former farming land which is contrary to the 5 purposes of the Green Belt. Therefore, the proposal is considered to constitute inappropriate development in the Green Belt and no very special circumstances have been demonstrated that outweigh the harm. To approve the application would impact adversely upon the openness of the Green Belt contrary to Policy LP24 & LP57 of the Kirklees Local Plan and Chapter 12 & 13 of the National Planning Policy Framework.
2. The proposal fails to demonstrate that access to a safe water supply and the discharge of foul sewage can be achieved, which could pose risks to the natural and local environment and the for the user of the site. The site would pose a risk due to the unacceptable access to safe water and the safe discharge of sewage, with no evidence of the contrary. To approve the application would be contrary to paragraph 180 e) of the NPPF and Local Plan Policies LP24, LP 34, & 52.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Grouped plans and elevations	24023 - 01	-	22 May 2024
Ecological/biodiversity statement	Land at Cockleshaw Beck Farm, Bradford, BD4 6RN - V1	V1	22 May 2024
Design and access statement	-	-	22 May 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 Planning 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.

Further details relating to outdoor use, use of the tipi, dimensions of the proposed facilities and very special circumstances were requested by the case officer. Further details were requested regarding access to safe water and sewage discharge.