
Report of the Head of Development Management**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 15-Dec-2016****Subject: Planning Application 2016/93148 Outline application for erection of 7 dwellings Dry Hill Farm, Dry Hill Lane, Denby Dale, Huddersfield, HD8 8YN****APPLICANT**

S H Blyth, c/o agent

DATE VALID

22-Sep-2016

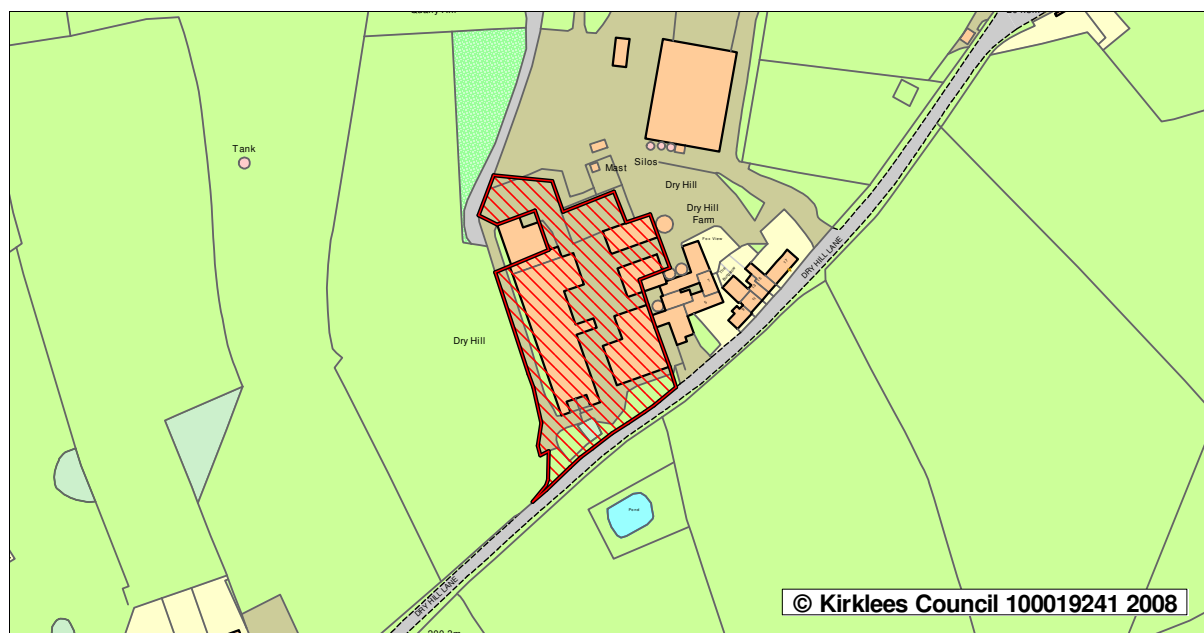
TARGET DATE

17-Nov-2016

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected:

Denby Dale

☐ Yes

Ward Members consulted

RECOMMENDATION:

REFUSE

1. The application site is located within the designated Green Belt whereby, as set out in the National Planning Framework (NPPF), the construction of new buildings is regarded as inappropriate development. The proposed development would constitute inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and which should not be approved except in very special circumstances. The evidence submitted with the application does not outweigh the harm that would result to the Green Belt by reason of inappropriateness and the harm to the openness and character of the Green Belt through new built form and the paraphernalia and activities associated with the domestic use of the site. Consequently, the very special circumstances that are required to grant planning permission do not exist, and the proposals would conflict with Chapter 9 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Planning Sub Committee for determination as the site area exceeds 0.5ha. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises of a large farm complex of approximately 0.7ha and contains a number of redundant agricultural buildings of typical, modern construction. The site is accessed directly from Dry Hill Lane and located adjacent to existing dwellings to the east and a large food processing plant to the north east. The land to the north and south is characterised by open countryside, also extending to the west where it meets a small residential development complex of converted buildings and a public house.

3.0 PROPOSAL:

- 3.1 The proposals relate to an outline application for the erection of 7 dwellings. This would involve the demolition of the existing farm buildings. The application seeks the matter of layout to be determined at this stage, and the submitted plans proposed development of both detached, semi-detached and terraced dwellings within a courtyard arrangement, broadly following the building line of No.5 Dry Hill Lane.

4.0 RELEVANT PLANNING HISTORY:

2016/93033 – Prior approval for proposed change use of agricultural building to one dwelling – pending consideration

2016/91863 – Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – approved

2016/90950 – Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – withdrawn

2016/90866 - Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – withdrawn

2015/93255 – Outline application for erection of 8 dwellings – withdrawn

2014/93557 - Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – approved

2001/92858 – Erection of Dairy – approved

Land at Clough House Lane (in applicant's ownership)

2015/91740 – Erection of temporary farm workers dwelling – approved

2015/91728 – Prior notification for erection of agricultural building – details approved

2014/93951 – Erection of cattle shed – approved

2014/93799 – Erection of agricultural building and farm workers dwelling - withdrawn

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The current application follows a previous outline application (2015/93255) which was withdrawn following discussions with Officers regarding the principle and layout of the development. A preapplication response was provided to the developer setting out the issues with the proposal and that the proposal for demolition and new build dwelling houses would be considered inappropriate development. The advice of Officers was that the proposals

could not be supported. The current application includes an amended layout and further information provided by the applicant which they consider to constitute 'very special circumstances', however, as the advice at pre-application stage has not been fully addressed Officers view remains unchanged.

6.0 PLANNING POLICY:

- 6.1 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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan will be published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 The site is located within the Green Belt on the Kirklees Unitary Development Plan.

BE1 – Design Principles
BE2 – Quality of Design
BE12 – Space about Buildings
T10 – Highway Safety
G6 – Land contamination
EP11 – Ecological landscaping

National Planning Guidance:

- 6.3 National Planning Policy Framework.

Chapter 6 - Delivering a wide choice of high quality homes
Chapter 7 - Requiring Good Design
Chapter 8 - Promoting healthy communities
Chapter 9 – Protecting Green Belt Land
Chapter 10 - Meeting the challenge of climate change, flooding and coastal change
Chapter 11 - Conserving and Enhancing the Natural Environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been publicised by site notice and neighbour notification letter. As a result of site publicity, 3 representations have been received. The concerns raised can be summarised as follows:

- Site should be used for a new farm and not residential development
- Proposed development would spoil the landscape
- Impact on views, light and privacy of occupiers of Fox View (Plots 5-7)
- Proposals will result in noise disturbance to adjacent occupiers
- Increase in vehicular movements
- Applicant has not discussed the proposals with neighbours

7.2 Denby Dale Parish Council was notified of the application and requested that Officers refer to previous reports and consider the previous concerns raised by the Parish Council (which related to the matter of access onto the A635).

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Yorkshire Water: No comments to make

The Coal Authority: No specific observations at this stage

8.2 Non-Statutory:

KC Highways Development Management: Request further information to allow proper assessment

KC Environmental Services: Recommend imposition of conditions

KC Ecology Unit: Recommend imposition of condition

9.0 MAIN ISSUES

- Principle of development
- Impact on openness of Green Belt/Very Special Circumstances
- Layout
- Scale and Appearance
- Residential Amenity
- Landscaping
- Highway issues
- Drainage issues
- Ecology
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is within the Green Belt and paragraphs 87 and 88 of the National Planning Policy Framework (NPPF) apply. Paragraph 87 of the NPPF advises that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 requires that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 10.2 Paragraph 89 advises that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 10.3 The NPPF definition of previously developed land specifically excludes land that is or has been occupied by agricultural or forestry buildings.
- 10.4 The redevelopment of land in agricultural use does not form one of the exceptions set out in the NPPF. The development proposed is therefore considered to be inappropriate within the Green Belt.
- 10.5 The NPPF advises that inappropriate development is by definition harmful to the Green Belt and should not be approved except where very special circumstances clearly and demonstrably outweigh the harm. Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
- 10.6 The potential harm to the Green Belt arises from the impact of development upon the purposes of including land within it, the impact upon its openness and the impact that arises from any other harm.
- 10.7 Paragraph 79 of the NPPF stipulates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence.
- 10.8 Paragraph 80 sets out the five purposes of Green Belt:
- To check the unrestricted sprawl of large built up areas
 - To prevent neighbouring towns merging into one another
 - To assist in safeguarding the countryside from encroachment

- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration by encouraging the recycling of derelict and other urban land

Impact on openness of the Green Belt

- 10.9 The application site comprises a group of modern agricultural buildings on a concrete yard, some of which have been partially dismantled. The buildings are located to the east of a cluster of residential properties and a food processing plant, historically connected with the farm. The aspect to the north, south and west is significantly open.
- 10.10 Such agricultural buildings are characteristic of the Green Belt landscape.
- 10.11 The applicant states that they have arrived at the proposed number of dwellings through examination of the existing financial liabilities associated with the site. Officers acknowledge that the proposed development is likely to be of an appearance which would be in keeping with the character of existing residential development, however, notwithstanding this, the proposed development would appear as a new form of development on the site and one that would provide a significant change to the existing agricultural landscape, being highly visible from the northern, southern and western aspects. As such it is considered that the proposal would be a visual form of development within the Green Belt that would impact negatively on the openness and character of the Green Belt. As such the development would be harmful to the Green Belt and be contrary to guidance contained within Chapter 9 of the NPPF.

Very Special Circumstances

- 10.12 The considerations presented by the applicant are set out in the supporting planning statement and supplementary information. These are as follows:
- 10.13 Existing Farming Operation and Proposed Farming Enterprise
 Dry Hill Farm is a redundant Farm. Permission has been granted for a new beef farming operation on Clough House Lane further to the north east (see relevant history). The existing buildings and farm yard are not appropriate for the applicant's proposed beef farming operation - the farm buildings and farmyard are not suitable to house the beef cattle due to modern farming requirements, more stringent regulations in hygiene and feeding arrangements. There would need to be significant investment and due to the complications stated above, the applicant considers that farming operations at this site must be moved with the site undergoing a change of use and re-development to residential.
- 10.14 Funding and Conversion of existing barns under the Prior Approval process
 In order to fund the applicant's proposed farming enterprise and pay significant legal fees attached to his Father's will, he has submitted several applications for prior approval for change of use of the existing agricultural buildings to form dwellings. Approval has been given for the change of use of two of these buildings with a further application currently under consideration,

However, the applicant states that the profit received from the sale of these will not fully cover existing costs and self-fund the development of the new farming enterprise.

10.15 Comparison of uses on the site

The applicant has provided the following comparison of the existing and proposed uses of the site:

	Existing %	Proposed %
Buildings	36	10
Concrete Hardstanding	45	10.4
Waste Land, sespit and grain stores	9	
Open land		43.3

10.16 Location of the site and its suitability for residential use

The applicant accepts that the site is not in a central village location but is served by a bus route that runs hourly, and the school bus also serves the area. The site is located 15 mins walk from the centre of Denby Dale. Apart from the food processing plant to the rear of the site and the Dunkirk Public house, the remaining properties in close proximity are all residential properties.

10.17 Recycling of Materials and Renewable Forms of Energy

The applicant considers that existing materials on the site could be re-used on the new farming operation at Clough House Lane, and that there are benefits to using renewables such as Ground Source Heat Pumps and Photovoltaics, which could be discussed at the reserved matters stage.

10.18 The circumstances put forward by the applicant are material considerations, however they would only overcome the presumption against inappropriate development if they were considered (either by themselves or together with other circumstances) to constitute very special circumstances that clearly outweigh the harm caused to the Green Belt by inappropriateness and any other harm.

10.19 At the time of the applications relating to the applicant's new farming enterprise at Clough House Lane, the financial connection between that and the current proposal for residential development at Dry Hill Farm was not put forward. Those applications were assessed on the basis of the information submitted at the time.

10.20 No marketing has taken place in relation to the redundant farm. Officers consider that it could be used for other agricultural uses, and because the site has not been marketed, it has not been demonstrated that there is no interest in the site for agricultural uses. The farm was no longer a viable option for the

applicant due to his proposed change specifically to a beef farming operation, however other agricultural uses may be suitable for other parties. In the absence of market testing it is not clear if the site's agricultural use is redundant.

- 10.21 Approval has been granted for the change of use of two of the agricultural buildings to form dwellings under Part 1, Schedule 2, Class Q of the Town and Country Planning (General Permitted Development) Order 2015. A further application is currently under consideration. Under Class Q, applicants can seek approval for the change of use of agricultural buildings to form up to 3 dwellings. The current application seeks approval for 7 dwellings which would have a greater impact upon the openness of the Green Belt compared to the conversion of 3 existing agricultural buildings (which is a potential alternative based on the above circumstances).
- 10.22 The Council is unable to demonstrate a five year supply of available housing land sufficient to satisfy the requirements of the NPPF. Notwithstanding this advice in National Planning Practice Guidance clarifies that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt. Despite the lack of a 5-year supply of available housing land therefore, the proposed development is not considered to constitute 'sustainable development' in principle.
- 10.23 Officers consider that the information put forward by the agent does not constitute very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness or other harm.

Layout

- 10.24 The proposed development would have a courtyard arrangement, comprising a mix of dwellings (detached, semi-detached and terraced). Plots 1-3 would be set back from the road, in line with the attached barn (which has received prior approval for change of use to dwelling). This arrangement differs from that which was put forward as part of the previous application, which indicated a cul-de-sac form of development, out of keeping with the pattern of surrounding development. Notwithstanding this, Officers consider that the current proposals would still not take into account the pattern of existing development, which, along this section of Dry Hill Lane is characterised by dwellings located within close proximity of the highway.

Scale and Appearance

- 10.25 The scale and appearance of the development are reserved for subsequent approval at the detailed stage, however the submitted information states that the proposed dwellings would be constructed of natural reclaimed stone with stone slate roofs. Notwithstanding that the principle of development is considered to be unacceptable for the reasons set out above, such an external appearance would be in keeping with the predominant character of existing residential development to the east, and would ensure that the

development would accord with Policies BE1 and BE2 of the Unitary Development Plan.

Residential Amenity

- 10.26 The impact of the development on residential amenity needs to be considered in relation to Policy BE12 of the Unitary Development Plan. Policy BE12 sets out recommended distances that should be achieved between existing and proposed dwellings.
- 10.27 The layout of the proposed development is such that the aims of Policy BE12 would be met both within the development itself and in relation to adjacent existing residential development.
- 10.28 A detached double garage would be located to the west of Fox View at a distance of 8m. This relationship is considered to be acceptable given the non-habitable and single storey nature of this aspect of the proposals.
- 10.29 The site is located in close proximity to the adjacent dairy/food processing plant, therefore in order to protect the amenity of future occupiers of the development arising from noise, it would be necessary for the applicant to submit a noise report to be approved by the Local Planning Authority, to ensure that the development would accord with Policy EP4 of the Unitary Development Plan.

Landscaping

- 10.30 The submitted plans indicate that the front and rear portions of the site would take the form of paddocks, with some planting shown along plot boundaries and to the northern boundary of the site. As the matter of landscaping is reserved for subsequent approval, it is expected that further details would be submitted at the reserved matters stage.

Highway issues

- 10.31 The applicant has not requested the matter of access to be considered at this time, however the layout of the development is to be considered, and it follows, therefore, that the access arrangements as shown on the submitted layout plan would be likely to serve the development in the layout proposed.
- 10.32 The submitted plan indicates the provision of a central access off Dry Hill Lane, 6.0m in width, which would lead to a courtyard/shared turning area, off which private driveways and garages would be served. Each dwelling would have a single or double garage with a driveway sufficient to provide adequate off street parking.
- 10.33 Sight Lines of 2.4m x 43m are shown from the proposed access point onto Dry Hill Lane.

- 10.34 KC Highways DM have advised that additional information is required to enable a proper Highways assessment with respect to the required sight lines (given the de-restricted nature of Dry Hill Lane), alignment of the road along the site frontage, location of bin storage and collection points and provision for a refuse vehicle turning) and access road design and construction to adoptable standards. However Officers consider that the principle of access to the site can be established, and the required detailed information could be provided at the reserved matters stage.

Drainage issues

- 10.35 The development proposes to dispose of foul drainage via the existing mains sewer and surface water drainage to soakaways. No adverse comments have been received from consultees in respect of this matter.

Ecology

- 10.36 Paragraph 118 of the NPPF states “when determining applications Local Planning Authorities should aim to conserve and enhance biodiversity” by applying a number of principles. These include the conservation and enhancement of biodiversity in and around developments.
- 10.37 UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site.
- 10.38 No ecological information has been submitted with the application. Whilst some of the buildings may have bat roost potential, most are considered unlikely to. However, due to the rural location of the site, Officers consider that it offers opportunities for biodiversity enhancement, and this could be achieved through the implementation of a Biodiversity Mitigation and Enhancement Plan. Such a matter could be dealt with by condition, should the application be approved.

Representations

- 10.39 Three representations have been received from the occupiers of Fox View to the east of the site. Their concerns are addressed in the main body of the report.

Other Matters

- 10.40 **Air Quality:** Paragraph 109 of the NPPF states that “the planning system should contribute to and enhance the natural and local environment by....preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution”. On relatively small new developments, this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This could be secured by planning condition, if the proposals were considered to be acceptable.

- 10.41 **Land Contamination:** The land may be contaminated due to the former use of the site as a working farm. As such, a series of conditions would need to be imposed to ensure this matter is addressed, should the proposals be considered to be acceptable, to ensure that the development accords with Chapter 11 of the NPPF.

11.0 CONCLUSION

- 11.1 The proposed development is considered to represent inappropriate development in the Green Belt which would be harmful to the openness and character of the Green Belt.
- 11.2 The justification submitted by the Agent has been assessed. However, this is not considered to demonstrate very special circumstances that clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute what sustainable development means in practice.
- 11.4 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that there are specific policies in the NPPF which indicate the development should be restricted

12.0 Reason for Refusal

1. The application site is located within the designated Green Belt whereby, as set out in the National Planning Framework (NPPF), the construction of new buildings is regarded as inappropriate development. The proposed development would constitute inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and which should not be approved except in very special circumstances. The evidence submitted with the application does not outweigh the harm that would result to the Green Belt by reason of inappropriateness and the harm to the openness and character of the Green Belt through new built form and the paraphernalia and activities associated with the domestic use of the site. Consequently, the very special circumstances that are required to grant planning permission do not exist, and the proposals would conflict with Chapter 9 of the National Planning Policy Framework.

Background Papers:

Application and history files

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93148>

Certificate of Ownership – Certificate A signed