
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

Subject: Planning Application 2021/91170 Erection of detached garage with first floor storage 20, Steanard Lane, Mirfield, WF14 8HB

APPLICANT

N Aldersley

DATE VALID

13-Apr-2021

TARGET DATE

08-Jun-2021

EXTENSION EXPIRY DATE

09-Jul-2021

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: Mirfield

Ward Councillors consulted: No

Public or private: PUBLIC

RECOMMENDATION: REFUSE for the following reasons:

1. The proposed development would be inappropriate in the Green Belt by definition, with no very special circumstances to which clearly outweigh the harm caused by inappropriateness and other harm. There would be additional harm to the spatial and visual aspects of the openness of the Green Belt. To approve the application would be contrary to chapter 13 of the National Planning Policy Framework.

2. The proposed development, by virtue of its scale and design, would cause harm to the heritage asset – the grade II listed building - with no public benefits to justify this harm. The proposal therefore contravenes policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.

3. The proposed development fails to meet the exceptions for development on developed functional flood plain in flood zone 3ai as set out in policy LP27 of the Kirklees Local Plan. The site edged red and adjacent areas are wholly within flood zone 3b and 3ai and a sequential approach cannot be achieved.

1.0 INTRODUCTION:

1.1 This planning application has been called in to Planning Committee by Councillor Lees-Hamilton. The reason for the call-in request by Cllr Lees-Hamilton is that “this is agricultural land, flood risks have been considered by the applicant, the current stables are unsafe in their current condition, the proposed development would be a huge improvement over what is already there and would serve a useful purpose, the proposed development is not much larger than the footprint of the stable blocks”.

1.2 The Chair of the Sub-Committee has accepted that Cllr Lees-Hamilton’s reason for her committee request is in line with the Council’s Protocol for Planning Committee.

1.3 This application was deferred from the Heavy Woollen Committee meeting on 2nd September 2021, at the applicant’s request.

2.0 SITE AND SURROUNDINGS:

2.1 The site is that of an historic farmstead dating from the 18th century comprising a farmhouse, cottage and barn. The buildings within the group are well-preserved examples of vernacular building in both local stone and brick with stone slate roofs. The historic farmstead buildings form a T-shape. There is an existing stable block on site. The site is in a flood zone and it is washed over by the allocated Green Belt.

3.0 PROPOSAL:

- 3.1 This is a householder application for planning permission for the erection a 26m by 12m outbuilding, approximately 7m in total height with first floor dormers and catslide roof elements. The stated proposed use of the building is as garaging. The existing stable block would be demolished.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2021/90598 Listed Building Consent for installation of replacement windows
Pending Consideration

87/04022 Erection of stable block *Approved 07/APR/1989*

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

- 5.1 This planning application has been assessed based on the plans as originally submitted. The case officer has contacted the applicant well in advance of the determination date advising of concerns with the scheme. The issues relate to the principle of development and go to the heart of the application. It has not been possible to negotiate a solution to the matters raised and no further amendments have been sought thereafter.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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).

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

Kirklees Local Plan (2019):

- **LP 01** – Achieving sustainable development
- **LP 02** – Place shaping
- **LP 21** – Highways and Access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 27** – Flood Risk
- **LP 35** – Historic Environment
- **LP 52** – Protection and improvement of environmental quality
- **LP 57** – Extensions to buildings in the Green Belt

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Council has recently adopted its supplementary planning guidance on house extensions. Although the period for a potential judicial review has not yet expired, it is now being considered in the assessment of householder planning applications, with some weight attached. This guidance indicates how the Council will usually interpret its policies regarding such built development,

although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPG will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

National Planning Guidance:

- 6.4 National planning policy and guidance is set out in National Policy Statements, primarily the NPPF published 20th 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 8 – Promoting healthy and safe communities
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 This application was publicised by neighbour letters and a site notice which expired on 28-May-2021. Following this publicity, no representations were received from neighbours or members of the public.

Ward Member Cllr Lees-Hamilton – comments that this is agricultural land, flood risks have been considered by the applicant, the current stables are unsafe in their current condition, the proposed development would be a huge improvement over what is already there and would serve a useful purpose, the proposed development is not much larger than the footprint of the stable blocks.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Lead Local Flood Authority – objection on the basis of flood risk.

KC Highways Development Management – no objection.

8.2 Non-statutory:

KC Conservation and Design – objection on the basis of harm to heritage asset.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Flooding issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the KLP, which stipulates that proposals, which accord with policies in the KLP will be approved without delay unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report
- 10.2 The application site allocated as Green Belt on the KLP proposals map. The NPPF makes clear at paragraph 149 that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions. One of these is the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building. There is no provision within national or local guidance for outbuildings, per se, as these are assessed in principle under subsection c as an extension to the dwelling in the curtilage. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy LP57 of the KLP states that proposals for the extension of buildings will normally be acceptable provided that the original building remains the dominant element in terms of size and overall appearance.
- 10.3 It is considered that a two-storey building with design elements such as dormers typical of a new dwellinghouse cannot reasonable be said to be a proportionate addition as an ancillary outbuilding to a residential dwellinghouse for the purposes of this policy. Expansive upstairs floorspace areas, at some 172.5m², are not considered conducive to an ancillary use to a dwellinghouse and it is clear that this building goes far beyond what could be considered proportionate for the purposes of subsection c of paragraph 149 of the NPPF.
- 10.4 As the proposal is considered inappropriate in the Green Belt, this incurs automatic and definitional harm to the Green Belt. The Government places great weight on Green Belts and harm to the Green Belt must be afforded very substantial weight in the planning balance as per national policy.

- 10.5 Case law (Turner v Secretary of State for Communities and Local Government [2016] EWCA) establishes that the concept of openness is open textured and that several factors are capable of being relevant when applying it to the particular facts of a specific case. National Planning Practice Guidance (NPPG) broadly identifies openness as being divisible into spatial and visual aspects.
- 10.6 The building itself would not be diminutively massed and would not be sited in any grouping of house or ribbon of development. The approx. 7m height of the building together with the substantial approx. 392m² floorspace set over two floors would harm the visual aspect of openness in addition to that of the spatial aspect. The effect of implementation of this application, if approved, would be the construction of a building, which would appear as a new dwellinghouse in the Green Belt, rather than an ancillary structure or outbuilding. This incurs harm to the Green Belt in addition to the automatic harm to the Green Belt afforded by the definitional inappropriateness as explained above.
- 10.7 Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There are no very special circumstances apparent that would justify such clear and unambiguous inappropriateness in the Green Belt and the automatic harm to the Green Belt it would cause.

Urban Design issues

- 10.8 Policy LP24 of the KLP, consistent with chapter 12 of the NPPF, states, inter alia, that the form, scale, layout and details of all development respects and enhances the character of the townscape.
- 10.9 The historic farmstead buildings form a T-shape. Historic map evidence shows that the farmstead retained its compact layout until the late 20th century when further farm buildings were added to the east of the historic group on what was historically open farmland. Remaining elements of the surrounding rural landscape in agricultural use and woodland make an important contribution to the setting of the listed building. Views to and from the listed building to and across the rural landscape also make an important contribution to its setting. The stables, subject of this application, were granted planning permission in 1989. They are single storey, constructed of timber and have a flat roof. They are considered not to form part of the listed building. They do, however, fall within its setting. The present buildings make a neutral contribution to that setting. They are typical modern farm buildings; their low height allows has a limited impact on views to and from the listed building. However, their layout and screening vegetation around the existing parking area limits views from the north side of the listed building out towards the remaining elements of the rural landscape beyond. Paragraph 194 of the NPPF requires that applicants should be required to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

- 10.10 The application falls short on these tests in that the significance of the affected heritage assets has not been described, the contribution made by their setting has not been considered and the West Yorkshire Historic Environment Record has not been consulted. The High Court found in *James Hall v City of Bradford* that failure to comply with the requirements of Paragraph 194 of the NPPF was grounds for quashing a grant of planning permission.
- 10.11 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 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. The existing stables do not form part of the listed building and there is no concern about their loss. However, the Local Planning Authority should seek to preserve the remaining rural landscape elements of the setting of the listed building and views from and to the listed building across those elements. Policy LP35 of the KLP requires that development proposals affecting a designated heritage asset (or an archaeological site of national importance) should preserve or enhance the significance of the asset. Paragraph 195 of the NPPF requires that local planning authorities avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 10.12 NPPF paragraph 206 requires that local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 10.13 Guidance on the sustainable development and the conservation of traditional farmsteads can be found in *Farmstead Assessment Framework: Informing sustainable development and the conservation of traditional farmsteads* (Historic England, 2015). This provides the following advice with regards to siting new buildings:
- Site new buildings on the footprint of lost buildings or site them so that they respond and are sensitive to the historic plan form of the site and its wider setting in the landscape.
 - Use the historic character of the site to inform the scale, massing and form of new buildings. Ideally the new elements should not compete or be overbearing to the traditional farm buildings.
- 10.14 The proposed development would not preserve the significance of the listed building, the scale and height of the proposed new building would have a greater impact on views from and to the listed building, particularly from the north side of the listed building. The scale of the new building would compete with the existing listed farm buildings. At 36 metres square in area and 6.5 metres high to the ridge, they would be comparable to the footprint and height of the existing historic buildings.
- 10.15 Paragraph 199 of the NPPF requires that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. 20 Steanard Lane is listed grade II and therefore of national architectural and historic interest. The proposed development would cause less than substantial harm to its significance.

- 10.16 Paragraphs 201 and 202 of the NPPF require clear and convincing justification for any harm to designated heritage assets and allow for harm to be weighed against the public benefits of the proposal. No justification has been provided for a building of this scale and no public benefits have been demonstrated.
- 10.17 Notwithstanding heritage considerations as set out above, the form of the proposal is considered more than what is typical of a domestic outbuilding such that it would not appear in keeping in respect of massing, density and scale in terms of this historic farmstead.
- 10.18 The development, therefore, would be unacceptable in terms of visual amenity and heritage, failing to comply with policies LP24 and LP35 of the KLP as well as chapter 12 of the NPPF.

Residential Amenity

- 10.19 Policy LP24 of the KLP requires of developments, inter alia, a good standard of amenity for future occupants and neighbouring occupiers, as well as a minimising of the impact on residential amenity of future and neighbouring occupiers.
- 10.20 The space about the dwellinghouse and isolated location of the site negates privacy or loss of light impacts on neighbouring properties. The potential future use of the first-floor windows at the proposed outbuilding is ambiguous however they would not directly overlook habitable rooms or amenity spaces.
- 10.21 All told, therefore, notwithstanding design considerations above, the proposed development would comply with policy LP24c of the KLP in terms of residential amenity.

Highway issues

- 10.22 The proposal is for the replacement of the existing outbuilding for the erection of a detached garage with first floor storage. The new garage can secure 8 cars due to it being designed as 4 attached double garages. This offers better protection and security for vehicles in the site. There is area for storage to the rear of each end garage and on the first floor. The garage will use the existing access for the old outbuilding. Highways Development Management welcomes the increase in parking provision and has no objection to the proposals so, therefore, deems the application acceptable with no specific conditions. The development concerned is, therefore, acceptable in terms of highway safety and parking and consistent with policies LP21 and LP22 of the KLP.

Flooding issues

- 10.23 Kirklees Flood Management & Drainage objects to this application and advises the Local Planning Authority that the proposed building is part in Flood Zone 3b and part in zone 3ai. Flood zone 3b is functional floodplain. This area is defined as where water must go. Only water compatible uses and essential infrastructure can be considered. The application fails in this respect. A policy aim is also to relocate existing development to land with a lower probability of flooding. In this respect KLP has introduced an additional flood zone category 3ai. This represents areas that would be deemed functional floodplain but have already been built upon.

- 10.24 Flood zone 3ai – Developed Functional Floodplain:
Proposals within flood zone 3ai will be assessed in accordance with national policies relating to flood zone 3a but with all the following additional restrictions:
- a. no new highly vulnerable or more vulnerable uses will be permitted;
 - b. less vulnerable uses may only be permitted provided that the sequential test has been passed and;
 - i. where extensions are linked operationally to an existing business or,
 - ii. where redevelopment of a site provides buildings with the same or a smaller footprint;
 - iii. all proposals will be expected to include flood mitigation measures such as compensatory storage which should be identified and considered through a site-specific Flood Risk Assessment;
 - iv. development will not be permitted on any part of the site identified through a site-specific Flood Risk Assessment as performing a functional floodplain role.
- 10.25 In the opinion of the LLFA, moving the footprint out of 3b and wholly in 3ai will still raise an objection as the footprint is larger in comparison to existing buildings. The red line boundary and adjacent areas are wholly within Flood Zone 3b and 3ai and a sequential approach cannot be achieved. A sequential test is not appropriate here given the policies stated above.
- 10.26 Therefore, the proposal would be contrary to policy LP27 of the KLP. This incurs a third reason for refusal.

Representations

- 10.27 No comments from neighbours or members of the public have been received.

In terms of the comments of the ward member, officers would like to take the opportunity to comment as follows: the proposed structure fails to meet the policy tests of paragraph 149 of the Framework of both residential (i.e. an extension under subsection (c)) or agricultural (i.e. it is not a building for agriculture or forestry per subsection a). The proposal has been assessed against all other Green Belt policy exceptions and still does not comply. Whilst flood risks may have been considered by the applicant this does not negate the clear, unambiguous contravention of flood risk policy. The proposed building would be significantly larger in both footprint, height and massing than the existing stables.

Other Matters

- 10.28 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.

10.29 This is a domestic outbuilding application. As a householder application, given the above, further conditions are considered unnecessary for this type of application in light of the six tests of planning conditions as set out in NPPG.

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 The proposal would result in inappropriate development in the Green Belt, with no "very special circumstances" to justify such automatic harm. There is additional harm to the spatial and visual aspects of openness identified in allowing the development. This attracts very substantial weight as a material consideration in disfavour of the proposal in the planning balance.

11.3 The proposed development would cause harm to a heritage asset, the Grade II listed cottage, contrary to s.16 of the NPPF and policies LP24 and LP35 of the KLP. The proposal would also be contrary to policy LP27 of the KLP on flood risk as the proposal fails to meet the exceptions for the policy of restraint on development on developed functional floodplain.

11.4 There are no further material considerations in the planning balance to outweigh these material considerations such that they would warrant a grant of planning permission in this instance.

11.5 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would not constitute sustainable development and is, therefore, recommended for refusal.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91170>

Certificate of Ownership – Certificate A signed and dated 13th April 2021.