Ref: 6484/Covering Letter

Planning Services
Kirklees Metropolitan Council
Huddersfield
HD1 9EL

PEACOCK+ SMITH

7th September 2026

Dear Katie,

SECTION 73 APPLICATION TO VARY THE WORDING OF CONDITION 2 (APPROVED PLANS) PURSUANT TO FULL PLANNING PERMISSION FOR THE CONVERSION OF EXISTING BARN TO FORM 8 DWELLINGS, ERECTION OF 9 DWELLINGS, DEMOLITION OF REDUNDANT AGRICULTURAL BUILDINGS AND ASSOCIATED WORKS (LISTED BUILDING WITHIN A CONSERVATION AREA) (APPLICATION REF: 2021/62/93006/E)

Introduction

This Covering Letter is prepared on behalf of the Applicant, Radcliffe Developments (Farnley) Ltd in relation to the proposed variation of the approved plans in condition 2 relative to full planning consent at Yew Tree Farm, Farnley Tyas (application ref: 2021/62/93006/E) which was approved on 21st December 2023.

The variation required relates to the location of the southern boundary treatment of the site.

A 1m dry stone wall has been built on the boundary of the ownership of the site. This forms an attractive, safe and well-defined border, beyond which is a field used for grazing of sheep. It is acknowledged that the location of the boundary wall is not consistent with the position of the wall that was shown on the approved site layout, but this wall as built is permitted development. using permitted development rights (Part 2 Class A of the GPDO)

To build an additional second boundary wall 2m to the north of the existing boundary wall would cause amenity, heritage and visual harm to both the development and to the Conservation Area. This application therefore seeks to regularise the position of the boundary wall, as built. The 2m of land to the north of the boundary wall will remain in the Green Belt and as permitted development rights have been removed from this site, the land will remain permanently open, so there is no harm to the Green Belt.

This application is formed of this Covering Letter alongside the plans outlined in Table 1 below:

Document	Reference	Author
Proposed Site Plan	(20)001 Rev. I	Orange Design Studio
Proposed Site Plan	(20)001 Rev. A	

Table 1: Plans submitted in support of this application

Application Background

The initial application on the site for the proposed development was approved in December 2023 (application ref: 2021/62/93006/E) and comprised of the conversion of three existing barns and the erection of 9 new build dwellings, this was submitted and approved at the same time as an application for listed building consent (application ref: 2021/65/93007/E). This Section 73 application relates solely to the full application, not the listed building consent.

Following the approval of the full consent, the relevant pre-commencement and pre-occupation conditions were discharged, and the new houses have been built.

The Applicant was contacted by the Council querying the as-built position of the southern boundary treatment (a 1m high dry-stone wall). Following this, the Applicant sought to engage further with the Council and met with David Wildman (director of regeneration for Kirklees) to discuss concerns and the boundary treatments in May 2026. After this, an email was sent notifying the Council that a Non-Material Amendment (NMA) application would be submitted. The NMA was submitted in July 2026 and decided on 23rd July 2026, the application was refused as the proposed amendments were not considered to be inconsequential to the original approval, it was recommended that a Section 73 application instead be submitted so that a full assessment on the impact of the amendments on the Green Belt could be considered. This will be addressed within this Covering Letter.

Proposed Amendments

Condition 2 is currently worded as follows

"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."

This application seeks to retain the same wording of Condition 2 but amend a plan which is referred to in the list of approved plans. The proposed amendment is as follows:

- Proposed Site Plan - (20)001 – ~~Rev I~~Rev A

The amended site layout plan includes an altered location of the southern boundary treatments which shows it in line with the as-built wall.

Planning Assessment and Justification

The approved development has now been built out, albeit with the boundary wall built 2m to the south. The reason for this location is to match the land ownership boundaries of the site at the time. The title boundary ends in the location of the new dry-stone wall with land to the south being under different ownership and part of a wider farming operation.

Now that the dry-stone wall has been built in this position, this application seeks to regularise the situation and bring the approved drawings in line with the situation on the ground.

We consider that the considerations of the application are in relation to Green Belt, amenity and the Conservation Area, each of which are addressed in turn below.

Impact on the Green Belt

The Green Belt has a fundamental aim of preventing urban sprawl by keeping land permanently open, any development within its limits is inappropriate. The impact on the Green Belt was considered as part of the original application specifically in relation to the impact of domestic gardens. Policy LP28 (Garden extensions) was considered, however it was noted that this has since been superseded by Paragraph 150 of the NPPF, albeit it is recognised that permitted development rights would subsequently result in an unacceptable impact on the Green Belt setting. Proportionately, Condition 16 (removal of permitted development rights) was imposed on the full consent for the site.

Since a decision was made on the original application, Paragraph 150 of the NPPF has been superseded by the national decision-making policies set out in Policy GB7. This Policy identifies forms of development which are not inappropriate within the Green Belt (and are therefore not required to demonstrate very special circumstances), part f(iii) is worded as follows:

> *"Certain other forms of development provided the impact on the openness of the Green Belt is minimised, and there would not be a significant conflict with the Green Belt purposes. These are:*

iii) Material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds);"

Since the determination of the original application, a proposal of similar nature to this Section 73 proposal, for the extension of a domestic garden has been subject to an allowed appeal. The appeal decision, made in January 2025[1], established that the nature of a domestic garden is akin to a recreational use of land and therefore satisfies the exception of this form of development within the Green Belt. Importantly, the Appeal was decided on the basis of the December 2024 revision of the NPPF and in relation to Paragraph 154 which stated that:

"Other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it. [these include] material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)"

In addressing the second part of Paragraph 154(h), that such a use preserves openness, the appeal decision referred to this being mitigatable through the imposition of a condition restricting permitted development rights within the garden area. In addition to this, the proposed boundary treatment of a hedgerow would be characteristic of the Green Belt and would not have an unacceptable impact on openness. The appeal was therefore allowed by the inspector.

Whilst we recognise that every application should be judged on its own merits, there are distinct similarities between the allowed appeal and the proposal subject to this Section 73 application due to their proposed purpose as an extension of domestic gardens into land designated as Green Belt.

The requirement to build a second wall in the gardens of Plots 10, 11 and 12 would unnecessarily restrict the use of their ownership. These gardens would be used for the enjoyment of the occupants of the respective plots for outdoor recreational use thereby satisfying the exception covered under Policy GB7f(iii) of the NPPF.

Crucially, the revised wording of the 2026 NPPF alters the tests for openness of the Green Belt, the 2024 NPPF seeks to 'preserve' openness whereas the 2026 NPPF seeks to 'minimise'. This implies that there is an allowance for some impact on openness, albeit this should be reduced as much as possible. Similarly, the 2026 NPPF clarifies that the development must not have a 'significant' conflict with the Green Belt purposes. This is useful in providing a benchmark for development proposals such as that subject to this Section 73 application.

[1] Appeal ref: APP/A0665/W/24/3347732

As per the tests set out in Policy GB7, attention must turn to whether the proposals will minimise the impact on openness and significantly conflict with the purposes the Green Belt. The as-built boundary treatment to the south of the site comprises of a dry-stone wall, the details of which were approved under the discharge of Condition 29 (application ref: 2025/44/90119/E. The proposed form of boundary treatment was considered to be appropriate in this location. Whilst the Applicant acknowledges that the boundary treatment has been built 2 metres further south than the approved layout plan, the extent of the impact on openness in this location is negligible, largely due to the imposition of Condition 16 of the planning consent prohibiting any outbuildings or structures from being built within the rear gardens of each property without planning consent being obtained. The perceived impact on openness is therefore the position of the 1-metre-high dry-stone wall, such a wall is permitted development. The as-built position of the wall is broadly in line with the existing dry-stone wall to the west of the site which contains the graveyard of St Lucius Church and provides a consistent low-level containment of Farnley Tyas to its southern extent. To move the boundary northwards, in line with the approved plans, would create a more disjointed boundary to the village. The as-built position of the boundary wall is therefore considered to have a negligible impact on openness in this location which minimises any impact on the openness of Green Belt overall.

In line with Policy GB7, it must be considered as to whether there is a significant impact on the other purposes of the Green Belt must also be considered, an assessment on such is made in Table 2 below.

Green Belt Purpose	Assessment	Level of Contribution
a) To check the unrestricted sprawl of large built-up areas	Farnley Tyas is a village, not a built up area.	None
b) To prevent neighbouring towns merging into one another	Farnley Tyas is a village, not a town.	None
c) To assist in safeguarding the countryside from encroachment	The subject matter, the extension of 3 domestic gardens a further 2-metres to the ownership boundary, would result in a slight encroachment southwards into the Green Belt, however this would largely be unperceivable due to the recreational nature of the domestic gardens, lack of permitted development rights	Weak

	available to occupants and scale of the approved boundary treatment.	
d) To preserve the setting and special character of historic towns	Farnley Tyas is a village, not a town.	None
e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land	Farnley Tyas is not part of an urban area, and the proposal does not relate to derelict or other urban land.	None

Table 2: Assessment of impact on purposes of the Green Belt

Table 2 above concludes that the proposed development subject to this application makes none or a weak contribution to the purposes of the Green Belt, none of which would reach the significant level test required by Policy GB7 of the NPPF.

Amenity

Policy LP24 of the Local Plan seeks for development proposals to provide a high standard of amenity for future and neighbouring occupiers. The refusal notice issued for the NMA application states a need to assess the impacts on neighbouring occupiers, including the residents of no. 4 Farnley Road. It is noted that the as-built wall extends 2 additional metres southwards, however there is no additional built development (such as dwellings) within the increased garden areas and the approved separation distances are retained. Therefore, there is no increase in adverse amenity impacts experienced by neighbouring occupiers.

Whilst it is acknowledged that there are no private amenity space standards in Kirklees, the Case Officer's report for the original application acknowledged that the private amenity space for the proposed dwellings was limited. The provision of 2 additional metres to the end of the gardens of Plots 10,11 and 12, will result in amenity benefits through the provision of additional private amenity space for the enjoyment of the in-situ occupants. Such a benefit is considered to outweigh any negligible impacts on the openness of the Green Belt experienced as a result of the position of the boundary wall.

Impact on Conservation Area

The current position of the wall is in line with the Applicant's land ownership boundary. All land to the south of the wall is under different ownership and farmed by a tenant farmer. To build another wall would result in a 2-

metre strip of land across the entirety of the southern boundary of the site that will be enclosed by two dry stone walls with no methods in place for its continued maintenance. This would result in an un-managed strip of land to the rear of 3 dwellings and in close proximity to the Farnley Tyas Conservation Area. The result of an additional wall would therefore result in adverse impacts on the setting of the Conservation Area.

Summary

In summary, this Section 73 application is submitted in relation to the position of a dry-stone wall (allowed as permitted development) at the southern extent of the approved Yew Tree Farm development at Farnley Tyas (application ref: 2021/62/93006/E),

The position of the wall was approved under the original application with additional details of its form being provided as part of the discharge of Condition 29. The wall has since been built, however in a position that matches the land ownership boundary of the Applicant rather than that approved under the list of approved plans subject to Condition 2 of the original consent. This application seeks to amend the wording of the approved plans to include the as-built position of the wall.

The as-built wall is permitted development under Part 2 Class A of the GDPO, so to now build another dry-stone wall 2m to the north would result in a harmful un-managed area of land with adverse impacts on amenity and the Conservation Area.

In terms of any potential Green Belt harm, a recent appeal decision, whilst not in the same authority area, established that domestic gardens can be considered as a recreational use, which is not considered to be inappropriate development within the Green Belt, in line with Policy GB7 of the NPPF. The imposition of Condition 16 of the original consent prevents any additional impacts on the openness of the Green Belt in this location. The additional consideration in relation to Green Belt impact therefore relates to purpose c. The NPPF test for harm to the Green Belt requires there not to be a significant conflict with the Green Belt purposes, to which we conclude that the impact will be negligible.

The position of the dry-stone wall as is also allows for an increased private amenity space for the occupants of Plots 10,11 and 12 of the approved development, this amenity benefit is considered to outweigh any negligible impact on the openness of the Green Belt.

In light of the above, it is considered that this Section 73 application should be approved without further delay.

Yours Sincerely,

Ben Brown

Senior Planner

Peacock + Smith