
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 29-Mar-2018

Subject: Planning Application 2017/93853 Erection of mixed use agricultural and educational building 20, Wellhouse Lane, Kirkheaton, Huddersfield, HD5 0RB

APPLICANT

G Ahmed

DATE VALID

07-Nov-2017

TARGET DATE

02-Jan-2018

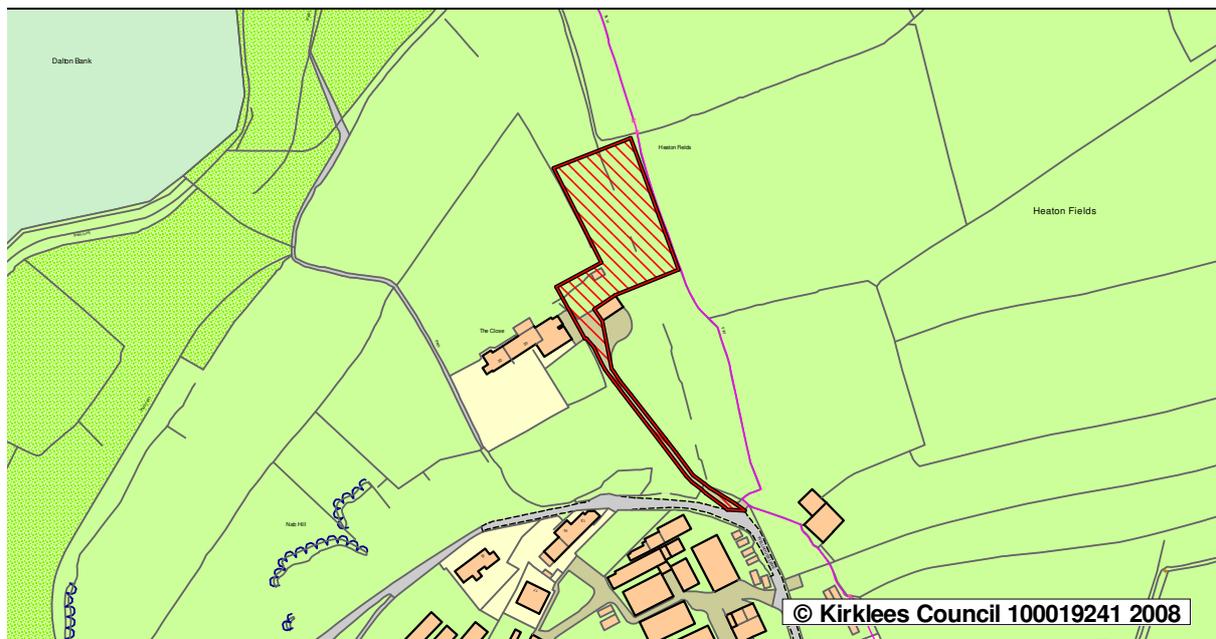
EXTENSION EXPIRY DATE

09-Apr-2017

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: Dalton

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION: Refuse planning permission and authorise the Head of Strategic Investment to take enforcement action to wholly remove the building.

Refuse planning permission for the following reasons:

1. The proposed development is located within the designated Green Belt whereby, as set out in the National Planning Framework (NPPF), the construction of new buildings is regarded as inappropriate development. The proposed development would constitute inappropriate development in the green Belt, which is by definition, harmful to the Green Belt and which should not be approved except in very special circumstances. The information submitted by the applicant in support of the application does not clearly outweigh the harm that would result to the Green Belt by reason of inappropriateness and the harm to the openness and character of the Green Belt through new built form. The isolated siting and detailed design of the building would consolidate its harmful impact on the openness of the Green Belt and, in turn the visual amenity of the area contrary to Policy PLP24 (a) of the Publication Draft Local Plan and D2 (vii) of the Unitary Development Plan. The overall design of the building and its intended use does not amount to the very special circumstances that are required to grant planning permission, and the proposals would conflict with Chapter 9 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application reference 2017/93853 is brought to the Huddersfield Planning Sub Committee for determination at the request of Councillor Musarrat Khan for the reason that the retrospective application meets the special circumstances needed for development for recreational/agricultural activities in the Green Belt. Cllr Khan states " *Given that development in the Green Belt is by definition harmful, I believe we must consider whether the harm caused to the Green belt is outweighed by the counter social value arising from this application. I am of the opinion in this case the benefit clearly outweighs the harm. This in turn amounts to this application having very special circumstances justifying an exception to the green belt presumption*"
- 1.2 The Chair of the Committee has confirmed that Cllr Khan's reason for making this request is valid having regard to the Councillors' protocol for Planning Committees

2.0 SITE AND SURROUNDINGS:

- 2.1 Hyacinth Farm is a 5.3 hectare parcel of land which is located in the green belt of Kirkheaton.
- 2.2 The site comprises of one dwellinghouse and a number of other buildings, used for a mixture of differing uses. Hyacinth Farm is accessed off Wellhouse Lane and bounds Dalton Bank Local Wildlife Site to the North.
- 2.3 The area is characterised by open countryside to the North, with a small area of residential housing and farms to the South of Wellhouse Lane. The topography of the site gently slopes uphill from Wellhouse lane from the South to North.

3.0 PROPOSAL:

- 3.1 This seeks retrospective planning permission for the erection of a building for a mixed use of agriculture and educational facility.
- 3.2 The development occupies a total floor area of 216.75m² split over two levels. Due to the sloping topography of the site the building has a maximum height of 8 metres and minimum height of 4.5 metres.
- 3.3 The walls of the building are constructed from natural reclaimed stone and the dual pitched roof has been finished with slates. The building has been constructed with an inner wall of breeze block and outer wall of natural stone with an insulated cavity in-between. The buildings design includes stone corner quoins, window lintels and cills alongside other architectural features designed from stone and incorporated into the front elevation of the building.
- 3.4 The front/west elevation of the building is host to two entrances with one being accessed via a staircase for the higher level. To the rear/east elevation the building hosts another access also via an external staircase. In total the building hosts 6 grey composite UPVC windows. The south end gable has been designed with a large 2.7m high opening and covered by a roller shutter door.
- 3.5 The plans show the primary use of the building is for hay storage with a secondary use as multi-functional rooms for the running of a summer school camp and occasional other school visits. Access to the development is gained via the existing entrance on to Wellhouse Lane.

4.0 RELEVANT PLANNING HISTORY

- 4.1 2017/94075 - Erection of replacement building – Conditional Full Permission

2017/93588 – Prior notification for erection of agricultural building – Approval of details withheld

2002/91353 – Erection of extension and alterations to existing farmhouse and erection of detached stables/agricultural store – conditional full permission

4.2 Enforcement History

COMP/17/0208 – Complaint received on the 17th July 2017 alleging construction had begun on site but there were no permissions in place. An Enforcement officer visited the site and wrote to the owner on the 31st July 2017 after discussions on site that the development being carried out was unauthorised and any further works were at their own risk pending a resolution to the matter. As a result of enforcement investigations the applicant wished to proceed with the submission of a retrospective planning application now reported to sub-committee and the subject of this report.

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

5.1 Discussions were held between the applicant and planning officer regarding the submission of evidence needed for the application and concerns over the design of the building. No amendments were received altering the design 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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The site is located within the Green Belt in the Kirklees Unitary Development Plan and the emerging Local Plan.

6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- BE1 – Design principles
- BE2 – Quality of design
- T10 – Highway safety
- T19 – Parking standards
- D2 – land without notation

6.4 Kirklees Publication Draft Local Plan (PDLP): Submitted for examination April 2017

The site is allocated as Green Belt in the publication draft local plan

Kirklees Publication Draft Local Plan

- PLP 1 – Presumption in favour of sustainable development
- PLP 2 – Place Shaping
- PLP 3 – Location of new development
- PLP 10 – Supporting the rural economy
- PLP21 – highway safety and access
- PLP24 – Design
- PLP54 – Buildings for agriculture and forestry
- PLP56 – Facilities for outdoor sport, outdoor recreation and cemeteries

6.5 National Planning Guidance

- Paragraph 17 – Core Planning Principles
- Chapter 7 – Requiring good design
- Chapter 9 – Protecting Green Belt Land

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been publicised by 3 site notices on Wellhouse Lane and neighbour notification letters.

7.2 As a result of site publicity, 8 responses in support and 1 in objection have been received.

7.3 Comments received in support of the application can be summarised as follows:

- Building enhances / adds to the character of the local area
- Doesn't impact on any neighbouring property
- Provides an facility for the benefit of education
- Gives first-hand experience of rural/farming life to children that may otherwise not have the opportunity to
- Replaces an existing building not fit for purpose
- No access/highways concerns
- Visual impact is limited from surrounding areas
- Positive benefit of the building outweighs any other concerns

Comments received in objection to the application are summarised as follows:

- No previous building was there to be demolished
- It is not for the use of local children
- Adjacent to a nature reserve
- In direct line of a water course

7.4 Submissions were received from Parkinson Lane Community Primary School, where the applicant is the Head Teacher, in support of the application. The content of the letters mainly detail the use of the farm for the running of the School Summer Camp and additional school visits across the year, the benefit to the pupils and learning experiences that are gained. This is assessed in the report set out below.

7.5 4 letters were received from other schools who have had previous experiences with Parkinson Lane Community Primary School. These letters highlight the benefit the use of Hyacinth Farm gives to students in terms of an outdoor learning environment and the provision of a new building on the site to enable the running of activities during inclement weather.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Health and Safety Executive (HSE) - advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case – see assessment below.

K.C. Highways - This application seeks approval for the erection of a mixed-use agricultural and education building at Hyacinth Farm, 20 Wellhouse Lane, Kirkheaton. The proposal consists of a single agricultural building. The use is to be split between standard agricultural storage and an education facility for local children. Both uses are already in operation at Hyacinth Farm, and this development is not expected to intensify the use of the access. These proposals are considered acceptable from a highways point of view, and Highways DM has no wish to resist the granting of planning permission.

No specific conditions are deemed necessary.

Kirkburton Parish Council – No comment

9.0 MAIN ISSUES

- Principle of development
- Impact on the Green Belt & Very Special Circumstances
- Design & Visual Amenity
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is within the Green Belt and paragraphs 87 and 88 of the National Planning Policy Framework (NPPF) apply. Paragraph 87 of the NPPF advises that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 requires that 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 is clearly outweighed by other considerations.
- 10.2 The NPPF advises that inappropriate development is by definition harmful to the Green Belt and should not be approved except where very special circumstances clearly and demonstrably outweigh the harm. 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, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
- 10.3 The potential harm to the Green Belt arises from the impact of development upon the purposes of including land within it, the impact upon its openness and the impact that arises from any other harm.
- 10.4 Paragraph 79 of the NPPF stipulates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence.
- 10.5 In addition to the above, The general principles of constructing buildings are assessed against Policies D2, BE1 and BE2 of the Unitary Development Plan (UDP) and advice contained within Chapter 7 of the National Planning Policy Framework regarding design. These require, in general, balanced considerations of visual and residential amenity, highway safety and other relevant material considerations.

Impact Green Belt & Very Special Circumstances

- 10.6 The application site comprises of a dwelling house, a large agricultural style building with 3 roller shutter doors which is stated to be used currently for the storage of farm machinery and toilets/showers for the running of the school summer camp, a number of large shipping containers used for other storage and a large area of tarmacked hardstanding which covers an area running from the South of the site where the access is gained to the agricultural style building to the North of the dwelling.

- 10.7 Paragraph 89 of the NPPF states that new buildings should be regarded as inappropriate in the Green Belt except, inter alia, where the new building is for agriculture, for the provision of outdoor recreation or is a replacement of a building in the same use and not materially larger.
- 10.8 The owner has submitted details that provide reasoning to why a new agricultural building is necessary within the site. In the statement submitted, evidence was given that the need for the building would be for the storage of hay and tractors in relation to the farming that is carried out on the surrounding land. The owner also asserts the new building would be used as a mixed use for education and recreational purposes for the summer camp and other education visits that run throughout the year.
- 10.9 There was no viability evidence given to show ongoing agricultural activity at the site; while there was some evidence of hay harvesting activities, in light of the full time occupation of the owner as a Head Teacher, it is likely that any farming that is carried out, is on an infrequent or part time basis as a hobby and therefore there is no evidence of a sustainable viable business that would require a new building for the purposes of agriculture.
- 10.10 It is considered that although the site may partially be used for the running of educational activities, there would be no need for a permanent structure to accommodate for this as it only runs for a limited time period over the school year.
- 10.11 The accompanying documents submitted for consideration alongside the application shows that the summer camp runs for 3 or 4 days every year and has done so for the past 17 years. The summer camp has successfully run for this number of years on site at Hyacinth Farm without the need for a building to accommodate the use.
- 10.12 Throughout the year further occasional visits are made to the farm by different year groups at Parkinson Lane Primary School, where the applicant is the head teacher. It is considered that these further visits are carried out on an infrequent basis and as stated by the applicant, the limited visits would not constitute in a change of use to the farm.
- 10.13 On this basis it is deemed that a permanent structure such as the proposed building would not be necessary for this purpose and a temporary shelter to be used for the activities carried out, would be adequate. It is therefore considered the building proposed retrospectively would not meet the 'Very Special Circumstances' needed to clearly outweigh the harm caused to the Green Belt by new development.
- 10.14 In brief there was no strong evidence submitted to suggest the building was reasonably necessary for the carrying out of either agricultural or educational activities.

- 10.15 While there may be some desire to construct a secure building for the storage of tractors / machinery, it is considered the layout and configuration of the building, particularly the fenestration and door opening are of a building more typical of a dwellinghouse.
- 10.16 The door openings are restricted for the suggested use and domestic in scale. The window openings are of proportions and construction usually found in a dwelling and construction using cavity walling and insulation is not generally applied to a utilitarian building.
- 10.17 Given its construction and overall appearance of the development, the lack of any substantial evidence that the building is necessary for a farming enterprise, it is considered the building is not designed for purpose associated with an agricultural use and therefore not required for that purpose.
- 10.18 In addition to the above, a statement submitted by the owner outlining reasons for the construction of the building and a history of the usage of the land, it was stated that prior to construction of this new building there was a structure on the land that was used for hay storage.
- 10.19 From looking at past permissions on the site, there is no record of a lawful structure on the land where the new building stands. While there is some aerial photographic evidence of the framework of a partially constructed (or partially demolished) structure between 2009 and 2012 there is no evidence this building was ever completed or used for the purposes of hay storage. Other buildings exist within the farmland capable of storing hay. On balance this structure is considered to be an abandoned project giving way from the current development. Therefore it cannot be considered that the building as built is a replacement building and in any event is not designed for the same purposes.
- 10.20 Consequently, it is considered the building is inappropriate development within the Green Belt and therefore has a substantial impact upon the Green Belt.
- 10.21 As the owner of the building has not provided any evidence of any “very special circumstances” sufficient to clearly outweigh the substantial harm to the Green Belt it is considered the development to erect the building is contrary to the aims of chapter 9 of the NPPF and, as it has not been demonstrated it is genuinely required for the purposes of agriculture, policy PLP54 of the PDLP.
- 10.22 As the owner has not demonstrated any need for the building to support an existing rural enterprise, no weight can be given to chapter 3 of the NPPF or PLP10 of the LP. Consequently the development is not considered to constitute sustainable development and therefore contrary to the core aims of the NPPF and PLP10 of the LP.

Design & Visual Amenity

- 10.23 Policy BE1 states that new development should be of good quality design such that it contributes to a built environment which creates or retains a sense of local identity. Policy D2 states that development should not prejudice 'the character of the surroundings'.
- 10.24 The design and appearance of the building does not represent a building that is typical of an agricultural vernacular. The use of natural stone and blue slate in construction and the domestic style of window openings and doorways, while typical of nearby dwellinghouses, are not in keeping with the rural location by virtue of the buildings isolated position away from the cluster of existing built form. Its scale on the site in relation to its surroundings has a significant impact on the openness of the Green Belt and is considered visually harmful in this sensitive rural setting.
- 10.25 The overall design and internal layout would not be practical or suitable for the hay and machinery storage proposed. Alternatively a simple portal frame building with larger access for tractors and storage would be more in keeping with the rural location and farming activities.
- 10.26 Reasons provided by the owner in regards to the design were that the stone construction would provide greater security for storage on the farm, as farm related crimes have increased in recent years and to be in keeping in design with the other buildings on the farm. The owner has not provided any empirical evidence to support this view and as such little weight can be given to this consideration.
- 10.27 Whilst the applicant suggests the buildings use will primarily be for agriculture, limited supporting evidence to show the agricultural need for this building has been submitted. Furthermore its overall design has not been designed for agricultural purposes and appears to be of a style typical of domestic or residential purposes.
- 10.28 While the stone material and design of the building is not untypical of other dwellings in the vicinity, the isolated location and encroachment into the open fields of a building with an appearance of a dwellinghouse is considered to impact upon the openness of the green belt and not constitute sustainable development contrary to paragraphs 12, 61, 64 & 79 of the NPPF, PLP24 of the PDLP and policy D2 of the UDP.

Residential Amenity

- 10.29 The impact of the development on residential amenity needs to be considered against Policy D2 of the UDP and PLP24 of the PDLP.

10.30 It is worthwhile to note, the closest neighbouring residential property within the vicinity of the development is the dwelling of Hyacinth Farm in ownership of the applicant, approximately located 44m to the South of the proposed development.

10.31 Given the nature of the proposed use of the development and distance to the nearest dwellinghouse, it is not considered that the building would cause impact to residential amenity through overlooking or being overbearing.

Highway issues

10.32 The proposal consists of a single storey building that is, according to the Planning Justification Statement, to replace an existing structure that had fallen into disrepair. The use is to be split between standard agricultural storage and an education facility for local children.

10.33 Both uses are already in operation at Hyacinth Farm, and this development is not expected to intensify the use of the access.

10.34 These proposals are considered acceptable from a highways point of view, and Highways DM has no wish to resist the granting of planning permission. No specific conditions are deemed necessary.

Representations

10.35 Eight representations have been received in support of the application following site publicity. Their concerns are addressed as follows:

Comment: The building enhances and add to the character of the Local area

Response: Whilst the building is constructed from stone stated to have been sourced locally, the domestic style of the building is not in keeping with the vernacular of a typical agricultural building. Its appearance and design is considered to impact upon the openness of the green belt.

Comment: Development would not cause harm or loss to residential amenity

Response: It is agreed that the proposed development would be located an adequate distance from existing dwellings to prevent any detrimental impact upon residential amenity

Comment: Provides a facility for the benefit of education

Response: The proposed development is stated to be used partially for the running of the School Summer Camp and additional education visits throughout the year. It has been assessed that the benefit the building may give, does not outweigh the harm caused to the green belt, as assessed above, and is contrary to Chapter 9 of the NPPF and the very special circumstances needed to allow for development in the green belt.

Comment: Replaces an existing building not fit for purpose

Response: Aerial photographs show on site that there were a number of upright poles in this location. It is not considered that this was ever used as a building nor has there ever been an approved application for a lawful building in this location previously.

Comment: No access or Highways issues

Response: The highway impacts of the proposed development have been assessed by KC Highways Development Management and are considered to be acceptable.

Comment: Visual impact is limited from surrounding area

Response: Views of the development are limited from the surrounding area, however, its scale on the site in relation to its surroundings has a significant impact on the openness of the Green Belt and is considered visually harmful in this sensitive rural setting.

10.36 1 representation has been received in objection of the application following site publicity. Their concerns are addressed as follows:

Comment: No previous building was there to be demolished

Response: This is addressed in the report above

Comment: It is not for the use of local children

Response: This is not a material consideration in the assessment of this application

Comment: Adjacent to a nature reserve

Response: The development is located within proximity of Dalton Bank Local Wildlife Site and Local Nature Reserve. The Local Wildlife Site has been designated primarily for allowing public access to the enjoyment of nature, rather than its direct benefit to habitats or conservation of nature. It is therefore considered due to the low intensity use of the development that the impact on the Local Wildlife Site is minimal.

Comment: In direct line of a water course

Response: This point is noted, however the development is not considered to be of a scale or size that would affect a water course. Mapping systems used to identify any potential issues do not show any conflict between the development and any existing watercourse. A consultation has been sent to drainage for their response.

10.37 Ward Cllr Musarrat Khan requested the application be determined by sub-committee for the following reason:

Given that development in the Green Belt is by definition harmful, I believe we must consider whether the harm caused to the Green belt is outweighed by the counter social value arising from this application. I am of the opinion in this case the benefit clearly outweighs the harm. This in turn amounts to this application having very special circumstances justifying an exception to the green belt presumption"

Response: For the reasons set out and addressed in report above, paragraphs 10.1-10.22, it is considered that the potential harm to the Green Belt is not clearly outweighed by the perceived benefits of the proposal. Officers have thus concluded that very special circumstances do not exist.

Other Matters

Health & Safety:

10.37 Turning to matters of Health and Safety, the site is located within a Consultation Zone for a major hazard site. The Health and Safety Executive (HSE) has therefore assessed the application through its planning advice web app, based on details input by officers. The HSE have advised that:

the risk of harm to people at the proposed development site is such that HSE's advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.

10.38 The Planning Practice Guidance on Hazardous Substances notes that the decision on whether or not to grant planning permission rests with the Local Planning Authority. Nevertheless *"In view of its acknowledged expertise in assessing the off-site risks presented by the use of hazardous substances, any advice from Health & Safety Executive that planning permission should be refused for development for, at or near to a hazardous installation or pipeline should not be overridden without the most careful consideration."*

10.39 Major hazard sites/pipelines are subject to the requirements of the Health and Safety at Work etc. Act 1974, which specifically includes provisions for the protection of the public. However, the possibility remains that a major accident could occur at an installation and that this could have serious consequences for people in the vicinity. Although the likelihood of a major accident occurring is small, it is felt prudent for planning purposes to consider the risks to people in the vicinity of the hazardous installation. Where hazardous substances consent has been granted (by the Hazardous Substances Authority), then the maximum quantity of hazardous substance that is permitted to be on site is used as the basis of HSE's assessment.

10.40 The online facility used to generate the HSE consultation advice does not allow for the input of specific details such as the frequency in which the site/development would be used. It has not been assessed as to whether the low frequency in which the site would be used by school visits would cause a level of risk or harm to the people using the proposed development site.

10.41 Should Members be minded to grant permission against HSE advice, the Executive requires 21 days' notice to give further consideration to the proposal before a decision is issued and determine whether or not to request the Secretary of State to call-in the application. In light of this the application would need to be delegated back to Officers to allow further consideration by the HSE before issuing of the decision/ the application being called-in by the Secretary of State.

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. It is considered that the development proposal does not accord with the development plan and that there are specific policies in the NPPF that indicate development should be restricted.
- 11.3 The retrospective application for the building erected at Hyacinth Farm is considered to cause a significant impact to the openness of the Green Belt contrary to the NPPF Chapter 9.
- 11.4 The materials used in construction are not those typically found of a new agricultural building and is not in keeping with the agricultural vernacular of the area or its rural location. The building is not considered to meet policies set out in chapters 1 & 7 of the NPPF and policy D2 of the Kirklees UDP as assessed above or the emerging local plan.
- 11.5 Members are requested to accept the officer recommendation and authorise Planning Enforcement action to seek to remove the building.

Background Papers:

2002/91353 – Erection of extension and alterations to existing farmhouse and erection of detached stables/agricultural store – conditional full permission
<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2002%2F91353>

2017/94075 – Erection of replacement building – Conditional full permission
<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F94075>

Current Application: <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F93853>

Certificate of Ownership – Signed Certificate A