

---

**Report of the Head of Planning and Development**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 09-Dec-2020**

**Subject: Planning Application 2019/93124 Change of use from agricultural to storage and processing of timber, formation of access track and hardstanding and siting of containers Land east of, Hillock Farm, Dean Road, Upperthong, Holmfirth, HD9 3XB**

**APPLICANT**

Mr Batten, Down to Earth

**DATE VALID**

01-Oct-2019

**TARGET DATE**

26-Nov-2019

**EXTENSION EXPIRY DATE**

31-Jul-2020

---

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: Holme Valley South**

**Ward Councillors consulted: No**

**Public or private: PUBLIC**

---

**RECOMMENDATION: Refuse planning permission and delegate authority to the Head of Planning and Development to proceed with enforcement action requiring cessation of the use and removal of the associated operational development.**

1. The application site is within designated Green Belt, whereby as set out in the National Planning Policy Framework (NPPF) new development, subject to certain exceptions, is regarded as inappropriate. Paragraph 146 of the NPPF sets out that the material change of use of land need not be inappropriate, but only where this preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. In this case the development would harm the openness of the Green Belt through the siting of containers, storage of timber, the formation of the access track and the activity associated with the processing of timber on open land. This would also lead to the encroachment of development into the countryside. As such the proposal would constitute inappropriate development in the Green Belt which is by definition harmful to the Green Belt. There are no very special circumstances which clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm and therefore the proposal would be contrary to the aims of Chapter 13 of the National Planning Policy Framework.

## **1.0 INTRODUCTION:**

1.1 The application is brought to Planning Sub Committee at the request of Cllr D Firth who has provided the following reason:

*"The area the applicant is using is ideal for the storage of logs, it is surrounded by trees to the north of the site, and bunding to the east and the west. It is also in a dip, so it can't be seen from any angle, most of the large logs to the south of the site are logs he has picked up over time. Trees that have fallen etc. and most of them cut and collected at the request of Kirklees Council. While I realise the owner has moved his operation about three fields, from his original site to where he is now, the reason for that is he now owns the land it is situated on, and it is more or less hidden from view. He didn't apply for planning permission because Agriculture and Forestry go hand in hand. If this is refused four workers will lose their jobs, and as a Councillor that doesn't sit very well with me"*

1.2 The Chair of Sub-Committee has accepted that the reason for making this request is valid having regard to the Councillor's Protocol for Planning Committees.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The site relates to a parcel of land located to the East/North East of Hillock Farm, in which can be accessed from Dean Road. It should be noted that as the application has been submitted retrospectively, the following description details the area as it currently appears. Before works commenced, the site formed an open grassed agricultural field.
- 2.2 Currently the site contains an access track and a sizeable, rectangular area of loose gravel/road planings that appears as a yard. Situated within the area are a number of containers, alongside stacked mounds of timber, described in the application documents as 'cordwood'. The site is bounded by woodland to the North and East.
- 2.2 Surrounding the site is predominantly open fields, however to the South West is Hillock Farm and to the North East is Intake Farm. A belt of trees form the field boundary to the east and north.

## **3.0 PROPOSAL**

- 3.1 The applicant is seeking retrospective permission for the change of use from agricultural to storage and the processing of timber, the formation of an access track and hardstanding and the siting of containers. The originally submitted plan showed the siting of 6 containers.
- 3.2 As part of this application a covering letter, block plan, details of the dimensions of the containers have been provided, alongside further supporting planning statements, in which have been submitted during the course of the application.

## **4. RELEVANT PLANNING HISTORY (including enforcement history)**

### **4.1 Application site:**

COMP/19/0236 Enforcement investigation into a complaint regarding the alleged unauthorised change of use of land for the storage and processing of logs and the formation of an access track and hardstanding. This has resulted in the submission of the current application seeking to regularise a breach of planning control

### **4.2 Wider vicinity:**

2012/92479 Erection of 6W wind turbine on a 15m mast – Refused (Upper Wickens Farm)

## **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 The officer contacted the applicant and the original agent to advise that the proposal represented inappropriate development within the Green Belt in principle and therefore could not be supported. The agent then changed, and the new agent provided a supporting statement to detail why the proposal is considered to be acceptable within the Green Belt, including what they considered to be 'very special circumstance.

- 5.2 An additional supporting statement was received on Friday 27<sup>th</sup> November 2020 from the agent, which included emails/letters from four local residents in support of the scheme, alongside emails from both KC Environmental Health and KC Forestry, stating that the applicant is on the list of Forestry Contractors. These state that no noise complaints had been submitted to the Environmental Health, a specific update to be provided for members on this matter. It is also confirmed that the applicants company is registered as being a forestry contractor for Kirklees. KC Forestry were asked to confirm if this is for 'forestry' works or wider works to trees for which the Council is currently responsible. It is the latter and would include namely those located on Council-owned land within:
- i. Highway verges
  - ii. Council tenancy housing sites
  - iii. Cemeteries and churchyards
  - iv. Car parks
  - v. Parks and open spaces
  - vi. Woodlands
  - vii. Land vested with the corporate landlord
  - viii. The boundaries of Council owned/managed buildings

## **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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

The site is located within the Green Belt on the Kirklees Local Plan.

- 6.2 Kirklees Local Plan:

**LP1** – Presumption in favour of sustainable development  
**LP2** – Place shaping  
**LP10** – Supporting the rural economy  
**LP21** – Highway safety and access  
**LP22** - Parking  
**LP24** – Design  
**LP30** – Ecology and geodiversity  
**LP35** – Historic environment  
**LP51** – Protection and improvement of local air quality  
**LP52** – Protection and improvement of environmental quality

## **6.3 Neighbourhood Development Plans**

Holme Valley Neighbourhood Development Plan has been formally submitted to Kirklees Council and Peak District National Park Authority. It covers the whole of the Holme Valley Parish Area. The plan has not been subject to publicity (Regulation 16, The Neighbourhood Planning (General) Regulations 2012) at this time. There are unresolved objections between the Kirklees Council and the neighbourhood plan body therefore the plan has no weight at this stage.

## 6.4 National Planning Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, 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 6** – Building a strong, competitive economy
- **Chapter 12** – Achieving well design places
- **Chapter 13** – Protecting Green Belt land
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Protecting and enhancing the natural environment
- **Chapter 16** – Protecting and enhancing the historic environment

National Government's Written Ministerial Statement (WMS) 2015

- Green Belt protection and intentional unauthorised development -

“The Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.

For these reasons, we introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received since 31 August 2015.

The Government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt”.

## 7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised by site notice, neighbour notification letters and the press. Final publicity expired on the 3<sup>rd</sup> March 2020. As a result of the above, 17 representations have been received. These include 13 objections, 1 general comment and 3 representations in support of the scheme.

A summary of the points raised are as follows:

### Objections

Principle of development

- The principle of development is unacceptable
- The very special circumstances do not justify/overcome the concerns raised
- The site can be relocated outside of the Green Belt

- The activity does not constitute to forestry
- An industrial process needs to be on a brownfield site or to be within an industrial estate
- It's a waste recycling process
- The Green Belt is not suitable for commercial activity
- This land should remain untouched

#### Highway safety

- Concerns regarding the access and highway safety
- The application is misleading as no access improvements have been made, as there was no original access
- The existing road is narrow and in some cases in a despair state, therefore additional traffic will further impact upon this

#### Noise disturbance

- Concerns raised with the findings of the noise report

#### Trees, biodiversity and wildlife

- Impact from transporting diseased trees
- Concern over noise for residents, wildlife and users of the area

#### Visual amenity and heritage

- The design of containers are not in keeping or sensitive to the local area
- The appearance of the track is not an improvement
- Negative impact on Listed Building

#### Residential amenity

- Potential health implications for neighbouring properties due to the smoke

#### General concerns

- The second round of publicity is not long enough
- No details to where the crushed stand stone is from
- Retrospective planning application
- There is a likelihood of expansion if planning is approved
- The planning statement is trying to justify unauthorised works
- There will be additional waste provided
- The site needs returning to the hay meadow
- Larger piles of the materials are visible to the public
- Will there be a welfare cabin for the workers?
- Impact on house prices
- If planning is approved will housing be developed?
- The village is losing its rural feel
- The site notice has not been seen
- Our concerns were initially logged to enforcement
- The description of development does not include the access opening

#### General comments

- No objection in principle, as the works are carried out in accordance with rural commercial activity
- My only concern is noise pollution and this can be controlled by working hours on a trial basis

### Comments in support of the scheme

- No structure is visible
- Owner has planted trees to enhance the landscape
- The small business will positively contribute to the local economy
- The scheme provides an improvement to the area through a thoughtful and practical use
- Bringing industry and vitality to the area is a good thing
- Productivity of the fields concerned will be improved
- No negative impact as the premises are shrouded and almost invisible

Ward Councillor comments:

Cllr N Patrick: The application is retrospective and would have noise implications for nearby residents.

Ward Councillor comments:

Cllr D Firth: Requested the application be referred to planning committee for the reasons set out in the introduction to this report.

Holme Valley Parish Council: In support pending the Environmental Health report regarding noise and that the containers be painted green which would make them blend better with the surroundings.

The additional planning statement was re-advertised via a 14 day neighbour notification letter expiring 3<sup>rd</sup> March 2020.

An additional supporting statement has also been received by the agent on the 27<sup>th</sup> November 2020. Within this, four letters/emails were received from local residents outlining their support for the scheme. A summary of the comments are as follows:

- I have not noticed any more disruption than previous years of agricultural use
- The land is being used and maintained
- The site is concealed
- The newly planted trees and hedges will provide a screen to obscure any views
- The containers are not visible from the surrounding areas
- Noise is not a problem for me
- The works that have been done are a good example of how to take care for the land and rural site in the correct way
- The track is no different to many farm tracks in Holmfirth
- Its good to see a local person running a local business

This supporting statement has not been re-publicised but a redacted version has been uploaded to the Council's website.

## **8.0 CONSULTATION RESPONSES:**

**Statutory:**

None

### **Non-statutory:**

- **KC Policy:** Object in principle and consider the very special circumstances described in the supporting statement, to not clearly outweigh the impact of the development on the Green Belt.
- **KC Environmental Health:** Having assessed the submitted noise report, officers have raised no objections to the impacts in which the proposed use will have on any noise sensitive properties.
- **KC Highways Development Management:** No objections as the revised block plans show the width of the access to be wide enough for a service vehicle to be able to leave the highway, whilst the gate is being opened. Furthermore, the North block plan shows suitable parking for staff and operation vehicles and adequate space for vehicles turning.
- **KC Conservation and Design** (informal comments based a desktop study): No objection

## **9.0 MAIN ISSUES**

- Principle of development: Green Belt
- Impact on heritage
- Residential Amenity
- Highway Safety
- Other matters
- Representations

## **10.0 APPRAISAL**

- 10.1 The application seeks permission for the change of use of land from agricultural to storage and the processing of timber, the formation of an access track and hardstanding and the siting of 6 containers. The site is located within the Green Belt and therefore, the key consideration for the proposal is the impact of the development on the Green Belt. Other matters in relation to visual and residential amenity, noise, ecology, highway safety and the representations received will all be considered as part of this application.

*Principle of development: Green Belt*

- 10.2 The site is situated within the Green Belt on the Kirklees Local Plan (KLP). As such, the proposal will be assessed having regard to NPPF Chapter 13
- 10.3 Paragraph 143 of the NPPF states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application paragraph 144 advises that planning authorities should ensure that “substantial weight” is given to any harm to the Green Belt. It also states “very special circumstances will not exist unless the substantial harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.
- 10.4 The application seeks planning permission for a change of use for the storage and processing of timber, formation of access track and hardstanding and the siting of 6 containers. The development can be described as a material change of use of the land and engineering operations to form the access and hardstanding.



- 10.5 Paragraph 146 of the NPPF provides for forms of development that can be considered not to amount to inappropriate development in the Green Belt including, inter alia, engineering operations and a material change in the use of land. Such forms of development are not inappropriate providing they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The principle of development therefore turns on the point of whether the material change of use and engineering operations preserve openness and do not conflict with the purposes of including land in the Green Belt.
- 10.6 With regard to openness paragraph 133 of the NPPF states the government attaches great importance to Green Belts and the fundamental aim of Green Belt policy is to keep land permanently open. The essential characteristics of Green Belt is openness and permanence. Planning Practice Guidance (PPG) sets out matters to take into account when considering the potential impact of development on the openness of the Green Belt. These include, but are not limited to, openness having both spatial and visual aspects, the duration of development and the degree of activity likely to be generated.
- 10.7 Paragraph 134 of the NPPF sets out the purposes for including land in the Green Belt which in particular to this application means safeguarding the countryside from encroachment. Openness and safeguarding land from encroachment are the measures this development is to be assessed. If the development does not preserve openness it follows it will encroach into the Green Belt and therefore will not be supported by national planning policy.

#### Engineering works

- 10.8 The access track extends 190m from the highway, adjoining the yard in which is approximately 1500 square meters in area. It is considered the development has led to a significant amount of works to an otherwise open field, through the laying of road planings to the compound area, alongside loss gravel in which has now been compacted to form the long access track. This level of work has ultimately led to an engineering operation which in turn has a substantial impact upon the openness and permanence of the Green Belt within this location. The hard surface in particular introduces an uncharacteristic and strident feature in the once open field. Despite the hard surface not being readily viewed from the public realm its spatial impact is significant and results in demonstrable harm to the open rural character of the area.
- 10.9 While the access track is not untypical of a farm track it does result in an unnecessary feature in the field thus eroding the open visual appearance of the field.
- 10.10 The engineering operations including hard surface and access therefore unacceptably impacts upon the openness of the Green Belt and purposes for including the land in the Green Belt and are therefore inappropriate development in the Green Belt contrary to chapter 13 of the NPPF.

### Material change of use of the land

- 10.11 The engineering operations have facilitated the use of the land to site a number of containers in connection with the processing of trees and has led to the change of use of an open field to the North of Dean Road. The processing of trees is not considered to amount to a forestry use but rather an industrial process to change one product to another saleable product. While forestry uses are considered to typically involve the harvesting of trees which may involve the storage of logs, forestry uses are not considered to reasonably include the subsequent processing of trees. It is the processing use that has led to the need for containers, works and other activities subject to this application. It is clear the business use being carried out on the land to store logs cannot exist without the need to process the logs to a usable product and it is that use which results in a harmful impact upon the openness of the Green Belt. This activity leads to an impact upon the openness of the Green Belt by reason of the siting of industrial style containers and other processing activities including sawing, splitting and storage of timber produces arising from the industrial activity.
- 10.12 While the applicant has indicated the planting of trees and formation of bund will mask the containers and activities, these measures simply result from an inappropriate use in the Green Belt which, in particular to the bund, in itself also introduces an unnecessary feature in the once open field.
- 10.13 As such, it is considered that the material change of use to storage and processing of timber and siting of containers would have a significant impact on the openness of the Green Belt in this location and would be contrary to the purpose of including land within it.
- 10.14 In conclusion, the proposals are therefore considered to be inappropriate development as defined within the NPPF paragraphs 143 and 144 as harmful to the Green Belt and should not be approved except in very special circumstances.

### Very special Circumstances

- 10.15 As previously acknowledged a planning statement was submitted to the council dated the 17<sup>th</sup> February 2020, whereby the agent considers several very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness and other harm. A summary of the points raised alongside officer's assessment are as follows:
1. The proposal represents a forestry operation which is considered to be acceptable within the Green Belt.
  2. The proposal supports the local rural economy, as the location of the business is a rural enterprise, that provides a service to the Holmfirth community.
  3. The site positively contributes to renewable energy by recycling it within a sustainable way.
  4. The location of the yard is vital in terms of emergency call outs, transporting timber from local sites and is in a close proximity to the applications property for security reasons.
  5. The cost of other non-green belt sites are too expensive, as the fees in industrial estates are too high to be viable for the business.

6. The impact on openness would be minimal as the site is within a discreet location with an access track, dry stone walls and evergreen screening.
7. There are public benefits to the site, as it will be maintained and well looked after.
8. The business has been running from a farm for the last 14 years. It is unknown if the farmer would agree a continued use and therefore the applicant looked for different premises.
9. Containers are temporary structures which can be easily reversed.
10. Additional trees and hedge rows have been planted to reduce noise and pollution etc.
11. There are other examples where similar businesses are operating within the Green Belt. These include:
  - Beneficial Tree Care Ltd - The Old Stone Yard, Near Bank, Shelley, Huddersfield HD8 8LS
  - DW Tree Services - land off, Wool Row Lane, Shelley, Huddersfield
  - Flockton Hall Logs - Land off Barnsley Road, Flockton, Huddersfield, WF4 4DW
  - Holme Valley Tree Services - Woodside Quarry, Holmfirth Road, Meltham, Holmfirth, HD9 4DD
  - Totties Garden Centre and Nursery, Downshutts Lane, Totties, Holmfirth, HD9 1AU

10.16 The applicant therefore believes that the above comments collectively constitute to very special circumstances which clearly outweigh the harm on the openness of the green belt and that the proposal does not conflict with the 5 purposes for including land within it. However, officers are of a different opinion and therefore an assessment of each point has been taken into account below.

10.17 With regards to the proposal constituting to a forestry operation, officers have noted there that is no planning definition for this. However, there are examples of following appeal cases that have seen attempts made to define forestry and when forestry rights can be utilised. In East Sussex during an enforcement case (see Wealden 22/09/2004) an Inspector took the view that forestry could only take place in a "forest". This was quoted as "*a large uncultivated tract of land covered with trees and underwood: woody ground and rude pasture*".

10.18 More specifically, the Strathkelvin case 08/12/1992) took the stance that a "*tree surgeons use was held not to be forestry, as there was no evidence that the appellants were directly involved with the cultivation of forests or the extraction of timber from plantations...Instead, "there was tree trunks and branches stored on the site but there was no evidence that these were felled for commercial reasons, and there was no direct relationship between the source of the timber and the location of the appeal site"*

10.19 It has also been argued that activities involving the processing of timber are ancillary to a forestry operation. However previous cases have been dismissed at appeal against enforcement action by a council concerning alleged timber businesses in the countryside the inspector found the "*harm to the openness of the green belt and encroachment into the countryside was not outweighed by a need for a countryside location for the business, given that the operations were not ancillary to any forestry use of the land or adjoining land, the inspector withheld permission*" (Cheshire East 2/11/2016

- 10.20 As such, officers are of the understanding that the business operates by visiting various different sites in order to fell/remove dead or dangerous trees, returning the wood to the site for processing and storage when required. The submitted planning statement also outlines that only 6% of the work is carried out at the application site (around 20 days per calendar year, whereby the actual processing of the stored cordwood is circa 5 – 6 days a year). Therefore, the bulk of the yard will be used for the storage of cordwood that is collected from a variety of different sites and therefore, is not directly related to a forestry operation. Under these circumstances it should be noted that the need for the containers and operating areas of the site including the hard surface are unnecessary for large periods during the year and as such the need for these facilities cannot amount to very special circumstances.
- 10.21 Instead, the proposal is considered to be more akin to Arboricultural work, as the majority of the works are done away from the site, with the logs then being transported, processed and stored in the yard. Therefore, it is not considered that such an operation could only take place within the Green Belt, as the use is predominantly one of storage and processing.
- 10.22 With regards to points 2 and 3, it is acknowledged that the applicant provides employment directly and through sub-contractors. In this case, the LPA accepts that the proposal provides jobs for local people and will follow the guidance set out within the NPPF and Policy LP10 of the KLP regarding economic growth within rural areas. However, from reviewing the information set out within the application form, it appears that there will be no additional employees taken on as part of moving the business to this location.
- 10.23 Instead, the business will provide services to the Holmfirth community and will contribute positively to renewable energy. However, there is no desired need for the business to be located on this land, other than the fact that the applicant owns it. For these reasons it has been considered that the proposal is unlikely to increase prosperity of the local area, that would clearly outweigh the harm to the Green Belt.
- 10.24 Consideration has also been given to points 4, 5 and 8 in terms of how the applicant came to choosing this site, due to its good location in terms of emergency call outs, costs, transporting timber from nearby locations, and the fact that the site is within a close proximity to the applicants home.
- 10.25 However, the justification provided in this instance is not considered to provide very special circumstances, as it is believed that an acceptable site could be sought outside of the Green Belt. Turning to the business's previous location, the applicant has set out that they have been running from a farm for the past 14 years, which appears to be appropriate for the company for a somewhat substantial period of time.
- 10.26 Officers remain further unconvinced that the public benefits to the site outweigh the impact. Large open fields contribute to the character of Upperthong. It is appreciated that the applicant has planted various trees and hedgerows, around the site and along the front boundary adjacent to Dean Road. However, this work does not overcome the concern raised, regarding the impact of the change of use and engineering operations which have substantially changed the previous open character of the site. The application in principle is contrary to the aims of Green Belt policy by means of encroachment into the countryside.

The existing containers also exacerbate this concern, as they have been situated on land in which was previously absent of any built form. Whilst it has been noted that these could be easily reversed, these are on site and would require some form of specialise equipment to remove them.

- 10.27 Furthermore, the agent has also drawn a comparison to other local yards in which carry out similar operations, most of which are also sited within the Green Belt. Nonetheless, some of these examples have been established under previous applications, whereby officers have concluded that the works proposed would not create a material change of use. Others appear not to have sought formal permission and will be investigated separately to the consideration of this application. One application was granted permission as the use proposed would support the wider function of an existing garden centre and therefore is considered to be an appropriate use. There were also no additional buildings required as part of this permission.
- 10.28 Having taken into account the above, the proposal is therefore considered to represent inappropriate development within the Green Belt and very special circumstances that clearly outweigh this harm and other harm have not been demonstrated. The proposal therefore fails to accord with the requirements of Chapter 13 of the NPPF.
- 10.29 A written ministerial statement in 2015 introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. The Government stated that it was particularly concerned about harm that is caused by “intentional unauthorised development in the Green Belt”. In this case it is not apparent that the unauthorised development undertaken was ‘intentional,’ as the applicant considered the development to be ‘forestry’ where certain permitted development rights might apply. In this specific case it is considered that the fact the unauthorised development has taken place does not form a material consideration weighing in the assessment of the application.

### **Impact on heritage**

#### *Setting of Grade II Listed Buildings at Hillock Farm*

- 10.30 To the South West of the application site is Hillock Farm, a historic farmstead with a small group of Grade II listed buildings dating back to the mid-18<sup>th</sup> and 19<sup>th</sup> centuries. The farm had historically been in a rural agricultural setting with scattered farmsteads and roads.

#### Significance of the affected heritage assets

- 10.31 Paragraph 190 of the NPPF requires that the Local Planning Authority identify and assess the particular significance of any heritage assets affected and take this into account when considering the impact of an application for planning permission on the setting of a heritage asset.
- 10.32 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act requires that the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 10.33 Policy LP35 of the Local Plan requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.
- 10.34 KC Conservation and Design Officers have been informally consulted as part of this application, raising no objection to the scheme, as a modern half round corrugated clad agricultural building stands to the north end of Hillock Farm, in which will obscure the historic farm buildings from the view when facing south. Nonetheless, when viewed from the west along Dean Road, it appears that the farm and the application site may be seen in the context of each other, however, any impact upon its setting would be limited, as the site is situated within a dip in the landscape.
- 10.35 Having taken into account the above and the sites historical undeveloped nature, the proposal has the potential to cause slight harm to the setting of the listed farmstead. However, the planning statement identifies the proposed function of the site to recycle felled timber to provide renewable energy. Notwithstanding the principal objection to the formation of this use in the Green Belt, it is considered that the potential harm to the setting of the listed building alone could be outweighed by the public benefits provided. This would accord with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF.

### **Residential amenity**

- 10.36 The site is located within an area of sporadic, dispersed development, whereby Hillock Farm, Intake Farm and Upper Wickens are the nearest residential properties.
- 10.37 With regard to amenity, Policy LP24 advises that proposals should ensure that a high standard of amenity is achieved for future and neighbouring occupiers. Given that the proposal is for the change of use of the land from agricultural to storage and processing of timber within the close proximity to a number of noise sensitive residential properties, Policy LP52 of the KLP is also relevant. KC Environmental Health have also been formally consulted as part of this application.

### *Noise Impact*

- 10.38 As part of the application process a noise report has been submitted to the council on the 17<sup>th</sup> February 2020. This has been reviewed by the Environmental Health colleagues, in relation to the noise generated from the proposed new use.
- 10.39 The Noise Report has made an assessment of the existing background noise levels at the nearby residential properties and the noise generated by the machinery associated with wood processing. The report also states that timber processing will not be carried out on the site on a regular basis. However, this process will include the use of high powered petrol chainsaws for the larger trees, alongside electric chainsaws to cut up the cordwood into manageable rings. Once the cords have been ringed up they will be split up into segments

with the hydraulic ram log splitter powered from a Valtra tractor. The logs will then be stacked within the containers to allow them to naturally air dry before being delivered to customers. The specific hours of use for using such machinery have not been provided as part of this application, however evidence suggests that these activities are likely to take place within the hours of 8am – 4pm as set out within Appendix A of the Supporting statement.

- 10.40 Therefore, officers consider that under the normal operation conditions, as set out in the noise report, the processing of timber on this site would not have an adverse impact on the amenity of nearby residential properties. This is in accord with Policies LP24 and LP52 of the KLP.

#### *Adjacent properties*

- 10.41 There will also be no material impact on the amenities of neighbouring properties through the siting of the six containers or the storage of cordwood. This is due to the fact that a significant separation distance of approximately 100m can be retained between the nearest elevation at Hillock Farm. Intake Farm/Lower Wickens Cottage are the neighbouring properties to the North East and South East of the application site. However, it has been noted that there are a row of mature trees to the eastern boundary, in which will help obscure any impact.
- 10.42 Based on the above, officers are satisfied that an acceptable level of amenity would be retained at the neighbouring sites. This would be in accordance with Policies LP24 and LP52 of the Kirklees Local Plan.

#### **Highway Safety**

- 10.43 The retrospective application has created a new access and access track from Dean Road, to the South. As such KC Highways DM have been formally consulted. In this case, the officer has noted that Dean Road is a 60 mph, two way single carriageway, that has a width of approximately 6m.
- 10.44 The application suggests that the number of trips likely to be generated in each peak hour would be three (two arrivals and one departure), whereby highways colleagues do not consider this to have a severe impact on the operation of the local highway.
- 10.45 The vehicles to be used for the operation of the proposal site, are of the light/medium goods vehicle type and as such, would have no impact on the local highway network greater than that of a large family car/SUV.
- 10.46 The access claims to be an improvement to an existing field access but there is no evidence that this access existed prior to the development taking place. The required length of visibility splay for a road set at the national speed limit is 2.4m x 125m. The block plan south shows visibility splays of 200m to the right and 50m to the left, this latter splay is below the recommended safe distance and may result in an increased possibility of highway safety issues. However, due to the very low number of movements expected from the access and the fact the site has been operating safely for some time, combined with the number of other agricultural and field accesses in the area, officers on balance, considered the proposed access to be acceptable.

- 10.47 The submitted block plan south, also shows the access to be widened to 7m and extends back 12.5m. This would allow service vehicles to be able to leave the highway while waiting for the gate to be opened in order to avoid any obstruction and to reduce highway safety concerns. Whilst this would improve highway safety, it would cause further harm to the openness of the Green Belt.
- 10.48 The revised block plan north shows suitable parking for staff and operational vehicles and adequate space for turning, so the vehicles can enter/exit the site in forward gear.
- 10.49 Therefore, the impact of the development on highway safety has been assessed against Policies LP21 and LP22 of the Local Plan, which seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking. Based on the submitted details the proposed would accord with the aforementioned policies.

### **Other matters**

#### *Climate change*

- 10.50 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 application's, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.51 In this case, it has been considered that the proposed development would have a negative impact on climate change, as it has resulted in the partial re-development of a greenfield site, in order to create an area of hardstanding for the commercial use. The processing and re-use of timber for other purposes is beneficial for climate change, but this could take place on an alternative site that would not require the use of greenfield land.

#### *Biodiversity and trees*

- 10.52 The site was previously an open agricultural land which is considered to be of low ecological value. The development proposed would not include the cutting down of any existing trees to the North and East of the site, and therefore the impact on biodiversity would be neutral.

### **REPRESENTATIONS**

- 10.53 The application has received 17 representations, 13 of which are in objection, 1 general comment and 3 in support. A summary of the concerns alongside officer correspondence can be found below.



## Objections

### Principle of development

- The principle of development is unacceptable
- The very special circumstances do not justify/overcome the concerns raised
- The site can be relocated outside of the Green Belt
- The activity does not constitute forestry
- An industrial process needs to be on a brownfield site or to be within an industrial estate
- It's a waste recycling process
- The Green Belt is not suitable for commercial activity
- This land should remain untouched

*Comment: These concerns have been noted as assessed within the report above.*

### Highway safety

- Concerns regarding the access and highway safety
- The application is misleading as no access improvements have been made, as there was no original access
- The existing road is narrow and in some cases in a despair state, therefore additional traffic will further impact upon this

*Comment: These concerns have been acknowledged by KC Highway DM and assessed in the Highway Safety section above.*

### Noise disturbance

- Concerns raised with the findings of the noise report

*Comment: The noise report has been carefully assessed by KC Environmental Health and assessed in the residential amenity section above*

### Trees, biodiversity and wildlife

- Impact from transporting diseased trees
- Concern over noise for residents, wildlife and users of the area

*Comment: These concerns have been noted and assessed in the report above*

### Visual amenity and heritage

- The design of containers are not in keeping or sensitive to the local area
- The appearance of the track is not an improvement
- Negative impact on Listed Building

*Comment: A full assessment of these concerns have been undertaken in the report above.*

### Residential amenity

Potential health implications for neighbouring properties due to the smoke  
*Comment: The impact upon the amenity of neighbouring dwellings has been assessed thoroughly above. Environmental Health would be responsible for dealing with complaints regarding nuisance smoke under the Environmental Protection Act.*

## General concerns

- The second round of publicity is not long enough  
*Comment: This has been noted, however officers considered 14 days to be an acceptable length of time for neighbours/interested parties to comment on the supporting statement.*
- No details to where the crushed stand stone is from  
*Comment: Such details are not considered necessary in the determination of this application.*
- Retrospective planning application  
*Comment: This has been noted. The application has been considered on its own merit. The fact that this is a retrospective application is not material to the assessment of the proposal in this specific case,*
- There is a likelihood of expansion if planning is approved  
*Comment: The application is considered on its own merits.*
- The planning statement is trying to justify unauthorized works  
*Comment: This has been noted.*
- There will be additional waste provided  
*Comment: Having reviewed the submitted planning statement, it appears that there would be limited waste as the product is recycled.*
- The site needs returning to the hay meadow  
*Comment: This has been noted.*
- Larger piles of the materials are visible to the public  
*Comment: This has been noted.*
- Will there be a welfare cabin for the workers?  
*Comment: The submitted plans do not show additional accommodation for the workers.*
- Impact on house values  
*Comment: This is not a material planning consideration and therefore cannot be assessed as part of this application.*
- If planning is approved will housing be developed?  
*Comment: The application is considered on its own merits. This does not include residential development.*
- The village is losing its rural feel  
*Comment: This has been noted.*
- Unseen planning application notice in area  
*Comment: A site notice has been erected on the lamppost next to the access for the site.*
- Our concerns were initially logged to enforcement  
*Comment: The enforcement history of the site is set out in the report above.*

- Description of development does not include access opening  
*Comment: Officers consider the description of development to incorporate all the works in which the applicant is seeking approval for.*

#### General comments

- No objection in principle, as the works are carried out in accordance with rural commercial activity
- My only concern is noise pollution and this can be controlled by working hours on a trial basis  
*Comment: These comments have been noted.*

#### Comments in support of the scheme

- No structure is visible
- Owner has planted trees to enhance the landscape
- The small business will positively contribute to the local economy
- The scheme provides an improvement to the area through a thoughtful and practical use
- Bringing industry and vitality to the area is a good thing
- Productivity of the fields concerned will be improved
- No negative impact as the premises are shrouded and almost invisible  
*Comment: These comments have been noted.*

#### Comments in support of the scheme submitted via the supporting statement from the agent dated 27<sup>th</sup> November 2020

- I have not noticed any more disruption than previous years of agricultural use
- The land is being used and maintained
- The site is concealed.
- The newly planted trees and hedges will provide a screen to obscure any views
- The containers are not visible from the surrounding areas
- Noise is not a problem for me
- The works that have been done are a good example of how to take care for the land and rural site in the correct way
- The track is no difference to many farm tracks in Holmfirth
- Its good to see a local person running a local business  
*Comment: These comments have been noted.*

#### Ward councillor comments

Cllr Firth: The site is appropriate for this type of use, as it would not be readily visible from public vantage points. The owner did not apply for planning permission because Agriculture and Forestry go hand in hand. If this is refused four workers will lose their jobs, and as a Councillor that doesn't sit very well with me.

*Comment: The application has been treated on its land use merits, whereby officers consider the use to contribute to inappropriate development within the Green Belt. In the case of a refusal, the requirement for the applicant to find new premises would be taken into consideration when determining an appropriate period for compliance with any enforcement notice served.*

Cllr Patrick: The application has come about following complaints from neighbours. It is retrospective and as far as I can tell the applicant has offered nothing different in terms of conditions to change what happens on the site. I am not convinced by the noise report and the suggestion that electric chainsaws are used. I think the neighbours can tell the difference between the noise emitted from a petrol chainsaw and the noise emitted from an electric chainsaw.

*Comment: These concerns have been noted and the impact upon residential amenity has been thoroughly assessed within the report above, including the submission of a noise report.*

## **11.0 CONCLUSION**

- 11.1 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.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. In this instance, the proposal would not accord with the aims of Chapter 13 of the NPPF. The application of policies in the NPPF that protect areas of particular importance, in this case Green Belt, provides a clear reason for refusing the development proposed.
- 11.3 Members are requested to accept the officer recommendation and authorise the Compliance Team to proceed with action to rectify the breach of planning control.

### **Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/93124>

Certificate A has been signed.