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**Report of the Head of Planning and Development****HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 05-Aug-2021**

**Subject: Planning Application 2021/91367 Change of use from agricultural to storage and processing of timber, improvement of field access, formation of access track and hardstanding and erection of wood store Land east of, Hillock Farm, Dean Road, Holmfirth, HD9 3XB**

**APPLICANT**

Charlie Batten, Down To  
Earth

**DATE VALID**

04-May-2021

**TARGET DATE**

29-Jun-2021

**EXTENSION EXPIRY DATE**

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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**

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**Electoral wards affected: Holme Valley South**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

**A. To inform the Planning Inspectorate that the local planning authority would have refused the application had its determination remained within its remit for the reason set out below.**

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 150 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 a building, 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.

**B. To proceed with enforcement action in accordance with the requirements of the enforcement notice requiring cessation of the use and removal of the associated operational development.**

**1.0 INTRODUCTION:**

- 1.1 The application was originally brought to the Huddersfield Planning Sub Committee for determination due to the significant number of representations received, contrary to the officer's recommendation.
- 1.2 However, the Council has recently received notification that an appeal against the "non- determination" of the planning application has been lodged with the Planning Inspectorate.
- 1.3 Subject to the appeal being accepted, the Planning Inspectorate will now determine the application.
- 1.4 As part of the appeal process this Authority will inform the Planning Inspectorate as to what decision would have made if the determination of the application had remained within its remit. A resolution from the Huddersfield Planning Sub-Committee is therefore sought on this basis.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The site relates to a parcel of land located to the East/North East of Hillock Farm, which can be accessed from Dean Road. It should be noted that as the application has been submitted part-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.
- 2.3 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 of land from agricultural to storage and the processing of timber, improvement of field access, formation of access track and hardstanding. This application also seeks planning permission for the proposed erection of a wood store (portal framed building).
- 3.2 The proposed wood store building would be 20m in width by 20m in depth and would have an overall height of 5.3m. The wall panels of the barn would be 1m high concrete panels from ground level with Yorkshire boarding above. The roof would be constructed from green profiled roofing sheets with occasional clear panels to allow light to penetrate through to the work area. 40no. Viridian solar panels are proposed to be installed on the roof of the barn (20 on the east-facing roof slope and 20 on the west-facing roof slope). This would provide around 12.8KW at the peak of power and would allow the site to operate off-grid for the majority of the year, with only minimal use of a backup generator in winter months – for lighting, power tools and equipment etc.
- 3.3 According to the planning statement, access to the barn would be to the north of the building, to allow vehicles to safely manoeuvre into the barn with no need for reversing; however, this has not been clearly identified on the submitted plans.
- 3.4 Alongside the above, the application is also seeking permission to retain the retrospective works for the formation of an access track and hardstanding but to remove the existing containers.
- 3.5 As part of this application a location plan, planning statement, noise report and elevations and roof plans for the proposed wood store building have been submitted.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

##### **4.1 Application site:**

2019/93124 Change of use from agricultural to storage and processing of timber, formation of access track and hardstanding and siting of containers – Refused

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.

Following the refusal of the aforementioned planning permission, an enforcement notice was issued on the 26<sup>th</sup> January 2021, which required the applicant to:

- a) Cease the use of the land for storage and processing of timber (period of compliance 30 days)
- b) Remove from the land all the items associated with the use of the site for storage and processing of timber, such as, but not exclusive of; all machinery, tools, timber, shipping containers, wagon backs and associated paraphernalia (period of compliance 30 days)
- c) Remove from the land the access track and hard surfaced yard area. (period of compliance 60 days)

The enforcement notice was then appealed on ground g) (period of compliance) to allow the applicant more time to find a suitable alternative location for the storage of materials due to the COVID restrictions and to allow a suitable timeframe for a new planning application to be determined. However, on the 14<sup>th</sup> July 2021, the appeal was dismissed and the enforcement notice upheld, as the Inspector considered COVID restrictions to have been significantly lifted since the enforcement appeal was submitted and that the elapse of time between the submission of the appeal and the decision letter had afforded opportunity to comply with the terms of the notice. The Inspector concluded that:

*“I do not consider there is good reason to extend the compliance period further and believe that the stated harm caused by the unauthorised development to the Green Belt should be brought to an end as soon as possible”.*

Therefore, the compliance period remains as set out in the enforcement notice. This means that to comply with the first two required steps (a & b) the requirements would need to be completed by 13<sup>th</sup> August 2021 and for the third (c) by 12<sup>th</sup> September 2021.

##### **4.2 Wider vicinity:**

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

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

- 5.1 No negotiations or amendments have been sought as part of this application, as the principle of development remains unacceptable. The revised proposal, and additional information submitted in support of the scheme, do not overcome the unacceptability of the development.

## **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.

### Kirklees Local Plan (2019):

- 6.2 LP1 – Presumption in favour of sustainable development  
LP2 – Place shaping  
LP10 – Supporting the rural economy  
LP21 – Highway safety and access  
LP22 - Parking  
LP24 – Design  
LP26 – Renewable and Low Carbon Energy  
LP30 – Ecology and geodiversity  
LP35 – Historic environment  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality

### Neighbourhood Development Plans:

- 6.3 The Holme Valley Neighbourhood Development Plan (HVNP) has reached an advanced stage of preparation and the independent Examiner's Report has been received. Although the plan has yet to be subject to a referendum in the affected area, it is a material planning consideration in decision making and weight has been attributed in accordance with NPPF (July 2021) paragraph 48.

The emerging Policies relevant to this application, following receipt of the independent Examiner's Report which are to be put forward to referendum, including key considerations from these Policies, are:

Policy 1: Protecting and Enhancing the Landscape Character of Holme Valley

"Overall, proposals should aim to make a positive contribution to the quality of the natural environment"

### Policy 2: Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design

"Proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings" and [proposals] "should protect and enhance local built character and distinctiveness and avoid any harm to heritage assets..."

### Policy 7: Supporting Economic Activity

‘Proposals will be supported which result in the creation or sustainable expansion of existing and new businesses’....Such proposals will be supported where the following all apply [inter alia] ... “the site is located outside the Green Belt or the development is acceptable in terms of national Green Belt policy”

### Policy 12: Promoting Sustainability

“All new buildings should incorporate technologies which generate or source energy from renewable, low carbon sources”

### Policy 13: Protecting Wildlife and Securing Biodiversity Net Gain

“All development proposals should demonstrate how biodiversity will be protected and enhanced”.

### National Planning Guidance:

- 6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> July 2021, 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

- 6.5 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 11<sup>th</sup> June 2021. As a result of the above, 158 representations have been received. These include 141 comments in support, of which 84 comprise the same letter from individual addressees, 15 objections and 2 general comments.

A summary of the points raised are as follows:

### Objections:

Principle of development:

- The site does not fall within the criteria of a permitted development within the Green Belt.
- Whilst enterprise is encouraged this should perhaps be on a brownfield site, nearer Holmfirth/Meltham.
- The planning statement accepts that this development is inappropriate within the Green Belt.
- The special circumstances put forward are either wrong or irrelevant.
- If approved, the development would set a precedent and would erode the countryside.
- I fail to understand why this location is so crucial and find it hard to believe that there are no better replacements.
- The current and previous planning statements contradict themselves.
- I think that the planning statement is understating the scale of development that is actually required for this type of business.
- The application is wholly unacceptable.
- The new proposal is still contrary to Green Belt Policy.
- The Very Special Circumstances do not overcome the harm to the Green Belt.
- The new building would have a greater impact upon the Green Belt.

Highway safety:

- The heavy plant used to transport the timber is unsuitable for the area.
- If the application is approved, we would like to see a condition being attached to the decision notice to ensure that this transport is barred from passing through the village.
- I suggest Highways Officers visit the site, as a commercial business here is completely inappropriate.
- The Dean Road is inadequate for large vehicles and is frequently used by walkers.

Noise and disturbance to wildlife and the natural environment

- The works introduce noise to a tranquil environment
- The development is a clear threat to the area and natural environment
- The works will impact on wildlife.

General concerns in objection:

- Concerns over the publicity for the application and the site address.
- The letters in support is largely from people who do not live in the area and therefore are commenting on the efficiency of the workmen, rather than the location of the development.
- There are discrepancies' within the planning statement and application form.
- No welfare facilities for its staff with are a legal requirement.
- Concerns regarding the future use of the site if planning was to be granted.
- Concerns with the information raised within the planning statement.

Support:

Residential amenity:

- The process causes no bother to me as a close neighbour.
- It does not hinder anyone as it is away from the road.
- There is no noise disturbance, apart from the occasional chainshaw.
- The council have found no adverse impact from noise.
- The development does not impact upon the living conditions/amenity of the neighbouring properties.
- The site is remote of neighbouring properties.

Visual amenity:

- The planting of many trees is a good example of how to take care of the land, which also helps mask some of the impact.
- Effort has also been made to re-build the stone boundary wall.
- The site is discreet and the access is no different to those used by farms in Holmfirth.
- The development cannot be seen from public vantage points.
- The building now proposed would add to the acoustic insulation and has an agricultural appearance.
- There is little sign of activity from various different view points.
- The barn would not be visible within the landscape.
- There are plenty of ugly modern agricultural buildings in the area, however, the materials proposed here are thoughtful and sympathetic.

Principle of development:

- Many other tree surgeons have to process fire wood in the Green Belt so it would be unfair to reject this application.
- There are a lack of alternative sites outside of the Green Belt.
- The additional land would be retained for agricultural purposes.
- The development is an appropriate use for the land.
- The proposal should be regarded as a forestry operation.

Highway safety:

- There would be a limited impact on highway safety.

General comments in support:

- There are many benefits of having a local supply of firewood.
- The development enables a local company to work in the area.
- The scheme contributes to wider objections including recycling.
- There are plenty of biodiversity gains.



- The local planning authority of aware of a number of other companies in fact Kirklees Forestry themselves have set up similar yards with no planning consent.
- The development creates jobs for 5 members of staff.
- The building would be fitted with solar panels and the business is committed to switching to electric power tools.
- The business is eco-friendly, by recycling sustainable materials.
- The business employs local people, provides an important service, is unobtrusive and environmentally sound and deserves support.
- It recycles local materials.
- The owner is fully trustworthy.
- The development would make a positive contribution to the local community, in terms of jobs, services and carbon reduction.
- The government's guidance encourages job creation.
- This is a successful business which requires a permanent base.
- Following difficult times of COVID, the council should support small businesses.
- The business has a positive contribution to the councils Climate Emergency Action Plan, which states to plant more trees.

#### General comments

- The application has been previously refused, so now to approve it would make a mockery of the system. The council should provide the entrepreneur with a brownfield site at an affordable rate.
- I would support this application if it was only ever used for a wood yard and no other purpose. The petrol chainsaw use is not allowed on the site and that he is conditioned to make this a genuine green adventure.

Holme Valley Parish Council: In support.

#### *Local Ward Councillors:*

Councillor Nigel Patrick: "The application is retrospective and would have noise implications for nearby residents. The development is also inappropriate development in the Green Belt and is contrary to the Local Plan. If we allow people to develop in the Green Belt like this it makes a mockery of local and national planning policies. There are other locations the applicant can use locally had he undertaken a full survey of available sites".

### **8.0 CONSULTATION RESPONSES:**

None undertaken for this application given the scope of the application applied for, but the comments previously received for application no. 2019/93124 are referred to in the assessment below, where relevant.

### **9.0 MAIN ISSUES**

- Principle of development: Green Belt
- Impact on heritage
- Residential amenity
- Highway safety
- Other matters
- Representations
- Conclusion

## 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, improvement of field access, formation of access track and hardstanding and the erection of a wood store.

### *Background*

- 10.2 The previous application 2019/93124 is a material consideration and will be addressed as part of this application. The application was refused for the following reason by members of Huddersfield Planning Sub-Committee on the 9<sup>th</sup> December 2020.

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.*

- 10.3 The resolution of the Sub-Committee also delegated authority to the Head of Planning and Development to proceed with enforcement action requiring the cessation of the use and the removal of the associated operational development. An enforcement notice was served on the 26<sup>th</sup> January 2021. Following this, an appeal was made against the enforcement notice on ground g) (period of compliance) to allow the applicant to find a suitable alternative location for the storage of materials due to the COVID19 restrictions and for the new application to be determined. No appeal was made against the previous planning application or on ground a) of the enforcement notice (planning permission should be granted). The current planning application was received on 1<sup>st</sup> April 2021.

- 10.4 On the 14<sup>th</sup> July 2021, the enforcement appeal was dismissed and the enforcement notice upheld and therefore the current application before Members seeks to retain the existing unauthorised use on site using the same access track with the retention of hard-surfaces. The revised submission differs from the previous planning application as this intends to remove all existing shipping containers, following the completion of a new portal framed building, referred to as a 'wood store'. As such, the following assessment is based on this revised proposal.

## **Principle of development: Green Belt**

- 10.5 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.
- 10.6 Paragraph 147 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 148 advises that planning authorities should ensure that “substantial weight” is given to any harm to the Green Belt. It also states that “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”.
- 10.7 The application is seeking permission for the change of use of land from agricultural to storage and the processing of timber, improvement of field access, formation of access track and hardstanding and the erection of a new building to be used as a wood store. The development can be described as a material change of use of the land and engineering operations to form the access and hardstanding, together with operational development through the erection of the proposed wood store.
- 10.8 Paragraph 150 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 this aspect of the proposed 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. Furthermore, this application also seeks permission for the erection of a building. This will be assessed against paragraph 149 of the NPPF, which states that new buildings are inappropriate in the Green Belt, unless they meet one of the stated exceptions.
- 10.9 Paragraph 138 of the NPPF sets out the 5 purposes for including land in the Green Belt which, in particular to this application, means safeguarding the countryside from encroachment. Protecting Green Belt from inappropriate development, preserving its openness and safeguarding land from encroachment are the measures this development is to be assessed. If the development is deemed inappropriate and/or 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

- 10.10 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 loose gravel which has now been compacted to form a 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.

- 10.11 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.
- 10.12 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

- 10.13 The engineering operations have facilitated the use of the land, whereby the applicant is now seeking planning permission in order to erect a new barn style building in connection with the processing of trees (assessed below), and the storage of cordwood which 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 a new wood store and other works and 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 stated requirement for a new building and other processing activities including sawing, splitting and storage of timber produces arising from the industrial activity.
- 10.14 Whilst the applicant has indicated the planting of trees and the proposal for the new building will mask the activities being undertaken, these measures are required as a result of the proposal for a material change of use of land which itself does not preserve the openness of the Green Belt.
- 10.15 As such, it is considered that the material change of use to storage and processing of timber and the ensuing requirement for a new building 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.

#### Erection of a new building

- 10.16 Along with the works identified above, the applicant seeks permission for the erection of a portal framed building to use as a wood store, in order to facilitate the timber processing use. This would be the main modification when comparing the current application against the previously refused scheme. The 'timber barn' would enable the processing, storage and drying of wood and would replace the existing shipping containers. The dimensions of the barn are 20m in width by 20m in depth with an overall height of 5.3m.

- 10.17 Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate development in the Green Belt, apart from a few specified exceptions. In this case, the building would be used for the processing, storage and drying of wood and therefore, would not fall within any of the specified exceptions. Whilst exemption under paragraph 149 (a) is for buildings for agriculture and forestry, as this application relates to the processing of trees it does not amount to a forestry use but rather an industrial process to change one product to another saleable product.
- 10.18 As such, the erection of a new building would be inappropriate development in principle which is, by definition, harmful to the openness of the Green Belt. Whilst recognising the building would be within a natural dip in the land, this would not overcome the significant harm the building would have on the spatial openness of the Green Belt resulting in built development on land that is presently open. There would also be visual harm to openness, again through the built form proposed but this is considered to be low. Furthermore, the building would result in encroachment of development into the countryside and would be contrary to the purpose of including land within the Green Belt as set out in paragraph 138 of the NPPF. The proposal would also be contrary to Policy 1 of the emerging HVNP as it would not “make a positive contribution to the quality of the natural environment”.
- 10.19 In conclusion, the proposed development is considered to be inappropriate development as defined within the NPPF at paragraphs 147 and 148, would result in harm to the openness of the Green Belt and would be contrary to one of the stated purposes for including land within the Green Belt as set out in paragraph 138 of the NPPF.

#### Very Special Circumstances

- 10.20 When considering any planning application paragraph 148 of the NPPF advises that planning authorities should ensure that “substantial weight” is given to any harm to the Green Belt. It also states that “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”. In this case, a planning statement has been submitted by the agent in support of the application. This statement concludes that whilst the development is inappropriate, and opining that such harm is “very limited,” there are very special circumstances to clearly outweigh the harm to the Green Belt, by reason of inappropriateness and other ‘residual’ harm. The full planning statement is available to view on the council’s website. For the reasons set out earlier, officers do not share the conclusion that the harm to the Green Belt by reason of either inappropriateness or other harm is very limited. Furthermore, the building now proposed would further solidify the use and exacerbate the harm already caused through the change of use and engineering operations undertaken. Notwithstanding this, a summary of the ‘very special circumstances’ set out in the planning statement are as follows:
1. The development has a role in supporting the rural economy, as the company currently employs six people and makes an important contribution to the local economy.

2. The development contributes to sustainability and beneficial use of the Green Belt objectives, as the new building would include solar panels so that the site can operate largely off-grid. The storage of wood would also strengthen emerging legislation regarding the burning of wet-wood, alongside the extensive tree and hedge planting in which the applicant has already undertaken.
3. There is a lack of alternative sites (outside the Green Belt in Kirklees). There are no realistic sites that safeguard the future of a business of this nature. The other site options referred to in the planning statement (two) are not available or too expensive and a 'significant distance from the Applicant's main sources of raw material and markets'

10.21 The applicant therefore believes that the above comments collectively constitute to very special circumstances which clearly outweigh the harm by reason of inappropriateness and on the openness of the Green Belt and that the proposal does not conflict with the 5 purposes for including land within it. However, as previously set out, officers do not concur with this conclusion. Comments on the other considerations set out by the agent are assessed as follows.

10.22 With regards to the first point, the LPA accepts that the proposal provides jobs for local people and will follow the guidance set out within the NPPF, Policy LP10 of the KLP and Policy 7 of the emerging HVNP regarding economic growth within rural areas. However, from reviewing the planning statement and application form, it appears that there would be no additional employees taken on as part of this business moving location to the current application site from its previous location. It is considered that the continuation of the development on this site is unlikely to increase the prosperity of the local area that would clearly outweigh the harm to the Green Belt. Furthermore, Policy LP10 of the KLP and Policy 7 of the emerging HVNP make clear that where development is proposed in the Green Belt regard must be had to the relevant policies in the Local Plan and the NPPF respectively. The application of such Green Belt policies leads to the conclusion that the development is unacceptable.

10.23 Consideration has also been given to point two, as it is noted that the applicant is trying to contribute to sustainability and beneficial use of the Green Belt. However, officers remain unconvinced that the installation of solar panels on a building that is itself inappropriate in the Green Belt, the planting of new trees and hedges and that the storage of wood would overcome the concerns raised, as the site was previously a large open field in which contributes to the character of Upperthong and the wider openness of the Green Belt. Wood could be stored elsewhere and does not require a Green Belt location.

10.24 It is appreciated that the applicant has planted various trees and hedgerows, around the site and along the front boundary adjacent to Dean Road, and this would comply with Policy 13 of the emerging HVNP. 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 and the proposal for a new building which would also constitute inappropriate development. The application in principle is contrary to the aims of Green Belt policy by means of encroachment into the countryside. The new building proposed would be situated on land in which was previously

absent of any built form. The installation of solar panels to the roof of the building, whilst providing some general environmental benefits, provides little weight in favour of the wider scheme. The development causes clear harm to the spatial openness of the Green Belt.

- 10.25 Lastly, the agent has outlined that there are lack of alternative sites in which safeguard the future of this type of use. More specifically the planning statement outlines that 'the applicant is clear that, in order to continue operations, a site must be found within the Holme Valley'. This is stated as being particularly important because the applicant's tree management services and delivery of firewood locally requires proximity to customers. Furthermore, the statement identifies that the applicant has considered two industrial units at Towndoor Ltd (Meltham and Bank Bottom Mill (Marsden), however, both have been discounted due to the distance from the applicant's main sources of raw materials and the size and prices of these units being unviable for the business.
- 10.26 The justification provided in this instance is not considered to provide very special circumstances to clearly outweigh the harm caused by the development. The use was previously sited elsewhere and a very limited search of other sites has been undertaken. From representations received in support of the application it is clear that there are customers within the wider Kirklees area beyond the Holme Valley. Therefore, it is considered there are no extenuating circumstances to conclude that the development has to be located within this rural location within the Green Belt, that the applicant needs to be within this location, nor that a thorough review all of the alternative sites outside of the Green Belt has been undertaken before submitting this modified proposal.
- 10.27 More specifically, no further justification has been provided to state why the applicant cannot continue to operate from its previous location, in which it has done for the past 14 years. It might be concluded that the desired need for the business to be located on this land, results from the fact that the applicant owns it.
- 10.28 Having taken into account the above 'other considerations' of support in the planning statement, these do not individually or collectively constitute very special circumstances which clearly outweigh the identified harm the Green Belt by reason of inappropriate development and other harm. The proposal therefore fails to accord with the requirements of Chapter 13 of the NPPF and Policy 7 of the emerging HVNP.
- 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-18th and 19th 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 195 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 As part of the previous application, KC Conservation and Design were informally consulted, raising no objection to the scheme, as a modern half round corrugated clad agricultural building stands to the north end of Hillock Farm, which will obscure the historic farm buildings from the view when facing south. More specifically, given the dip within the site, it has been noted that when viewed from the west along Dean Road, the proposed building and the existing farm, is unlikely to be read within the context of one another.
- 10.35 Having taken into account the above and the site's 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 and operational development 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, Policy 2 of the emerging HVNP 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. Previously, KC Environmental Health were formally consulted, given the close proximity of the site to a number of noise sensitive residential properties. This was to accord with Policy LP52 of the KLP.

#### *Noise Impact*

- 10.38 As part of this application the previous noise report has been re-submitted. As such, it is likely that KC Environmental Health's comments still stand, as this document outlines 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 either be stacked within the area of hardstanding or the proposed wood store, in order 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 – 5pm as set out within page 24 of the Planning Statement.

- 10.39 With regards to context, it is noted that wood processing operations are very infrequent (circa 5–6 days per year) and that the principal noise source (tractor engine) is in keeping with the existing rural acoustic environment.

- 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, with the timber boarded barn also helping to further eliminate any undue impact. This is to accord with Policies LP24 and LP52 of the KLP and the aims of Policy 2 of the emerging HVNP.

#### *Adjacent properties*

- 10.41 There will also be no material impact on the amenities of neighbouring properties through the erection of a wood store. 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. It has also 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 and Policy 2 of the emerging HVNP, subject to conditions being attached in the case of approval, with regards to the hours of use and the times and dates in which the chainsaws can be used on site.

## Highway Safety

- 10.43 A new access and access track has already been constructed from Dean Road, to the South. As such KC Highways DM were formally consulted as part of the previous application. In this case, given that the access and highways arrangement remain unchanged, officers consider the previous comments to stand. As such, these have been reiterated below.
- 10.44 Dean Road is a 60 mph, two-way single carriageway, that has a width of approximately 6m. Operations on the site would typically require 3-4 vehicles to arrive in the early morning, and 1-2 vans would leave the site for external site visits. At the end of the working day, the two vans would return to site and company employees would leave in the cars.
- 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 has been 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.
- 10.47 With regards to sight lines, it has been noted that the access will remain unchanged as part of this modified proposal and therefore, given the 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.
- 10.48 There would also be suitable parking for staff and operational vehicles and adequate space for turning, so that 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 and the Council's Highway Design Guide, 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 applications, 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. However, the planning statement outlines that the new building would benefit from solar panels to enable it to operate largely off grid in order to reduce carbon emissions. This element would accord with Policy 12 of the emerging HVNP. Therefore, the processing and re-use of timber for other purposes is beneficial for climate change, however, this use and proposed wood store could take place on an alternative site that would not require green field land. As such, the development overall is considered to have an unacceptable impact on climate change.

#### *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, whereby the applicant has also undergone extensive planting of approximately 2000 trees and associated hedging, both immediately to the west of the access track and to the north of the site. Such works are considered to meet the aims of Policy 13 of the emerging HVNP. However, whilst this tree planting has biodiversity benefits, by linking together wildlife corridors, it does not overcome the harm by reason of inappropriate development in the Green Belt.

#### **Representations**

- 10.53 As a result of the above, 158 representations have been received. These include 141 comments in support, 15 objections and 2 general comments.

A summary of the points raised, along with officer correspondence can be seen below.

#### Objections:

##### *Principle of development:*

- The site does not fall within the criteria of a permitted development within the Green Belt.
- Whilst enterprise is encouraged this should perhaps be on a brownfield site, nearer Holmfirth/Meltham.
- The planning statement accepts that this development is inappropriate within the Green Belt.
- The special circumstances put forward are either wrong or irrelevant.
- If approved, the development would set a precedent and would erode the countryside.
- I fail to understand why this location is so crucial and find it hard to believe that there are no better replacements.
- The current and previous planning statements contradict themselves.
- I think that the planning statement is understating the scale of development that is actually required for this type of business.
- The application is wholly unacceptable.
- The new proposal is still contrary to Green Belt Policy.

- The Very Special Circumstances do not overcome the harm to the Green Belt.
- The new building would have a greater impact upon the Green Belt.  
*Comment: These concerns have been noted as assessed within the report above.*

*Highway safety:*

- The heavy plant used to transport the timber is unsuitable for the area.
- If the application is approved, we would like to see a condition being attached to the decision notice to ensure that this transport is barred from passing through the village.
- I suggest Highways Officers visit the site, as a commercial business here is completely inappropriate.
- Dean Road is inadequate for large vehicles and is frequently used by walkers.

*Comment: A site visit was undertaken by KC Highways DM as part of the previous planning application.. However, given that the principle of development remains the same, there is no need for a further visit. The concerns raised above have also been assessed in the Highways Safety section of the report above.*

*Noise and disturbance to wildlife and the natural environment*

- The works introduce noise to a tranquil environment
- The development is a clear threat to the area and natural environment
- The works will impact on wildlife.

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

*General concerns in objection:*

- Concerns over the publicity for the application and the site address.  
*Comment: Officers consider the publicity period and the site address to be correct.*
- The letters in support is largely from people who do not live in the area and therefore are commenting on the efficiency of the workmen, rather than the location of the development.  
*Comment: This has been noted.*
- Concerns with the information raised within the planning statement.
- There are discrepancies within the planning statement and application form.  
*Comment: This has been noted, however, officers consider the information contained within the application submission to be sufficient to assess the development proposed.*
- No welfare facilities for its staff with are a legal requirement.  
*Comment: This concern is outside of the remit of the planning application.*
- Concerns regarding the future use of the site if planning was to be granted.  
*Comment: The application is considered on its own merits, with any future development requiring planning permission.*

## Support:

### *Residential amenity:*

- The process causes no bother to me as a close neighbour.
- It does not hinder anyone as it is away from the road.
- There is no noise disturbance, apart from the occasional chainshaw.
- The council have found no adverse impact from noise.
- The development does not impact upon the living conditions/amenity of the neighbouring properties.
- The site is remote of neighbouring properties.

*Comment: The above comments have been noted and the impact of the scheme on the amenities of residential occupiers of nearby dwellings assessed above.*

### *Visual amenity:*

- The planting of many trees is a good example of how to take care of the land, which also helps mask some of the impact.
- Effort has also been made to re-build the stone boundary wall.
- The site is discreet and the access is no different to those used by farms in Holmfirth.
- The development cannot be seen from public vantage points.
- The building now proposed would add to the acoustic insulation and has an agricultural appearance.
- There is little sign of activity from various different view points.
- The barn would not be visible within the landscape.
- There are plenty of ugly modern agricultural buildings in the area, however, the materials proposed here are thoughtful and sympathetic.

*Comment: The above comments have been noted. Although the site, discounting the access, is not readily visible in the landscape, this does not overcome the spatial harm to openness of the Green Belt or the encroachment of development into the countryside, both of which are fundamental considerations in the assessment of development in the Green Belt.*

### *Principle of development:*

- Many other tree surgeons have to process fire wood in the Green Belt so it would be unfair to reject this application.
- There are a lack of alternative sites outside of the Green Belt.
- The additional land would be retained for agricultural purposes.
- The development is an appropriate use for the land.
- The proposal should be regarded as an forestry operation.

*Comment: The above comments have been noted. The proposed use and development is not appropriate development in the Green Belt and is not a forestry operation. Each planning application is judged on its own merits.*

### *Highway safety:*

- There would be a limited impact on highway safety.

*Comment: The above comments have been noted.*

*General comments in support:*

- There are many benefits of having a local supply of firewood.
- The development enables a local company to work in the area.
- The scheme contributes to wider objectives including recycling.
- There are plenty of biodiversity gains.
- The local planning authority is aware of a number of other companies in fact Kirklees Forestry themselves have set up similar yards with no planning consent.
- The development creates jobs for 5 members of staff.
- The building would be fitted with solar panels and the business is committed to switching to electric power tools.
- The business is eco-friendly, by recycling sustainable materials.
- The business employs local people, provides an important service, is unobtrusive and environmentally sound and deserves support.
- It recycles local materials.
- The owner is fully trustworthy.
- The development would make a positive contribution to the local community, in terms of jobs, services and carbon reduction.
- The government's guidance encourages job creation.
- This is a successful business which requires a permanent base.
- Following difficult times of COVID, the council should support small businesses.
- The business has a positive contribution to the council's Climate Emergency Action Plan, which states to plant more trees.

*Comment: Whilst the employment generation of the use and other comments in support of the proposal are noted, these do not overcome the fundamental harm it would have to the designated Green Belt.*

*General comments*

- The application has been previously refused, so now to approve it would make a mockery of the system. The council should provide the entrepreneur with a brownfield site at an affordable rate.
- I would support this application if it was only ever used for a wood yard and no other purpose. The petrol chainsaw use is not allowed on the site and that he is conditioned to make this a genuine green adventure.

*Comment: The above comments have been noted.*

## **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.

**Background Papers:**

Application and history files:

Web link to application:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/91367>.

Link to previous refusal:

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

Certificate A has been signed.