DC Admin

From: Elenya Jackson
Sent: 02 July 2025 09:37
To: DC Admin
Subject: FW: Planning application 2025/N/91175/E

Please can these be added as comments to the above.

Please can contact details not be published online.

Thank you

From:
Sent: 15 May 2025 20:56
To: Elenya Jackson <Elenya.Jackson@kirklees.gov.uk>; Mathias Franklin <Mathias.Franklin@kirklees.gov.uk>
Subject: Planning application 2025/N/91175/E

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Dear Elenya

I am writing to formally appeal the approval of planning application 2025/N/91175/E submitted by John Dodson for the following reasons:

John Dodson has sought at every stage to flaunt planning regulations and has been distinctly unco-operative.

Here we have a farmer who, from 2021 has decided to circumvent established law and protocol in relation to planning regulations.

Following initial refusal for the track by KMC planning he exercised his right of appeal which was partly upheld but with very strict and clearly defined requirements regarding construction and completion dates. Leniency was given as he failed to meet the first date and as the extended date approached some rectification work was done. The rectification work was done outside the requirements of the appeal notice and has been brought to the attention of KMS Planning by multiple residents of Farnley Tyas, the most significant of which was that all hard core materials must be removed from site. Not a single piece of hardcore material has been removed from site despite circa 40 large trucks dropping it off in 2021/22. The farmer has merely laid a thin covering of top soil over it to pull the wool over the eyes of residents.

The farmer gave an assurance that no vehicles other than his own agricultural vehicles would use the track, specifically stating no equestrian vehicle use at all, yet spectacularly, he opened it up to a trade show and equestrian event where possibly 100 equestrian vehicles and trailers have used the track. This was clearly identified by two signs at the entrance indicating such use.
Mr Dodson is once again advertising access to this years Honley show via this gate and track despite a warning from KMC planning following last years Unauthorised use in last years event.

The application itself is for a permanent change of use and changed frequency of use. I am not convinced that Mr Dodson does much in the way of active farming, so question his need of this access and storage area for bales of hay which from what I can work out, on the plans submitted will be part of this track.

I have attached the inspectors decision from 1st September 2023.

Sincerely,

The Planning Inspectorate

Appeal Decision

Site visit made on 1 August 2023

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/Z4718/C/22/3313108
Land at Ivy Farm, Farnley Moor, Farnley Tyas, Huddersfield, HD4 6UW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr John Dodson against an enforcement notice issued by Kirklees Council.
- The enforcement notice was issued on 25 November 2022.
- The breach of planning control as alleged in the notice is Without the benefit of planning permission, an engineering operation consisting of the laying of a hard-surface vehicular access track.
- The requirements of the notice are a) Completely remove the hard-surface access track (as indicated hatched in blue in the approximate position on Plan 1 attached) and all resulting materials from the site; b) Return the land along the course of the access track, to the condition of the land prior to the development taking place.
- The period for compliance with the requirements is 60 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails and the enforcement notice is upheld, as corrected, in the terms set out below in the Formal Decision.

Preliminary Matters

1. The drawing denoted 'Site Plan 2'[1] depicts an extension of the unauthorised access track northwards into an adjacent grassed paddock. However, this area is outside that where the unauthorised track has been identified on Plan 1 of the enforcement notice. Accordingly the proposed northward extension into that paddock does not form part of the development targeted by the notice and is not therefore within the scope of the deemed planning application before me, my considerations being limited to the extent of the unauthorised development.

2. If the unauthorised track, as identified in the enforcement notice, is permitted as defined at present, then access to and from the track at its northern end would be via the area within which the proposed car park associated with a recent planning permission for a farm shop on the site is proposed to be sited[2]. The main parties have had the opportunity to comment on this point and do not dispute that the use of the access track in this way would potentially

[1] Drawing ref 2022-52-01 attached at Appendix 2 to the appellant's statement.
[2] Planning permission reference 2021/62/94724/E.

conflict with and compromise the functioning of the car park. The appellant confirms this is not their intention; indicates they do not need to retain the northern most section of the track, but rather divert the track to the west, over land to the rear of the proposed farm shop[3].

3. This leads me to conclude that there is no justifiable need for the northern most section of the track. Accordingly I propose to uphold the notice insofar as it relates to this section of the route (which is identified between points B and C on the plan appended to this decision). Going forward in the decision, my considerations are therefore limited to the remainder of the track. As to the proposed extension of the track to the rear of the proposed farm shop, this is outside the scope of the enforcement notice, and therefore outside that of the deemed planning application currently before me. Any proposed extension of the track beyond the area targeted by the enforcement notice may need to be the subject of a future application to the Council for a separate planning permission.

4. I acknowledge that as part of my visit, the occupiers of No 70 Farnley Moor requested I view the unauthorised development from their property, in order to help appreciate its impact. However I am satisfied that I have been able to understand the impact of the development on the occupiers of that property, without needing to enter that site.

5. The appellant has confirmed they propose to restrict use of the access track to vehicles associated with agriculture on the farm, and that it would not therefore be used by vehicles associated with equestrian use there or by any traffic generated by the previously permitted farm shop use. I have therefore assessed the development on this basis.

The ground (a) appeal

Main Issues

6. The appeal on ground (a) is that planning permission should be granted. The main issues are:

- Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
- the effect of the development on the openness of the Green Belt;
- the effect of the development on the character and appearance of the area;
- the effect of the development on highway safety;
- the question of intentional unauthorised development;

Green Belt – Inappropriateness and Openness

7. Paragraph 137 of the Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 138 notes that the Green Belt has five purposes which include safeguarding the countryside from encroachment.

[3] email from Townsend Planning Consultants dated 3 August 2023.

8. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

9. Paragraph 150 states that certain 'other' forms of development are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. The other forms of development referred to include engineering operations.

10. The assessment of impact on openness is about considering the presence of the development in the context of national policy which seeks to keep Green Belt land permanently open, thus avoiding urban sprawl. This specific assessment is not about the quality of the development, including the suitability of materials used, in itself, or its effect on the character and appearance of the area.

11. The Court of Appeal has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect[4].

12. That the development subject to the notice comprises an engineering operation is not in dispute. The said track is L-shaped, running in roughly straight lines from the main yard of Ivy Farm, at its northern end, southwards then turning a right-angle eastwards to connect with Thurstonland Road. The track varies in width from around 4 metres to approximately 7 metres in the vicinity of Thurstonland Road. It is constructed of loose pieces of aggregate, generally light grey in colour.

13. Though the length of the track is relatively extensive, it was apparent from my visit that visual receptors outside the farm itself are limited. The track would be seen, at distance, from the rear of adjacent dwellings to the north, including 70 Farnley Moor, extending southwards over the rising land form. Similarly the east-west leg of the track would be visible, at closer range, from the property known as Whinny Wood, situated on Thurstonland Road opposite the site. However there is nothing to persuade me that the use of the track by vehicles associated with agriculture on the farm would be intensive, such that it would serve to draw further attention to the development.

14. There is no significant visibility of the track from the surrounding public rights of way network, due to screening provided by mature trees or man-made features, including farm buildings and boundary walls. Views of the track from Thurstonland Road, to passing motorists and pedestrians, would be in the form of very fleeting glimpses. By its nature the track lacks three dimensional form, and vehicular movement along it, reminding passers-by of its presence, would be limited and fleeting.

15. Drawing these considerations together I am not persuaded that the development would result in any significant sense of impact on the openness of the Green Belt, or encroachment into the countryside. I conclude that the development does not result in visual or spatial harm to the openness of the Green Belt, and is not therefore inappropriate development. Accordingly it does not conflict with the Green Belt objectives of the Framework.

[4] *Turner v SSCLG & East Dorset Council [2016].*

Character and Appearance

16. Ivy Farm is situated in an upland setting. The surrounding countryside is undulating, with pockets of woodland and settlements visible in some long distance views. The farm itself is characterised by typical, large scale rectangular agricultural buildings, clustered near Brockholes Road to the north; attendant vehicles, plant and machinery and various boundary features subdividing the land.

17. The Council raises the concern that the development would introduce an incongruous urban element to an otherwise open landscape. From my visit I found that the light colouring, generous width and rather formal, straight alignment of the track serves to emphasise its presence in the landscape. However this impact is tempered due to the limited key visual receptors for the development, as I have identified above. In addition, I have taken into account that, from the north, the track would be viewed in the context of adjacent existing buildings and boundary features and from the east would be softened, as a margin of tree planting, implemented immediately adjacent to the track, begins to mature.

18. I consider these features mean that the eye would not tend to be drawn towards the track and would help to soften any potentially jarring visual impact. I also consider the appellant's proposal to re-design the surface of the track, so it comprises two narrow, parallel lines of compacted stone, would give the feature a simple, more informal appearance, thus enabling further visual mitigation. In this context I am not persuaded that the removal of sections of dry stone wall to accommodate the track and the visual impact of the track on remaining sections of wall result in material harm.

19. Drawing these considerations together I conclude that the development would not result in an incongruous urban element in the landscape. Accordingly it would not be in conflict with Policy LP24 of the Kirklees Local Plan 2019 (LP), insofar as it seeks to promote good design, including the need to respect the character of the landscape.

Highway Safety

20. The appellant states that the location of the new access track junction with Thurstonland Road would enable large farm related vehicles to egress more safely onto the highway, when compared to a previously used track serving the farm, which has a junction with Thurstonland Road further to the south[5]. By contrast a number of third-party representations have been received, claiming conversely that the previously used track is the safer alternative.

21. I note the Council does not dispute the standard of visibility available in relation to the new junction[6], and has raised no objection to the development on highway safety grounds. Having, as part of my visit, considered the probable speeds of traffic, I agree with the appellant that, despite the national speed limit of 60mph being in force along Thurstonland Road as it passes the site, in reality the speed of passing traffic is likely to be lower than this, because of the nearby curved alignment of the road. Typical speeds of around

[5] It appears the appellant has chosen to close, or at least no longer use, this access point due to concerns regarding highway safety (emails from Townsend Planning Consultants dated 13 December 2021 and 26 September 2022).
[6] 2.4m x 215m to the north and 2.4m x 123m to the south (appellant's statement (Paragon Highways) Jan. 2023.

40mph could therefore reasonably be expected, such that visibility relating to the new access junction would be commensurate with national technical guidance set out in the Design Manual for Roads and Bridges[7].

22. Furthermore, due to the proximity of a bend in the road, from the information before me I am in no doubt that visibility to the south from the previously used junction is inferior, when compared to that from the new junction, even when considering that the driving height of certain agricultural vehicles may improve visibility to a degree[8].

23. The occupier of Whinny Wood raises the concern that the delivery of domestic fuel to that property results in a large vehicle parking on the highway opposite the new junction. However, I am not persuaded that this would result in harm to highway safety, when considering that this would be a relatively infrequent occurrence, also that the use of the new access track by farm vehicles is unlikely to be intensive. Neither am I persuaded, based on the information before me, that the location of the access track, broadly opposite two access points serving that property, is a cause for concern.

24. I conclude that the better overall visibility available at the new access road junction would offer highway and pedestrian safety improvements. Furthermore, because I have found, subject to planning conditions, the new access track does not cause harm, there is no need for me to weigh, in a planning balance exercise, the relative significance of this improvement or if visibility at, or the operation of, the previously used junction could be improved if necessary.

25. I acknowledge that the Council does not object to the use of the access onto Brockholes Road for all types of traffic connected with the existing farm yard, riding arena and proposed farm shop. Notwithstanding this, I consider that the new track further promotes safety and flexibility through helping to facilitate the segregation of domestic related and larger agricultural contracting vehicles.

26. Drawing together the above considerations I conclude that the development does not result in harm to highway and pedestrian safety. Accordingly there would not be conflict with Policy LP21 of the LP, or with the Framework, insofar as they are concerned with such matters.

Intentional Unauthorised Development

27. The government advised in 2015 that intentional unauthorised development (IUD) should be regarded as a material planning consideration to be weighed in the determination of planning applications and appeals. I have taken into account that the appellant explains the purpose of the development was intended to segregate traffic in the interests of safety; that they have sought to regularise the development by pleading ground (a) and that it would be possible to mitigate the development through the imposition of planning conditions. I am also mindful that the Act makes provision for a grant of retrospective planning permission, and planning enforcement that is remedial rather than punitive. In light of these considerations IUD does not weigh against the development in this case.

[7] This indicates a desirable minimum of 120m in relation to 70kph speeds.
[8] A possible visibility splay of 2.4m x 90m+ to the south is referred to (HDC Support Ltd letter dated 24 February 2023).

Other Matters

28. A number of third parties have raised the concern that the passage of vehicles along the track would result in disturbance arising from awareness of headlight movement. Because of the alignment of dwellings to the north and east of the track I have some sympathy with this point. However I consider that it would only potentially be problematic in relation to traffic associated with clientele of the proposed farm shop, as only traffic related to this use would be likely to use the track regularly in significant numbers. Notwithstanding the lack of a formal connection of the track to the proposed farm shop car park I am satisfied that the imposition of a condition restricting use of the track to agricultural vehicles would be sufficient to overcome this problem.

29. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case.

30. Concern has been expressed by a third party about the potential development of a boundary wall on the land. This, however, is outside the scope of the enforcement notice and is not therefore before me for consideration. Concerns about the impact of the track on wildlife are unsubstantiated.

Conclusion

31. For the reasons given above I conclude that the appeal should succeed in part only. In accordance with s177(1)(a) of the Act, I will grant planning permission in relation to part of the land the subject of the enforcement notice, but otherwise I will uphold the notice, with a correction, and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.

32. Section 180 of the Act states that where after the service of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. Consequently the notice ceases to have effect with regard to the part of the vehicular access track located between points A and B, as annotated on the plan appended to the decision, because this benefits from planning permission and is therefore lawful for planning purposes. The requirements of the notice relating to the acceptable part of the development will not be deleted, so as to avoid any grant of unconditional planning permission being made through s173(11) of the Act.

Conditions

33. I have given consideration to the need for planning conditions. A condition confirming the loss of the permission unless details are submitted for approval, and implemented in accordance with a specified timetable, concerning the re-design of the track surface, such that compacted stone is limited to the wheel track lines only, is required in order to help safeguard the character and appearance of the area.

34. The condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in

planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matter before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

35. A condition requiring the implementation of landscaping works is required, also in the interests of character and appearance. A condition is required limiting use of the track to agricultural vehicles only, in order to mitigate any headlight intrusion on the living conditions of nearby residents.

The ground (g) appeal

36. The ground (g) appeal is that the period for compliance with the requirements of the notice is too short. The appellant requests 12 months.

37. I have concluded that planning permission should be granted for a majority of the track. Only the northern most part of the access track has not been justified; has not been permitted and therefore remains subject to the requirements of the enforcement notice. It therefore follows that the ground (g) appeal now relates only to this limited part of the development.

38. This is a relatively short section of the track and as such the argument that the time for compliance with the enforcement notice should be extended is not compelling. The ground (g) appeal therefore fails.

Formal Decision

39. It is directed that the enforcement notice is corrected by the substitution of the 'Plan 1' annexed to this decision for the 'Plan 1' attached to the enforcement notice.

40. Subject to the correction, the appeal is allowed insofar as it relates to the land hatched in blue between points A and B on annotated Plan 1 and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for an engineering operation consisting of the laying of a hard-surface vehicular access track at Ivy Farm, Farnley Moor, Farnley Tyas, Huddersfield, HD4 6UW and subject to the conditions below.

41. The appeal is dismissed and the enforcement notice is upheld, as corrected, insofar as it relates to the land hatched in blue between points B and C on annotated Plan 1 and planning permission is refused in respect of an engineering operation consisting of the laying of a hard-surface vehicular access track at Ivy Farm, Farnley Moor, Farnley Tyas, Huddersfield, HD4 6UW on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

INSPECTOR

SCHEDULE OF CONDITIONS

1) Unless within 1 month of the date of this decision a scheme for the surface design of the access track is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the track shall cease and all materials brought onto the land in connection with the development shall be removed until such time as a scheme is approved and implemented.

   Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

   In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

2) The use of the vehicular access track hereby approved shall be limited to agricultural vehicles only.

3) Landscaping works shall be carried out in accordance with details shown in green hatching on drawing no 2022-52-01 Rev. B; the Woodland Planting Schedule set out in Appendix 3 of the appellant's 'Brief Grounds of Appeal' and shall incorporate, beneath the trees, the planting specifications set out in sections AB1 and AB8 of Appendix 2 to the appellant's statement of case.

4) All planting and seeding comprised in the approved details of landscaping (as set out in condition 3 above) shall be carried out in the first planting and seeding seasons following the completion of the works required by condition 1 above. Any trees or plants which within a period of 5 years from the completion of the approved details of landscaping die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

END OF SCHEDULE OF CONDITIONS

The Planning Inspectorate

Plan

This is the plan referred to in my decision dated: 1 September 2023

by R Merrett Bsc(Hons) DipTP MRTPI

Land at: Ivy Farm, Farnley Moor, Farnley Tyas, Huddersfield, HD4 6UW

Reference: APP/Z4718/C/22/3313108

Scale: Not to Scale

