
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 01-Jul-2021

Subject: Planning Application 2019/93644 Change of use and alterations to existing building to workshop, catering business (B1) and restaurant cafe (A3) and business/storage and distribution (B1/B8) and change of use of land to form associated parking area (within a Conservation Area). Former agricultural building at, Field Lane, Farnley Tyas, Huddersfield, HD4 6BS

APPLICANT

Rochester Bridge Trust

DATE VALID

03-Dec-2019

TARGET DATE

28-Jan-2020

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: Kirkburton Ward

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 The application is sought for the change of use and alterations of an existing agricultural building to workshop, catering business (B1) and restaurant/café (A3) and business/storage and distribution (B1/B8) and the change of use of land to form associated parking area. The site for the proposed change of use to car parking is allocated as Urban Green Space (UGS) within the Kirklees Local Plan.
- 1.2 The application is reported to the Strategic Planning Committee as the proposed development for the change of use of land to car park would constitute a departure from the Kirklees Local Plan.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site measures 750 square metres in size and comprises of an existing agricultural building with an area of hardstanding to the East which is enclosed by a stone wall along Field Lane to the South.
- 2.2 To the North of the site is Farnley Tyas Bowling Club. To the South is the Beech Farm which encompasses 25 dwellings.

3.0 PROPOSAL:

- 3.1 The application is submitted in full and proposes the change of use of the existing agricultural building to 3 no. units for workshop catering business (B1), restaurant café (A3) and business/storage and distribution (B1/B8). The application also includes the change of use of the area to the East to form associated car parking. The 3 no. units are proposed as follows:

Unit 1 B1/B8 (82 square metre)
vacant

Unit 2 B1 (83 square metre)
Currently in use for the manufacture of bespoke homewares

Unit 3 B1 (234 square metre)
This unit is currently in use as 'Guest Dining', a commercial catering company preparing meals on the premises for

distribution to customers for consumption off site. It is noted that there is a small area for consumption onsite which is considered to be an ancillary use.

3.2 The works comprising the development have already taken place. In order to facilitate the change of use, new openings have been created to serve each unit. Units 1 and 2 have roller shutters and a traditional door opening. Unit 3 has an entrance door with glazed panels on either side.

3.3 The proposed opening hours are as follows:

Sunday to Wednesday	8am – 11pm
Thursday to Saturday	8am – 12am

3.4 Access to the site would remain as existing from Field Lane. The car parking area (up to 10 vehicles) constitutes an area of hardstanding to the East which is enclosed by a stone wall to the frontage adjacent to Field Lane.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- | | | |
|-----|------------|--|
| 4.1 | 2014/90420 | Reserved matters application for erection of 2 dwellings (within a Conservation Area)
Withdrawn |
| | 2014/90580 | Reserved matters application for erection of 7 dwellings
Withdrawn |
| | 2014/90585 | Reserved matters application for erection of 1 dwelling (within a Conservation Area)
Withdrawn |
| | 2011/92253 | Outline application for the redevelopment of Beech Farm for residential use including demolition of existing farm structure.
Section 106 outline permission |
| | 87/05447 | Erection of barn and calf pen
Granted conditionally |

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 To date consultation responses have requested further information and/or revisions as follows:

Kirklees Council Planning Policy: Further details of the restaurant/café as an ancillary use to the catering business.

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 27th February 2019).

6.2 On 12/11/2019, 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 applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda

6.3 Kirklees Local Plan (2019):

Relevant policies are:

LP1 – Presumption in favour of sustainable development
LP7 – Efficient and effective use of land and buildings
LP20 – Sustainable Travel
LP21 – Highway safety and access
LP22 – Parking
LP24 – Design
LP27 – Flood Risk
LP28 – Drainage
LP30 – Biodiversity and Geodiversity
LP32 – Landscape
LP35 – Historic Environment
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP61 – Urban Green Space

6.4 Supplementary Planning Guidance / Documents:

- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Highways Design Guide SPD
- Planning Practice Guidance

Many policies within the National Planning Policy Framework are relevant to this proposal and, where relevant, are referred to in the main report text.

6.5 National Planning Guidance:

Chapter 2 – Achieving sustainable development
Chapter 6 – Building a strong, competitive economy
Chapter 9 – Promoting sustainable transport
Chapter 12 – Achieving well-designed places
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised in accordance with the Council's adopted Statement of Community Involvement. The application was re-advertised as a departure from the Kirklees Local Plan.

7.2 Following the statutory publicity period, 18 representations were received by the Local Planning Authority over the two publicity periods. The comments can be summarised as follows:

Comments received following Advertised by neighbour letter (25.11.2019) and advertisement (22.11.2019):

Support (6)

- No objection in principle as Beach Farm and Sycamore Farm are no longer agricultural operations.
- The barn would have become unused and fallen into disrepair without the proposed change of use.

Against (3)

- Experienced excessive noise throughout the day and night.
- The daily/weekly events create a lot of traffic using the bridle way
- The proposed hours of operation are currently not adhered to.
- Guest Dining in Unit 3 does not only prepare food for consumption off-site. There are pop-up events advertised and lunchtime café's throughout the week.
- The car park is only adequate for staff parking. It is not uncommon for customers to park on the paddock to the rear of the barn.

Comment

- A review should be made into the planning conditions regarding Field Lane attached to the permission for residential development at Beech Farm. This condition is not been adhered to.
- Field Lane is currently unsuitable for pedestrians, the elderly, wheelchair users and cyclists.

Comments received following advertisement by neighbour letter (27.01.2020), advertisement (03.01.2020) and site notice (04.03.2020).

Support (6)

- The facility is now widely used and is a valuable facility within the village.
- Provides jobs for local villagers.
- The local facility helps elderly to socialise
- Provides a community focal point set in a former barn which has been adapted to today's needs.
- Guest Dining are respectful to the village and highly supportive of the community

Against (3)

- The poor condition of Field Lane should be addressed.

Comment

- The state of Field Lane is a separate issue that has been on going to years

8.0 CONSULTATION RESPONSES

8.1 Statutory:

KC Highways – No objection

8.2 Non-Statutory:

KC Conservation and Design – No objection

KC Environmental Health – No objection subject to conditions.

KC Public Rights of Way – No objection

9.0 SUMMARY OF MAIN ISSUES

- The principle of development and the loss of Urban Green Space
- Residential amenity and quality
- Sustainability and climate change
- Highways and transport
- Other matters

10.0 MAIN ISSUES

The principle of development and the loss of Urban Green Space

- 10.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.
- 10.2 Local Plan Policy 1 states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 10.3 The area of the application site to the East of the existing building that is proposed for car parking is allocated as Urban Green Space (UGS) (UGS928) and is adjacent to a larger area of attractive green space/grassland. The whole UGS allocation was found to be justified as urban green space by the Local Plan Inspector as part of the Local Plan Examination in Public.

10.4 Local Plan Policy LP61 (Urban Green Space) is therefore applicable to this proposal and protects urban green space from development unless specific exceptions can be met. The policy states that:-

“Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:-

- a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or
- b. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or
- c. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.

The protection set out in this policy also applies to smaller valuable green spaces not identified on the Policies Map.”

10.5 The Council’s open space assessment of the wider site, undertaken as part of the Kirklees Open Space Study (2016), identifies the urban green space as part of a larger area which comprises a semi-natural green space with mature trees in the centre of Farnley Tyas Village. The whole site was assessed as a high value open space in 2014 as part of the Council’s Open Space Study.

10.6 In relation to criteria (a), it has not been clearly demonstrated that the land is no longer required to meet local needs for open space, sport, or recreational facilities. When assessed against the criteria set out in Local Plan policy LP61 the proposal does not accord with this policy as the land has not been identified as surplus to requirements through the Kirklees Open Space Study (2016) assessment. In addition, criteria (b) and (c) do not apply in this instance since the use proposed is not an alternative open space use, nor is any compensatory open space use being proposed as part of the application.

10.7 Whilst the loss of green space is not significant in terms of the amount of land affected (460sqm approx), it nevertheless represents a departure from the development plan. Consideration will need to be given to whether the circumstances and benefits of the proposed development constitute material considerations and what weight can be attached to those given the UGS allocation in the development plan.

- 10.8 Aerial photographs provide evidence that the area of urban green space in question has been used in conjunction with the agricultural building for storage and informal parking since at least 2000. The site has a clear boundary and different appearance from the remaining area of urban green space to the North and North West which is more open and grassed. The proposed change of use of this area to formal car park does not therefore change the character of the area. This point is also put forward by the applicant in their supporting statement, where they add that the land in question has not served as open space purpose for a considerable period of time and no complaints have been noted about the loss.
- 10.9 In addition to the above, the site currently employs 7 full time staff and 2 part time staff. It is considered that the economic benefits of the commercial units to provide small scale local employment opportunities to the local rural economy would accord with Paragraphs 80 and 83 of the NPPF. Rural economic benefits is a material consideration, which together with the evidence in paragraph 10.8 is considered to outweigh the loss of land within the Urban Green Space policy allocation and justifies departure from policy.
- 10.10 The proposed use of the site for car parking which has been used for parking and storage in relation to the agricultural building for some time (evidenced on aerial photos) would not be considered to be of detriment to the visual amenity and character of the wider Urban Greenspace or prejudice the use of the wider allocation.
- 10.11 To conclude, the development does not comply with Policy LP61(a) in that it would amount to a change of use of land that is designated as urban green space and which has not been shown to be surplus to requirements for open space, sport, or recreational facilities locally. However, for the reasons set out above it is considered that the proposed development would result in no significant loss to urban green space and furthermore would have the potential to bring about benefits to the rural economy which would support other planning objectives, in particular those of Chapter 6 of the NPPF. It can be therefore be allowed contrary to Policy LP 61
- 10.12 The proposed restaurant/café (A3) is identified by the applicant as being ancillary to the primary use of unit 3 catering business. Due to the small scale of the unit and limited seating area this is considered to be acceptable as the majority of produce will be consumed off site.
- 10.13 The application site is situated within the Farnley Tyas Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the Conservation Area. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.
- 10.14 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework also reiterate this guidance.

10.15 The site holding the agricultural building only (not inclusive of the proposed car parking area to the East) has no specific allocation within the Kirklees Local Plan. As such Policy LP 24 is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.

Heritage and urban design

10.16 The application site is set within the Farnley Tyas Conservation area therefore Local Plan policy LP35 is relevant. The proposed conversion of the former agricultural building has required alterations to the façade to create the required entrances to the 3 no. units. Each entrance has recessed shutters and internal shutter boxes.

10.17 The alterations to the façade have retained the character of the building and retained the blockwork, timber clad walls and corrugated roof. Although the building is modern in its appearance, it is an interesting and sensitive conversion which sits comfortably in this semi-rural location and reflects the former agricultural nature of the site which is considered to enhance the character of the conservation area.

10.18 The proposal is considered to in compliance with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Residential amenity and quality

10.19 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

10.20 The closest residential properties to the application site are no. 1 and no. 9 Deer Croft to the South which are separated from the site by Field Lane. The dwellings have an approximate separation distance of 11m.

10.21 The proposed use of the units is for B1 and B8 uses which would be considered to create a low level of disturbance to neighbouring properties due to the nature of the small-scale storage and distribution uses.

10.22 The proposed restaurant/café (A3) is considered to be ancillary to the catering business, and limited seating is shown to be provided on the submitted plans. The unit offers 'pop-up' dining events which are advertised via the 'Guest Dining' website. Notwithstanding this, the applicant proposes the following hours of opening to customers in respect of the A3 use:

Sunday, Monday, Tuesday, Wednesday:	8.00am - 23:00
Thursday, Friday, Saturday:	8.00am - midnight

- 10.23 Officers consider that the above hours of opening would introduce an activity that would create noise disturbance to nearby residents (e.g. noise arising from people leaving late at night, vehicles and taxis etc which is difficult to control). It is considered reasonable in this instance to impose a condition relating to temporary hours of opening for a period of 12 months in relation to the A3 use in order to allow the impact of any intensified use to be assessed.

Officers therefore recommend the following:

Monday to Thursday 08:00 to 18:00
Friday and Saturdays 08:00 to 23:00
No activities on Sundays or Bank Holidays

- 10.24 The applicant states that the site has a fallback position by virtue of a previous change of use of the original agricultural building, with no restriction on hours of opening. They state that this was carried out in accordance with Class R of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (previously Class M) and is considered to be a material consideration in relation to the development. However, prior approval was not sought from the Council in respect of this, nor has any evidence been provided by the applicant to this effect. As such, Officers consider that the current application should be considered on its own merits.
- 10.25 In summary, subject to the condition relating to temporary hours of opening for the A3 use as set out above, Officers consider that the impact of that use on residential amenity could be adequately monitored. As such, the application would be considered to comply with Policies LP1 and LP24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the NPPF.

Highways and transport

- 10.26 The application seeks approval for the change of use of an existing agricultural building to a workshop and catering business and business/storage and distribution. The site is located on Field Lane, Farnley Tyas.
- 10.27 Throughout the application process, concerns have been raised regarding the condition of Field Lane and the number of vehicles using Field Lane as an access to the proposed units.
- 10.28 A planning condition was secured as part of planning permission 2011/92253 (outline application for redevelopment of Beech Farm for residential use including demolition of existing farm structure) which ensures the surfacing of Field Lane to an adoptable standard. The current and future condition of Field Lane would therefore not be considered as part of application due to the limited additional impact. Any concerns with regards to the condition of the Bridle Path would be covered under the existing planning condition.
- 10.29 The new proposals for storage and distribution are unlikely to significantly intensify the use of Field Lane when equated to this highways current and future function, and the previous agricultural use of the building. Restaurant/cafe use is ancillary therefore limited additional impact.
- 10.30 The proposal is considered to be in compliance with LP21, LP22 and LP24 of The Kirklees Local Plan and Chapter 12 of the NPPF.

Climate change

- 10.31 Chapter 12 of the KLP relates to climate change and states that “Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development”. This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development.
- 10.32 A condition is proposed to secure the installation of electric vehicle charging points to serve the proposed units.

Representations

Comments received following Advertised by neighbour letter (25.11.2019) and advertisement (22.11.2019):

Support (6)

- No objection in principle as Beach Farm and Sycamore Farm are no longer agricultural operations.
Response: Comment acknowledged
- The barn would have become unused and fallen into disrepair without the proposed change of use.
Response: Comment acknowledged

Against (3)

- Experienced excessive noise throughout the day and night.
Response: A condition would be proposed for operational hours to be limited in order to restrict any impact on residential amenity of neighbouring properties.
- The daily/weekly events create a lot of traffic using the bridle way
Response: A full assessment with regards to the impact on highways is contained in the report above.
- The proposed hours of operation are currently not adhered to.
Response: The units are currently operating without the necessary permissions, therefore, there are currently no hours of operation that can be enforced.
- Guest Dining in unit 3 does not only prepare food for consumption off-site. There are pop-up events advertised and lunchtime café's throughout the week.
Response:
- The car park is only adequate for staff parking. It is not uncommon for customers to park on the paddock to the rear of the barn.
Response:

Comment

- A review should be made into the planning conditions regarding Field Lane attached to the permission for residential development at Beech Farm. This condition is not been adhered to.

Response: comment is acknowledged

- Field Lane is currently unsuitable for pedestrians, the elderly, wheelchair users and cyclists.

Response: A full assessment with regards to the impact on highways is contained in the report above.

Comments received following advertisement by neighbour letter (27.01.2020), advertisement (03.01.2020) and site notice (04.03.2020).

Support (6)

- The facility is now widely used and is a valuable facility within the village.

Response: comment is acknowledged

- Provides jobs for local villagers.

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Response: comment is acknowledged

- Provides a community focal point set in a former barn which has been adapted to today's needs.

Response: comment is acknowledged

- Guest Dining are respectful to the village and highly supportive of the community

Response: comment is acknowledged

Against (3)

- The poor condition of Field Lane should be addressed.

Response: A full assessment with regards to the impact on highways is contained in the report above.

Comment

- The state of Field Lane is a separate issue that has been on going to years

Response: Comment Acknowledged.

11.0 CONCLUSION

The proposed change of use of the agricultural building and creation of an area for car parking on land allocated as Urban Greenspace is considered to be acceptable by officers when taking into account the nature of the site and the character of the wider area and the potential economic benefits of the development. Furthermore, subject to the inclusion of the suggested conditions, the proposals would also be acceptable from a visual and residential amenity perspective as well as highway safety.

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.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Development in accordance with plans
2. Electric vehicle charging points
3. Hours of operation (12 month temporary hours of opening for A3 use)

Public Right Of Way footnote

Background Papers:

Website link to the application details:-

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93644>

Certificate of Ownership – Certificate B signed and dated 03.12.2019