



**Supporting Information**

**Terence Gale Farm**

**New Hey Road**

**Scammonden**

**HD3 3FT**

## Introduction

This statement has been prepared by AKPlanning in support of a planning application to move an existing building at Terence Gale Farm, New Hey Road, Scammonden. The building will be exactly the same as it is now but re-sited and it will be used for the same purposes.

## Site Location and Description

The site is in an isolated position to the west of Outlane village.

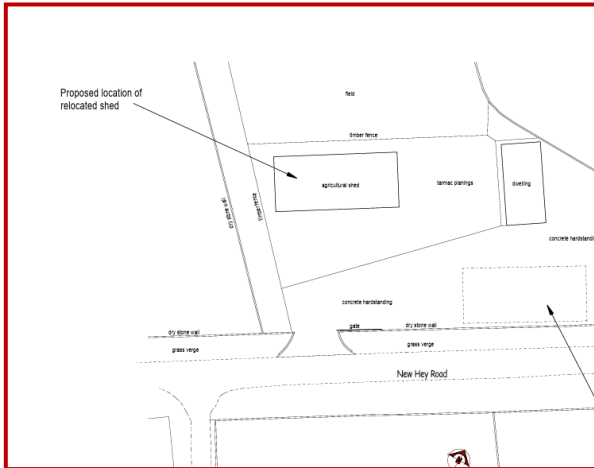


The building is a steel frame with metal cladding.



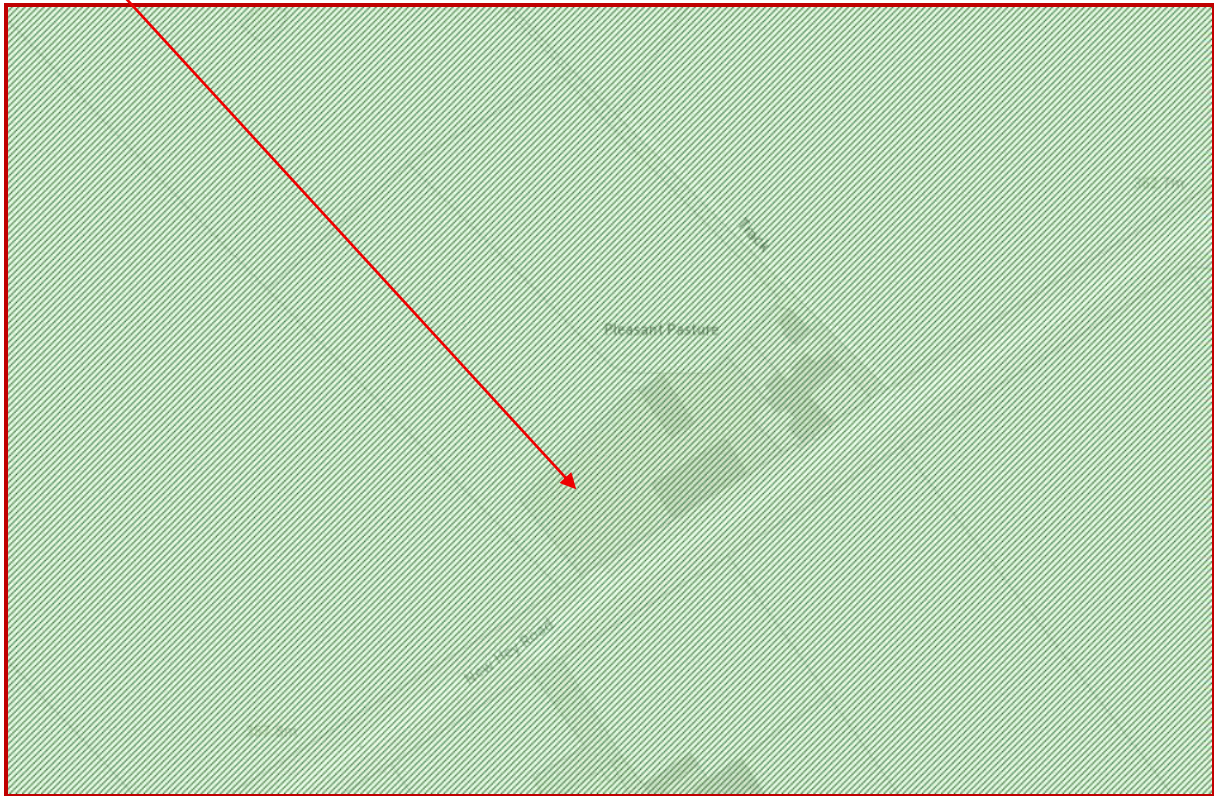
## The Application

The subject building is a simple steel frame construction. The proposal is to dismantle the building and move it across the yard as shown on the plan below. All existing materials will be reused.



## Planning Policy

The site lies within the Greenbelt as shown on the extract from the Local Plan below.



The National Planning Policy Framework contains the following policies: -

**154.** *Development in the Green Belt is inappropriate unless one of the following exceptions applies:*

*d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*

The Kirklees Local Plan contains the following policy: -

Policy LP57

The extension, alteration or replacement of existing buildings

*Proposals for the extension, alteration or replacement of buildings in the Green Belt will normally be acceptable provided that:*

*b) in the case of replacement buildings, the new building must be in the same use as and not be materially larger than the building it is replacing;*

As can be seen national and local plan policy align, a replacement building of the same size and in the same use is appropriate development.

## Consideration of Policy

The proposal is for a replacement building that is of the same size as the one it is replacing and will be in the same use complying with both national and local planning policy.

The only difference is that the building is to be re-sited.

The reasoning behind this is that the owner of the site and his family live in the bungalow that is directly adjacent to the re-sited building. This takes away any traffic movements and associated danger from the adjacent dwelling and yard that now has a separate access (planning permission granted). The separation of these residential properties and the business takes away any possible conflict and danger from traffic movements.



The existing building is immediately adjacent to the roadside. The new siting is set back from the road and arguably opens up views across the moors.

It certainly has no more impact on openness than the existing building.



The new building will be on an existing hardstanding.

## The Use

During the processing of the planning application the planning officer as raised questions with regards to the lawful use of the building. It is our case that the lawful use of the building is as follows: -

*Repair, refurbishment and sale of plant and machinery.*

We believe that this is the lawful use as the building has been used for this purpose continuously for more than 10 years.

The officer is concerned that the use is not lawful as there is no express consent or certificate of lawfulness to confirm the use.

We therefore submit this statement and evidence to support the case for the described use.

## Site History

2020/93739 Demolition of existing agricultural building and erection of new agricultural building – Withdrawn.

2017/93200 Formation of new dwelling utilising existing steel frame – Granted.

2015/92641 Prior approval for proposed change of use of agricultural building to 1 dwelling and associated operational development – Details approved.

2015/90505 Prior approval for proposed change of use of agricultural building to 2 dwellinghouses and associated operational development – Refused.

### **2004/94859 Erection of fodder storage and cattle rear shed – Granted.**

92/04630 Agricultural notification for erection of implement shed – Details approved.

88/02690 Change of use of barn to form dwelling and formation of new access from highway – Granted.

He highlighted planning permission is the original planning approval for the shed.

As well as the above a certificate of lawfulness was refused in June 2024 for the following use: -

*Certificate of lawfulness for existing use of building for repair and refurbishment of plant and machinery*

A subsequent appeal was also dismissed.

It should be noted here that the refusal of a Certificate of lawfulness does not mean that the use is unauthorised, the refusal is solely based on evidence submitted and if that evidence is inadequate it is refused. The refusal does not disprove a use.

It should be noted that during the processing of the certificate the planning officer indicated that the certificate would be granted, it was not until later in the process (presumably after scrutiny by a legal officer) that the evidence was questioned.

Nevertheless, the evidence was found wanting.

Within the appeal decision the Inspector stated the following: -

*I am satisfied, based on the submitted evidence, that PN Plant Sales has been an entity registered at the property known as Pleasant Pastures since 2008. There have been transactions relating to this address. However, the VAT returns do not provide a clear picture of the transactions in so far that no invoices or receipts for repairs and/or refurbishments have been submitted to support the claim made by appellant. Furthermore, VAT returns do not in themselves prove that the subject building has been used in connection with PN Plant Sales and used continuously for at least ten years for the repair and refurbishment of plant and machinery.*

We include, at appendix A, sample invoices and letters from companies that have supplied PN Plant Sales with parts etc. at the subject building for use in the repair and maintenance of the machinery. These span a period of more than 10 years.

Please note these are just an example among thousand of invoices over this period. We submitted the VAT records previously to prove quantity, but the Inspector noted a lack of actual invoices. We could submit more invoices if the LPA want further evidence, but this seems excessive.

The letters submitted at appendix A all indicate that the use is taking place in the subject building.

The Inspector did note the difference in the description (repair and maintenance AND SALES) with the sales element missing.

The explanation for this is that we considered, at the time, that although the whole purpose of the repairs is to sell the machines it is in fact a very minor part of the process in terms of time. There are approximately two to three vehicles a month sold, the majority of which are sold online and delivered. 1 in 6 may result in a visit from a customer either to collect or view. So maybe 1 customer visit every two months.

With regard to the sales 95% of the items sold go to farmers, the sales are agricultural. My client has no objection to a condition restricting sales to agricultural businesses as this would not impact on his business.

In further considering the Inspectors comments, it is stated: -

*11. There are also signed letters from visitors to the site including from*

*. In his letter he says that he has 'bought scrap metal from PNP Plant Sales constantly since 2008' and 'during the time I have dealt with PNP Plant Sales they have operated out of the building shown red below'. The sale of scrap metal is quite different from the claimed use of the building for the repair and refurbishment of plant and machinery. This therefore casts doubt about the appellant's claimed repair and refurbishment use.*

To clarify, the scrap metal collected is broken parts removed from vehicles and replaced with new parts.

*9. While the appellant's evidence does include a signed letter from a plant sales company based in Sheffield, as well as other letters from parts companies indicating that they have supplied parts and/or replaced windscreens for plant or machinery since 2008, it nonetheless remains possible that such parts or windscreen replacements may have related to plant connected with an agricultural use of the wider landholding. The evidence is not sufficiently precise in this regard in the context of the Council's evidence that 'the applicant outlined within their previous planning applications that the land/buildings are used for agriculture' and 'in previous officer visits to the site between 2015-2017, there was no evidence from photographs that a commercial business was operating alongside any agricultural use or independently if the agricultural use had previously ceased'.*

The applicant has now supplied sample invoices from these companies, but he literally has thousands of invoices. These have been seen by the writer. The sheer quantity of transactions disproves that these could have been solely for the use of the applicant on the one or two machines necessary to run such a small landholding.

We consider that the submission of the invoices as evidence and the clarification of the Inspectors comments tips the balance in proving the use.

## Conclusions

The proposals comply with all planning policy as the building is appropriate development within the Greenbelt.

P.S. we have asked the Council for information on employment land supply. There is nothing published since 2019. If there is a shortfall the question of legality of the use maybe irrelevant as the site could be considered grey belt.

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