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

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 15-Sep-2022**

**Subject: Planning Application 2022/91176 Erection of workshop/storage building The Old Stone Yard, Near Bank, Shelley, Huddersfield, HD8 8LS**

**APPLICANT**

Luke Hilton, Beneficial

**DATE VALID**

04-Apr-2022

**TARGET DATE**

30-May-2022

**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.

[Public speaking at committee link](#)

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Kirkburton Ward**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION: REFUSE**

1. The previous and existing use as an external stone yard (now a tree / log storage yard) had/has an open-air character and the proposed workshop / storage building already in situ with associated parking and turning would have a significantly greater impact on the character and openness of the Green Belt. As such the proposed development would be inappropriate development in the Green Belt. The very special circumstances put forward do not out-weigh the harm to the Green Belt. This is contrary to Chapter 13 of the National Planning Policy Framework and policy LP59 of the Kirklees Local Plan.

2. The proposed workshop / storage building already in situ, by virtue of its scale and massing would fail to respect or enhance the predominantly open character of the landscape. This would not promote good design and is contrary to policy LP24 of the Kirklees Local Plan and the aims of chapter 12 of the National Planning Policy Framework.

3. The constructed purpose built industrial/business unit, together with associated parking, turning area and close boarded fencing, separating it from the remainder of the site, results in a spatial enclosure and fragmentation of the approved log storage yard into separate business units. It changes the permitted use of the land and significantly impacts upon openness of the Green Belt. This would be inappropriate development in the Green Belt.

The very special circumstances put forward would not out-weigh the harm of the proposed building, (which is also part of an unauthorised business park emerging more widely), on the Green Belt and visual amenity of the area. This is contrary to Chapter 13 of the National Planning Policy Framework and policy LP59 of the Kirklees Local Plan.

**1.0 INTRODUCTION:**

1.1 This application is brought to committee at the request of Ward Councillor, John Taylor for the reasons below.

Initial request (16.6.2022): -

*'I would like to exercise the planning committee request option as I feel that the economic and sustainability benefits that the model of supporting start ups in a sustainable way that they are doing on this site is something which we know we need to move to as we adapt to tackle the climate issues we face.'*

*I think this does outweigh any possible harm to the wider openness of this area. We have talked about some mitigations that they aim to put in place that will lessen the impact of this building and given the associated developments that border it and the fact that it is unseen from the wider locality I feel a balanced judgement which reflects the impact on the openness of the area with the economic benefits and climate advantages it brings could mean that the committee determines this does meet the threshold for exceptional circumstances.*

*I would also like to ask that the Committee do definitely visit the site to see where it is situated and the surrounding buildings and wider environment in which it is set.*

Subsequent request (23.8.2022): -

*'I would like to use our new social value policy as the underpinning of the exceptional circumstances. What we are looking at with this site is an exciting model of sustainability that fits entirely with the Council's ambitions for tackling the climate challenge and living in a more sustainable way.*

*This site & its development is being operated in an entirely sustainable way and as an example of a circular economy in practice. It is the other sustainable start ups which they are supporting which enable this to work effectively. By reusing the wood waste to heat the kilns and generating their own electricity needs they are able to supply beneficial logs and the other 3 businesses with all their energy needs.*

*In addition to this model of sustainability which they are creating, they are also playing a powerful role in supporting small start ups get established and we know that the SME market is the engine of jobs growth & there is no space available to rent for small start ups in the rural areas that will give them a chance and be able to do so at a relatively low cost, given the sustainable energy supplies as well.*

*I have been to visit the business with our Service Director for Environment & Climate, Katherine Armitage and we are looking at how we could perhaps promote this business as an example of the future and how businesses can adapt to operate in a more sustainable way.*

*This operation, which has been the vision of and developed by Luke & Martin through their own hard work and funds with no grants or support from anyone is a model we should be seen to support and the broader societal and economic value this delivers by far outweighs any perceived loss of amenity from this site which was already developed and operated as a stone yard.*

*They did have permission for a building and as you know they were badly advised by their architect to change the log store into a unit, which complements the other units locally. I also feel it is essential that the site is visited as the location, the adjoining developments and the treatment and screening that is already in place I think also have a factor to play in allowing this planning application to proceed.*

1.2 The Chair of the Sub-Committee confirmed that the reasons for referring the application to committee were valid having regard to the Council's Scheme of Delegation.

## **2.0 SITE AND SURROUNDINGS:**

2.1 The application site is a roughly rectangular, relatively flat piece of land, which is approximately half of wider area (including blue line area to east) granted planning permission for change of use from stone yard to tree/log storage yard (ref: 2018/90242).

2.2 The site is in the Green Belt and has quite recently been cleared, and around the perimeter is a combination of palisade and close boarded timber fencing with a line of tall conifers to the northern boundary; earth bund with some vegetation to the southern boundary; row of newly planted evergreens to the western boundary; internal fencing and gates to eastern boundary with adjacent land in the blue line.

2.3 The northern part of the application site now contains a recently erected new purpose built industrial / workshop unit, with parking and turning at the back and vehicular access to one side. It is currently occupied by a local tenant that produces handmade products such as organic soaps and candles. The walls of the unit are predominantly faced in natural stone to the front with dark coloured metal cladding to the side and rear elevations. The associated parking and turning areas appear to have a surface akin to a loose tarmac. This part of the application site was subject to planning refusal 2021/90237, a retrospective application for the existing building.

2.4 A close boarded fence separates the northern part of the site from the southern part of the site.

2.5 The southern part of the application site is cleared ground with some piles of earth and rubble. Here planning permission was recently sought (reference: 2020/93973) to erect a larger industrial / workshop building (25m x 15m footprint) with associated parking and turning, internally divided into 2no units. The application was refused.

2.6 In the wider area, there is a private access driveway to the north serving the application site and arboricultural depot at the end. The arboricultural depot contains 2no detached buildings and several biomass log drying units. A third recently built larger detached building (internally divided into units 3a & 3b) which may be unauthorised. The first building at the arboricultural depot is now known as Unit 1, currently rented to a company who produce festive decorations to the retail and leisure industries. The second building, now known as unit 2, is in use by Beneficial Tree Care Ltd and Beneficial Estates Ltd. The third building, now known as units 3a & 3b are currently rented to a company that make pizzas and a distillers. The Pizza company have recently submitted a planning application 22/92468 for change of use from general industrial/prep kitchen to restaurant with event space which is pending determination.

2.7 Further to the north are open fields forming part of south facing hillside of Near Bank. To the south is tree lined Shepley Dike, with Barncliffe Mills complex and open fields beyond.

2.8 To the west are two former mill ponds, previously drained and with extant permission for importation of inert waste to infill shallow water collection area (ref: 2019/91542). Beyond this are commercial buildings lining Near Bank, but the surrounding area is predominantly open and rural in character.

2.9 More generally, the site is on open land in a valley bottom, which lies within the Green Belt.

### **3.0 PROPOSAL:**

3.1 Planning permission is sought for erection of a workshop/storage building. The building comprises of the following:

- 3.2
- Rectangular footprint 17.5m x 14.00m
  - Dual pitched roof 4.0m eaves height, ridge approximately 5.0m
  - Walls - coursed natural stone to 2.4m high to west (front) elevation reduced to 0.75m high elsewhere with profile metal cladding above. Roof – profiled metal cladding.
  - One large delivery / collection doors to front elevation and door. No other openings.
  - Providing space for 1no workshop / storage unit with small office area and WC. Associated parking space:
  - Access road to southern side of building and parking and turning space at the back.

3.3 It is a retrospective application for the current building at the site. The application form states that it was completed on 15.2.2021. It has been advertised as a new build industrial / workshop, and appears to be also known as Unit 4, Near Bank Park. This address is used by a business that produce natural handmade products such as soaps and scented candles etc. The development has been referred to the Council's enforcement team.

3.4 It follows previous planning refusal for 2021/90237 for the same proposal. The current proposal provides further information in the form of a planning statement, landscape statement and flood risk assessment. This is to try and justify that the erected building has no greater impact on the openness and character of its surroundings than an approved log store (ref: 2018/90242).

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

#### **4.1 At the application site:**

95/90693 – Use of existing hard standing for storage of coursed stone with associated use to adjacent building – Conditional Full Permission

COMP/14/0139 – alleged breach of condition -no evidence of breach

2018/90242 – Change of use from stone yard to tree / log storage yard – Conditional full permission.

2020/93973 – Erection of workshop – pending determination

COMP/22/0331

Adjacent land to the east:

95/91812 – change of use of existing building from storage to stone cutting / sawing operations. Conditional full permission.

2001/93336 – Erection of stone cutting industrial unit and settlement pit – Conditional Full Permission

2004/94515 – erection of stone dressing extension. Conditional full permission.

2011/90466 – Change of use of part of stone yard to arboricultural depot – Conditional Full permission

COMP/12/0123 – alleged unauthorised tarmac standing – permitted development

COMP/14/0139 – alleged breach of condition -no evidence of breach

2015/93091 – Erection of two single storey storage/workshop units – Conditional full permission

2020/90917 – certificate of lawfulness for existing use for tree log / timber storage, 6 biomass boilers log drying units and distribution. - Certificate of lawful use granted.

2022/92468 – Change of use from general industrial / prep kitchen to restaurant and event space – Pending determination.

The development that has taken place on this land has been referred to the Council's enforcement team.

Adjacent land to the west:

2019/91542 – Importation of inert waste and infill of shallow water collection area. Conditional full permission.

2020/91822 – DoC 4 (construction /Vehicle Management Plan) of previous permission 2019/91542. DoC approved.

2020/0294 – alleged breach of condition 2, 3, 4 & 6 of planning approval 19/91542

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

- 5.1 The agent provided comments on what they consider the three key elements in determining the application (that impact on openness, green belt policy and the NPPF and very special circumstances) in an email of 8<sup>th</sup> July 2022. They also provided response to officers' invitation to provide evidence as to why the proposed commercial unit should be at this tree / log storage site and not at a commercial / business park in the district. This was in the same email.

## **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).

### 6.2 Kirklees Local Plan (2019):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway Safety and Access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 27** – Flood risk
- **LP 28** – Drainage
- **LP 30** – Biodiversity and geodiversity
- **LP 51** – Protection and improvement of local air quality
- **LP 52** – Protection and improvement of environmental quality (including pollution from noise, vibration, light, dust, odour, shadow flicker, chemicals and other forms of pollution to soil.
- **LP 57** – The extension, alteration or replacement of existing buildings in the Green Belt
- **LP59** – Brownfield sites in the Green Belt

### 6.3 Supplementary Planning Guidance / Documents:

None relevant

### 6.4 National Planning Guidance:

- **Chapter 12** – Achieving well-designed places
- **Chapter 13** – Protecting Green Belt land
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change.
- **Chapter 15** – Conservation and enhancement of the natural environment

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been advertised by neighbour notification letters, site notice and advertisement in the local paper. The all expired by 10<sup>th</sup> June 2022.

7.2 No public representations received.

7.3 Ward Councillor John Taylor has provided comments in relation to this application. These are included at paragraph 1.1.

7.4 Kirkburton Parish Council: No comment

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K C Highways Development Management – No objections

K C Environmental Health (pollution & noise) – No objections subject to conditions

K C Lead Local Flood Authority – Building is located in flood zone 3 so should have been subject to a sequential test. Should the area applied to the sequential test be reduced for legitimate reasons and the sequential test is successful the LLFA expect a sequential approach to be applied.

Should the planning officer not apply the above tests in line with NPPF and local planning policy, then finished floor level and flood risk should be analysed by the Environment Agency against their modelling.

If this is not considered, then a safe haven (e.g. upper or mezzanine floor) and dry access and egress for emergencies needs to be examined. The planning officer must decide therefore whether there is compliance.

Given the size of the building, attenuation would serve little benefit and could create a flood risk due to the small orifice that would be required to restrict flow. Kirklees Flood Management & Drainage, as consultees for surface water flood risk, has no objection to a connection to an unregulated discharge to watercourse as stated in the application

### **8.2 Non-statutory:**

None

## **9.0 MAIN ISSUES**

- Principle of development and Green Belt issues
- Visual amenity issues
- Residential amenity
- Highway issues
- Drainage issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development and Green Belt issues

- 10.1 The application site is in the Green Belt on the Kirklees Local Plan and the proposal is to erect a workshop/storage building. The proposed building has already been constructed and the application form states that it was completed in February 2021.



- 10.2 The current application follows previous planning refusal for 2021/90237 for the same proposal. The current application was submitted with further information in the form of a planning statement, and a landscape statement. This is to provide evidence and justification that the erected building has no greater impact on the openness and character of its surroundings than the approved log store (ref: 2018/90242).
- 10.3 The NPPF requires local planning authorities to regard the construction of new buildings as inappropriate development in the Green Belt. It sets out, at paragraph 147, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, at paragraph 148, it states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. "Very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 10.4 Paragraph 149 of the NPPF lists exemptions to when buildings are regarded as inappropriate, this includes the following:
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
  - and
  - g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
    - not have a greater impact on the openness of the Green Belt than the existing development; or
    - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

**Background:**

- [2018/90242–Change of use of from stone yard to tree/log storage yard. Approved](#)

- 10.5 This planning approval established the current legal use of the application site as a tree / log storage yard.
- 10.6 It included permission for the following:
- Concrete base - (14.0m x 17.5m).
  - Log store - (5.0m x 17.5m footprint) centrally placed on 1/3<sup>rd</sup> concrete base. Mono-pitched roof (max. height of 4.0m), timber boarding sides and open to front and back.
  - Green powder coated palisade fencing - (1.8m high) around the site boundary.

- 10.7 In the officer report for 2018/90242, the land was regarded as brownfield land due to its previous use as a stone yard. The laying of a concrete base was considered an engineering operation and so allowed (not inappropriate development) under paragraph 146 of the NPPF. The log store and fencing were thought to be minor forms of development with minimal impacts and not considered to be demonstrably harmful to the Green Belt. The storage of logs was by its nature thought by officers to be a temporary and fluctuating activity which would not have a detrimental impact on the openness of the Green Belt. It was also considered to support an existing rural business (i.e. associated existing arboricultural depot business), so in accordance with chapter 6 of the NPPF (supporting a prosperous rural economy).
- 2021/90237 – Erection of workshop / storage building. Refused.
- 10.8 2021/90237 was for the same development as the current application but without a Planning or Landscape Statement.
- 10.9 It regarded the 2018/90242 as extant as it was a retrospective application and the unauthorised constructed building had a footprint of the same dimensions as the approved concrete base, and appeared to be in the same position. Therefore, it could be considered that the approved concrete base had been implemented.
- 10.10 2018/90242 was granted with a standard commencement condition of 3 years from the date on which permission was granted, which was 17th April 2018. The 2021/90237 application form stated that the building was completed on 1<sup>st</sup> June 2020 and therefore the approved log store could be built on the approved concrete base.
- 10.11 However, the structure that had been erected on the concrete base was at least three times larger and resembled a purpose built industrial / commercial unit.
- 10.12 In fact, it had been advertised as a new build industrial / workshop, and appears to be also known as Unit 4, Near Bank Park. This address is used by a business that produce natural handmade products such as soaps and scented candles etc.
- 10.13 In officer's opinion the constructed building was not in the same use as the approved log store associated with the arboricultural depot.
- 10.14 Furthermore, the constructed building was considered significantly larger in terms of footprint and overall height, than the approved log store. Its scale and massing had considerably more impact upon the openness and character of the Green Belt than the log store it replaces. In officers' opinion the new building was materially larger than the log store
- 10.15 As such, in officer's opinion the replacement building was not in the same use and was materially larger than the one it replaces. It was considered that it did not meet the requirements of point d) of paragraph 149 of the NPPF, and so was not exempt from being inappropriate development in the Green Belt

- 10.16 In terms of point g) of paragraph 149 of the NPPF, as detailed above the land is considered a brownfield site in the Green Belt.
- 10.17 An aerial map dated 1965 held on the Kirklees mapping system, indicates that the application site and land to the east was open land, with water collection areas associated with Barncliffe Mills to the west.
- 10.18 Aerial photographs held on the Kirklees mapping system taken 2000, 2002, 2006, 2009, 2012, and 2018 show that the application site (and adjacent land in blue line) have been used for external storage of materials, in the open, sometimes with several skips / metal storage containers present.
- 10.19 In officers' opinion, the previous and existing use as a stone yard (now tree / log storage yard) had/has an open-air character. It was acknowledged that planning approval 2018/90242 would have allowed a concrete base of the same dimensions as the building now built and a relatively modest log store on the concrete base. However, the building which has now been built on that concrete base is considerably larger (at least three times larger) and completely different in character. The log store is open to the front and back with timber boarding side walls, whereas the constructed building resembles a purpose built industrial / commercial unit. It has four walls of predominantly dark coloured metal cladding with some coursed natural stonework and roller shutter door.
- 10.20 As such, in officer's opinion the proposed workshop / store building with associated parking and turning had a significantly greater impact on the openness of the Green Belt than the stone yard or tree / log storage yard with relatively modest log store building granted with planning permission 2018/90242. It is therefore considered that it does not meet the requirements of point g) of paragraph 149 of the NPPF, and so was not exempt from being inappropriate development in the Green Belt.
- 10.21 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. No very special circumstances were supplied for 2021/90237.
- 10.22 It was refused for the following reasons:
1. The previous and existing use as an external stone yard (now a tree / log storage yard) had/has an open-air character and the proposed workshop / storage building already in situ with associated parking and turning would have a significantly greater impact on the character and openness of the Green Belt. As such the proposed development would be inappropriate development in the Green Belt. No very special circumstances have been put forward. This is contrary to Chapter 13 of the National Planning Policy Framework and policy LP59 of the Kirklees Local Plan.
  2. The proposed workshop / storage building already in situ, by virtue of its scale and massing would fail to respect and enhance the predominantly open character of the landscape. This would not promote good design and is contrary to policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

### The current proposal

- 10.23 The current proposal is for the same retrospective development as refused in 2021/90237, but the current application has been submitted with a Planning Statement and Landscaping Statement.
- 10.24 The planning statement (supported by the landscape statement) asserts that the constructed building meets exemption criteria (g) of paragraph 149 of the NPPF ie. it would not have a greater impact on the openness of the Green Belt than the existing development. Therefore, it would be appropriate development in the Green Belt.
- 10.25 In officers' view, whilst the landscaping assessment provides additional information regarding landscaping and the visual impact of the building, openness has both a visual and spatial element. Although the site is not highly visible within the landscape, there being some screening at the site and further planting shown on the landscaping plan, screening or visibility from publicly accessible locations is only one part of an assessment of openness.
- 10.26 The most recent planning approval at the site (and adjacent land in blue) ref: 2018/90242, granted planning permission for the change of use from stone yard to tree/log storage yard in connection with existing arboricultural depot. The approval also allowed a small open sided covered log store on a larger concrete base and green palisade fencing around the perimeter of the whole site. The committee report for 2018/90242 commented that 'the storage of logs is by its nature a temporary and fluctuating activity which would not have a detrimental on the openness of the Green Belt'.
- 10.27 The permitted log store was designed only to provide shelter for the storage of logs at the tree/log storage yard (granted permission 2018/90242) in association with an arboricultural depot to the east of the site. The dimensions of the approved covered log store were 5.0m x 17.5m with maximum height of 4.0m. It had a simple frame, mono-pitched roof, with two open sides and two shorter sides in timber boarding. Its design was appropriate to its use and being open on two main sides it would appear less substantial or permanent and otherwise in keeping with the open-air character of the tree/log storage yard.
- 10.28 By contrast, the constructed building is a purpose built industrial/business unit on 14.0m x 17.5m footprint with dual pitched roof 4.0m eaves level and ridge height approximately 5.2m. All sides are enclosed by a combination of natural stone walls and profile metal cladding apart from delivery door and one other door. It has a solid and permanent construction and appears as a new build industrial/business unit, in use totally unrelated to providing shelter for the storage of logs at the tree/log storage yard, which is the permitted use of the site.
- 10.29 The constructed building is at least three times the volume of the approved log store. We therefore disagree with your view that this represents a marginal increase in the approved log store. We consider that the constructed industrial unit is considerably larger than the approved log store and has a materially greater impact on openness.

- 10.30 Moreover, the constructed industrial unit together with its associated and parking, turning area and close boarded fencing, separating it from the remainder of the site, results in spatial enclosure and fragmentation of the approved log storage yard into separate business units. It changes the permitted use of the land and significantly impacts upon openness.
- 10.31 Given its completely different scale, design and use detailed above, in officers' opinion it has a significantly greater impact on openness than the permitted development.
- 10.32 As detailed above, in officers' opinion the constructed industrial/business unit would have a greater impact on openness of the Green Belt than the permitted log store. As such it is considered that it is not an exception to being inappropriate development in the Green Belt and is therefore inappropriate development in the green belt (paragraph 149 of the NPPF). Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 147 of the NPPF).

**Very special circumstances:**

- 10.33 Notwithstanding that the Planning Statement asserts that the proposal is an exception to being inappropriate development in the Green Belt and therefore very special circumstances are not required, it puts forward several material considerations which it believes could be considered 'very special circumstance'. These are wider economic benefits, visual enhancements, and precedence for existing buildings in the Green Belt. These are discussed below:

Economic benefits

- 10.34 The statement puts forward that the constructed industrial unit could potentially result in employment for 3-6 people, whereas the approved log store would not generate any direct employment.
- 10.35 This is noted, but the NPPF requires LPAs to ensure that substantial weight is given to any harm to the Green Belt, and in this instance the approved log store is associated with an arboricultural depot which is believed to employ 2 people. The Local Plan clarifies that employment land requirement is expected to be met through land allocations and the development of vacant land in Priority Employment Areas. The increased employment potential is relatively small and in officers' opinion this would not amount to very special circumstances that out-weigh the significant harm to the openness of the green belt detailed above.

Visual enhancements

- 10.36 The statement describes that the site has been cleared of stone, containers and general waste, and there has been significant planting.
- 10.37 Site clearance in order to implement the 2018/90242 approval for change of use to tree/log storage yard is appreciated as is some new planting around part of the perimeter. In officers' opinion this would not amount to very special circumstances that out-weigh the significant harm to the openness of the green belt detailed above.

## Precedence for existing buildings

- 10.38 The statement and summarising email of 8<sup>th</sup> July 2022 state that *‘Three existing units within the applicant’s site to the east were approved planning permission by Kirklees Council previously. These existing units – which are larger than the building subject to this current application - were considered to be acceptable by the Council and are considered to be in a more open and more visible location within the Green Belt. Along with the various buildings that exist at the adjacent industrial/commercial area, this represents a very strong precedent for similar development in this location and it would be inconsistent for the Council to take the view that the building subject to this application has a significantly material impact on openness.’*
- 10.39 In response, the three buildings referred to, are on separate land to the east of the current application site (including its blue line boundary). The planning history shows the following:
- 1995 - the land was part of a plant nursery (believed to be for the storage of garden equipment, planting boxes, plant pots etc), and planning permission granted for it to be used for the storage of coursed stone with associated use of adjacent building (currently unit 1). Separate planning permission was also granted to change the use of the associated building (currently unit 1) from storage to stone cutting.
  - 2001 - planning permission granted for another stone cutting building ( in location of current Unit 3). It was considered inappropriate development in the Green Belt, but very special circumstances were demonstrated.
  - 2011 - planning permission granted to change part of stone yard to arboricultural depot. It was considered appropriate use in the Green Belt.
  - 2015 - planning permission granted for 2no single storey buildings for the arboricultural depot business. One (currently unit 2) and the other where currently Unit 3 stands.
- At the time of the site visit the site contained an agricultural type shed (currently unit 1), 3 biomass log dryers, piles of logs, a metal storage container and JCB tractor. The approved plans indicate that the latter building was to house the biomass log dryers and logs were to be stored in both. Each building is shown as being a standard agricultural shed design with coursed natural stone walls to approximately 2.0m high with vertical timber boarding above and dual pitched roofs surfaced in profile metal cladding, considered appropriate for a rural location. In the yard between there were to be spaces for 14 vehicles and turning.
- 2020 – a certificate of lawfulness was issued for existing use of site for tree log/timber storage, 6 biomass boiler drying units and distribution. It was considered that on the balance of probability the existing biomass log drying element of the business is ancillary to the arboricultural depot granted planning permission 2011/90466 and the existing use as tree log storage, 6 biomass boiler log drying units and distribution began within the last 10 years.
- 10.40 This illustrates that the approved buildings were for either the former stone cutting business or the current arboricultural depot.
- 10.41 The lawful use of the site is an arboricultural depot. Units 1 and 3 (and possibly part of unit 2) are currently in use by businesses unrelated to the arboricultural depot and as such are unauthorised uses of the site.

- 10.42 It is noted that the current unit 3 has not been constructed in accordance with any approved plans and subdivided into two units 3a & 3b. Its use is also entirely unrelated to permitted arboricultural depot with ancillary biomass log drying element, as are current unit 1 and the building subject to this application (labelled unit 4), all mentioned in the planning statement.
- 10.43 The area is not allocated for employment or a priority employment area on the Kirklees Local Plan. It is in the Green Belt where LPAs should regard the construction of new buildings as inappropriate development. Officers' disagree that other buildings and development in the vicinity (authorised or not) represent a strong precedence for similar development here, as each application is assessed in terms of the relevant planning policies, on its individual merits and this is a consistent approach taken by the LPA.
- 10.44 In this instance as detailed before, the permitted use of the land at the application site is as a tree/log storage with small, covered log store on larger concrete base and palisade fencing around the perimeter, maintaining an open air character. The constructed industrial/business unit (which is at least 3 times the volume of the permitted log-store, and in entirely unrelated use) together with its associated parking, turning area and close boarded fencing, separating it from the remainder of the site, results in spatial enclosure and fragmentation of the approved log storage yard into separate business units. It changes the permitted use of the land and significantly impacts upon openness.
- 10.45 Given its completely different scale, design and use, in officers' opinion it has a significantly greater impact on openness than the permitted development.
- 10.46 Furthermore, planning refusal 2020/93973 for another, larger new build industrial / commercial unit on the southern part of the application site (referred to as unit 5 on the plans and in the current planning statement) indicates an intention to intensify development of the application site. The decision of the current application would be a material consideration should there be another planning application for a new industrial / commercial building on the southern part of the application site.
- 10.47 During assessment of the application planning officers asked the agent why the constructed industrial / business unit should be at this tree/log storage site and not a commercial /business park in the district.
- 10.48 In an email of 8<sup>th</sup> July 2022 the applicant / agent three reasons are given. These are summarised and responded to below:
- The site is within the applicants' ownership and they have spent considerable time and money enhancing their site for their own business and for smaller local businesses.  
**In response** – in planning terms this would not be a very special circumstance to outweigh the harmful impact of the industrial/business unit on the Green Belt.
  - Since the beginning of the Covid-19 pandemic their business model has changed, they intended to occupy the building but given the significant time taken in the determination process of the previous application, the applicants had to react quickly to the market, as an estate agent says

there is local demand for smaller units in the area. They protect their business by remortgaging their own properties and renting the building (and others in their ownership) to a tenant(s).

**In response** – Three planning applications have been determined within this and the wider site since the beginning of the Covid pandemic. As mentioned above the site is not allocated for employment or in a priority employment area. The constructed industrial/business unit would usually be expected to be in such an area. Unauthorised changes to the use class of the land, which appears to be happening here and the wider site need to be addressed through the planning process. The changes that require planning permission, that have happened without planning permission, and so are unauthorised development, are not considered to amount to very special circumstances that outweigh the harmful impact to the green Belt.

- The applicants place great importance on sustainability and energy efficiency, not necessarily possible outside the ownership of the applicants.

**In response** – This is noted but is not considered very special circumstances to out-weigh the harm of the industrial/business unit on the Green Belt.

10.49 To conclude the constructed purpose built industrial / business unit with associated parking and turning has a significantly greater impact on the openness of the Green Belt than the log storage yard with relatively modest log store building granted with planning permission 2018/90242. It is therefore considered that it does not meet the requirements of point g) of paragraph 149 of the NPPF and so is not exempt from being inappropriate development in the Green Belt.

Furthermore, the constructed purpose built industrial/business unit, together with associated parking, turning area and close boarded fencing, separating it from the remainder of the site, results in spatial enclosure and fragmentation of the approved log storage yard into separate business units. It changes the permitted use of the land and significantly impacts upon openness of the Green Belt. This would be inappropriate development in the Green Belt. The very special circumstances put forward would not out-weigh the harm.

#### Visual amenity issues

10.50 Policy LP24 of the KLP states that good design should be at the core of all proposals in the district. Proposals should promote good design by ensuring the form, scale, layout and details respect and enhance the character of the townscape, heritage assets and landscapes.

10.51 In this instance the character of the area is of rough ground used as an open yard for the storage of materials, formerly stone and now logs. However, this is effectively a retrospective application for the workshop / building already at the application site and it significantly changes the open storage yard character of the area to a permanent built up, light, industrial / commercial area with purpose-built workshop / storage buildings.

10.52 In officer's opinion the proposal by virtue of its size and scale would not respect or enhance the open character of the landscape and as such is contrary to policy LP24 of the KLP.



### Residential Amenity

- 10.53 The building is some distance from the nearest residential property and as such it is considered that there would be no overshadowing or overlooking issues.
- 10.54 In terms of noise nuisance, environmental health officers have commented on the current proposal. In their response they say that 'It is possible that noise from industrial and commercial sources may negatively impact the nearby noise-sensitive receptors. As such, noise conditions are required'. The recommended condition seeks to ensure that the combined noise rating level from any fixed mechanical services, external plant and equipment does not exceed background sound levels at any time.
- 10.55 They note the hours of use are 08:30 hrs to 16:30hrs Monday to Friday only and no working at weekends. They accept these hours of use and recommend a condition to reflect them.
- 10.56 Provided that these conditions are applied, the proposal would be acceptable from a residential amenity point of view and in terms of environmental health.

### Highway issues

- 10.57 The site is accessed from Near Bank, via a private driveway leading to arboricultural depot. The proposed workshop / storage building has been assessed by the Council's Highways officers who gave the following comments:-
- 10.58 The scheme makes no changes to the access arrangements compared to application no. 2021/90237. For that application it was surmised that the scheme was unlikely to significantly intensify the vehicular use of the site or access and is therefore acceptable from a highway safety perspective. No specific conditions required.
- 10.59 This is considered acceptable for this specific unit, although the wider site appears to be changing into a business park of multiple units, which at some stage may need to be assessed in its entirety, in terms of impact upon highway safety.

### Drainage issues

- 10.60 Flood risk: The proposed development site is fully located within Flood Zone 3, according to the Environment Agency's Flood map for planning. The site is also mostly located within surface water flood risk up to high, according to the Environment Agency's Long term flood risk map and it is within an area receiving Flood Alerts.
- 10.61 The application was accompanied by a Flood risk assessment by T J Booth Associates dated June 2020 revision 0. Doc reference rep-tjba-beneficial-the old stone yard, shelley-FRA-060421.docx. It is the same as document submitted for the previously refused applications 2020/93973 (erection of workshop on southern portion of the application site) and 2021/90237 (retrospect application for the current building at the site).

- 10.62 The Council's flood management and drainage section as lead local flood authority (LLFA) have assessed the application and comment that the existing building should have been subject to a sequential test process in line with Kirklees LPA guidance documents.
- 10.63 Should the area applied to the sequential test be reduced for legitimate reasons and the sequential test is successful, the LLFA expect a sequential approach to be applied. Is there scope for it to be located in an area of lower flood risk ie zones 1 or zone 2 in the red/blue boundary. This appears to be the case and should have been considered.
- 10.64 Should the above tests not be applied then finished floor levels level and flood risk should be analysed by the Environment Agency against their modelling.
- 10.65 If this is not considered, then a safe haven (e.g upper or mezzanine floor) and dry access and egress for emergencies needs to be examined.
- 10.66 Given the size of the building attenuation would serve little benefit and could create a flood risk due to the small orifice that would be required to restrict flow. Kirklees Flood Management & Drainage, as consultees for surface water flood risk, has no objection to a connection to an unregulated discharge to watercourse as stated in the application
- 10.67 Notwithstanding the above, when planning refusal 2021/90237 was being assessed, it was noted that the same FRA pointed out that the building had been constructed, and the conclusion of the document was that:-
- 'the commercial use and low flood risk vulnerability along with minimal flood depths noted in the basic search, suggest flood risk to the development is low. Finished floor levels are elevated from the surrounding ground level by at least 150mm, and higher than this to the northern side owing to the gentle site slope ensuring minor surface water flows do not infiltrate the development building. The residual risks noted are to the safety of the owners / tenants for access and egress as the lane to the north of the site can become a conduit for flood water. These groups should sign up to the emergency flood alert / warning scheme, and emergency flood evacuation plans should be made clear as part of the health and safety management files and within the building'.*
- 10.68 There is no surface water drainage plan. However, although the application form states that surface water run-off would discharge to existing water courses, the flooding officer points out that there are several water courses in the area, and they are likely to be suitable as a discharge point, and that flap valves should be considered on any discharge pipes to ensure that elevated water levels do not back up the system.
- 10.69 Further surface water drainage information is required to include proposed discharge point, discharge rate, surface water drainage layout and micro-drainage outputs to satisfy modern standards of design. The FRA says that drainage design is to be undertaken by others, and drainage design has not been submitted with the application.
- 10.70 The FRA provides an options appraisal to demonstrate the most suitable method of achieving safe access and egress to the site and suggests two sites within walking distance on high ground where occupants could gather in the event of a flooding event, and that groups sign up for flood alert / warning scheme.

- 10.71 The officer assessment for planning refusal 2021/90237 concluded that these elements could be conditioned should the application be approved.
- 10.72 In officers' opinion it would be consistent to draw the same conclusions with the current application.

### Representations

- 10.73 No public representations received during the course of this application.
- 10.74 The representations from Ward Councillor John Taylor have been addressed within the above report. Whilst they are noted, it is not considered that the presumed benefits and very special circumstances outweigh the harm to the Green Belt.

### Other Matters

- 10.74 Impact upon Public Right of Way:

PROW KIR/147/10 is to the east of the site and further up the access track. The PROW officer has provided comments for the adjacent site to the south (ref: 2020/93973) and these are thought to be relevant to the current application. They raise no objections to the proposed development.

- 10.75 Impact upon air quality:

Environmental health officers have commented on plans, and in the interests of air quality enhancement electric vehicle charge points are recommended, and these could be sought by condition and fitted retrospectively. Should the application be approved, it is recommended that a condition to this end could be applied to the decision notice.

- 10.76 General matters:

The permitted tree/log storage yard together with the arboricultural depot at the end of the access drive, now appear to be morphing into a new unauthorised business (or light industrial) park of multiple units in the Green Belt.

This emerging business (or light industrial) park should be assessed in its entirety, not in a piece-meal fashion.

- 10:77 Should this application be approved it would fail to address the unauthorised use of the land.

## **11.0 CONCLUSION**

- 11.1 To conclude, in officers' opinion the constructed purpose built industrial / business unit with associated parking and turning area has a significantly greater impact on the openness of the Green Belt, (which has both visual and spatial elements), than the log storage yard with relatively modest log store building granted with planning permission 2018/90242. It is therefore considered that it does not meet the requirements of point g) of paragraph 149 of the NPPF and so is not exempt from being inappropriate development in the Green Belt.

- 11.2 The very special circumstance put forward are not considered to outweigh the harmful impact of this proposal upon the Green Belt.
- 11.3 Furthermore, the constructed purpose built industrial/business unit, together with associated parking, turning area and close boarded fencing, separating it from the remainder of the site, results in spatial enclosure and fragmentation of the approved log storage yard into separate business units. It changes the permitted use of the land and significantly impacts upon openness of the Green Belt. This is considered inappropriate development in the Green Belt. In officers' opinion, the very special circumstances put forward do not out-weigh the harmful impact of the proposed building, (which is also part of an unauthorised business park emerging more widely), on the Green Belt and visual amenity of the area.
- 11.4 The 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.

**12.0 Recommendation is for refusal of this application for the reasons set out at the beginning of this report.**

**Background Papers:**

Application and history files.

At the application site:

Current application 2022/91176

[Link to application details](#)

[Planning application details | Kirklees Council](#)

95/90693 – Use of existing hard standing for storage of coursed stone with associated use to adjacent building – Conditional Full Permission

[Link to application details](#)

[Planning application details | Kirklees Council](#)

COMP/14/0139 – alleged breach of condition -no evidence of breach

2018/90242 – Change of use from stone yard to tree / log storage yard – Conditional full permission.

[Link to application details](#)

[Planning application details | Kirklees Council](#)

2020/93973 – Erection of workshop – pending determination

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2F93973>

Adjacent land to the east:

95/91812 – change of use of existing building from storage to stone cutting / sawing operations. Conditional full permission.

[Link to application details](#)

[Planning application details | Kirklees Council](#)

2001/93336 – Erection of stone cutting industrial unit and settlement pit – Conditional Full Permission

[Link to application details](#)

[Planning application details | Kirklees Council](#)

2004/94515 – erection of stone dressing extension. Conditional full permission.

[Link to application details](#)

[Planning application details | Kirklees Council](#)

2011/90466 – Change of use of part of stone yard to arboricultural depot – Conditional Full permission

[Link to application details](#)

[Planning application details | Kirklees Council](#)

COMP/12/0123 – alleged unauthorised tarmac standing – permitted development

COMP/14/0139 – alleged breach of condition -no evidence of breach

2015/93091 – Erection of two single storey storage/workshop units – Conditional full permission

[Link to application details](#)

[Planning application details | Kirklees Council](#)

2020/90917 – certificate of lawfulness for existing use for tree log / timber storage, 6 biomass boilers log drying units and distribution. - Certificate of lawful use granted.

[Link to application details](#)

[Planning application details | Kirklees Council](#)

2022/92468 – Change of use from general industrial / prep kitchen to restaurant and event space – Pending determination.

[Link to application details](#)

[Planning application details | Kirklees Council](#)

Adjacent land to the west:

2019/91542 – Importation of inert waste and infill of shallow water collection area. Conditional full permission.

[Link to application details](#)

[Planning application details | Kirklees Council](#)

2020/91822 – DoC 4 (construction /Vehicle Management Plan) of previous permission 2019/91542. DoC approved.

[Link to application details](#)

[Planning application details | Kirklees Council](#)

COMP/20/0294 – alleged breach of condition 2, 3, 4 & 6 of planning approval 19/91542

Certificate of Ownership – Notice served on/ or Certificate A signed and dated.