

# KIRKLEES METROPOLITAN COUNCIL

## PLANNING SERVICE

### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

29 MARCH 2018

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Planning Application 2017/91618

Item 13 – Page 39

**Change of use and erection of extension and alterations to former club/pub to form 6 apartments**

**14, New Road, Kirkheaton, Huddersfield, HD5 0HP**

**REVISED RECOMMENDATION:**

**Conditional full permission: delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those in the main report and in this update.**

This follows receipt of the formal response from HSE in reply to Officers intention to recommend approval at the committee meeting. The HSE has responded stating that the advice previously provided remains but in this instance the HSE does not request the Secretary of State for Communities and Local Government to call-in the application.

**KIRKHEATON NEIGHBOURHOOD GROUP COMMENTS:**

The Kirkheaton Neighbourhood Group has made comment on the revised plans to form 6 apartments, confirming whilst the scheme is an improvement, their observations are as follows:

*“The provision of dormer windows is not appropriate on this building. A full two storey extension would be more appropriate and would improve the layout of apt #6*

*and also allow windows of a similar style to the existing building. If dormers are to be permitted, then they should be set back from the face of the building.*

*Accessibility to the ground floor apartments is not clearly shown and needs further consideration, particularly to apt #2 which has internal changes of floor level. I note that Highways see no problem with the development, but are any car parking spaces to be designated for disabled use.*

*Management and maintenance of the apartments should be given some consideration”.*

**Response:** With regards to the ‘dormer windows’, the openings would be set in and flush with the wall of the proposed extension, with pitch gable roof feature projecting into the roof, to gain additional headroom internally. The design would be reflective and harmonious to neighbouring properties in the area some of which incorporate similar style gable pitch features.

With regards to giving further consideration to the accessibility of internal areas, the proposals are not proposed to accommodate the needs of disabled persons. Any new apartment would need to comply with Building Regulations, including accessibility and Part M of the Regulations where relevant.

The applicant/agent has confirmed the provision of a car park space, designed for people with a disability can be provided.

Finally, the management and maintenance of the apartments is not a material planning matter.

**INFORMATIVE:**

Should Members be minded to approve, and as set out in the agenda, the agent/ applicant has agreed to revise the site block plan to show the provision of:

- Secure cycle storage.
- An electric vehicle charging point, and
- A disabled car park space

before issuing of the decision.

**ADDITIONAL CONDITIONS:**

- Reporting of unexpected contamination
- Car park to be laid out and made operational prior to occupation of the apartments and thereafter retained.

**Erection of 19 dwellings (C3) with associated parking with vehicular access**

**Rough Nook Farm, 112, Mill Moor Road, Meltham, Holmfirth, HD9 5LW**

In considering development proposals UDP Policy R13 seeks to take advantage of any potential for creating new links in the public footpath network.

There is a long established desire to provide a public footpath along the green corridor that lies to the north of the site and which follows the route of Meltham Dike. Such a concept was mooted in the Holmfirth and Meltham Local Plan published in 1987 and policies D6 and R13 of the UDP continue to support the provision of a footpath along the Meltham Dike valley.

There is a section of public footpath to the east of the site that follows the south bank of the dike for about 300m (MEL/82/10) and the long-term intention has been to extend this towards the west in order to provide a continuous 'riverside' walk, although this could only ever be delivered on a piecemeal basis because there are a variety of different landowners.

The application site does not abut the dike but land within the applicant's control does abut a stretch of the dike's southern bank.

A previous planning application for residential development adjacent to the green corridor sought to provide a section of footpath on the south side of the corridor (reference 96/92853). A footway was formed to the rear of 28-36 New Street although it has not been dedicated for public use and is currently a dead end. A recent appeal decision has nevertheless upheld the principle of retaining this section of footway in the context of providing an extended footpath link along the corridor in the future.

It is considered that securing some form of easement for the provision of a footpath over the applicant's land where it directly abuts the dike is justified as part of this application. Such an easement would facilitate the provision of a riverside walk should a continuous footpath become deliverable in the future.

In response to this issue the Agent has commented as follows:

*"Whilst not opposed to the principle of the riverside walk, our client has some concerns about this. Most 'Secure by Design Guidelines' do not promote public footpaths at the end of people's gardens. Furthermore our client is concerned that such a proposal will affect the values they can achieve for the houses on the northern side of the site, which they expected would secure a good value. A change in the expected house prices could affect the viability of the site, and probably should have been considered before the viability assessment for the affordable housing calculations.*

*In principle our client accepts this, but needs to know the precise details about proposed walkway such as the width of the footpath etc. and cannot agree to this until these details are finalised".*

At this stage officers are only seeking to safeguard a potential footpath link. In the event that a continuous walkway could be delivered then the desirability of providing such a footpath from a security and safety point of view would have to be considered at the juncture, having regard to the presence of nearby dwellinghouses. As there is no formal plan for a footpath in place officers consider that it is reasonable to secure an easement via planning obligation. The recommendation is therefore amended to include a third matter within the S106:

3. An easement over the land edged blue on the location plan where it is adjacent to Meltham Dike in order to facilitate the provision of a continuous footpath (riverside walk) in the future.

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## Erection of 21 dwellings

**Land adjacent to 8 Miry Lane, Netherthong, Holmfirth, HD9 3UQ**

### **Request for the application to be DEFERRED**

The applicant has requested the application be deferred from consideration at this meeting in order that outstanding highways matters be resolved. The applicants are currently in discussions with Officers regarding these issues. Officers would concur that the deferral of the application would allow further opportunity to explore outstanding issues.

## **Erection of 19 dwellings, formation of associated access and erection of protective post and mesh cricket fencing (minimum 12m in height)**

**Land south of, Swallow Lane, Golcar, Huddersfield, HD7 4NB**

### **1. PROCEDURAL MATTERS**

Two amended plans have been received as set out below:

- The Block Plan has been updated in order to demonstrate the location of the proposed trees in the rear gardens of Plots 7 – 13 as shown on the soft landscaping plan;
- A new plan for the 'Birch' house type has been submitted due to a scaling issue with the original drawing.

### **2. PROVISION OF CRICKET FENCING**

At para 10.54 of the report, it is set out that the proposed fencing would be erected prior to the occupation of Plots 1 and 3-7 which abut the eastern boundary of the site. Following a further discussion with the developer, they are prepared to erect the fencing at an earlier stage of the development, prior to the commencement of development on the sub-structure of any dwelling. This would be specified in proposed condition 16.

### **3. PLANNING OBLIGATIONS**

#### *Affordable Housing*

As detailed in para 10.70 of the report and in line with policy requirements, 20% affordable housing is required on the site and K.C. Strategic Housing have stated that this equates to 3 dwellings on this site.

A viability appraisal was submitted by the applicant which has been reviewed by the Council's viability assessor. Our assessor has found the proposed development to be unviable with affordable housing, with the scheme only producing a small surplus above acceptable profit levels. There is disagreement between the applicant's viability consultant and the Council's viability assessor in terms of the level of surplus that is produced by the scheme.

Notwithstanding this, the developer has offered to provide 3 affordable dwellings in the form of 'starter homes', with the third unit being provided at the expense of the developer's profit. These will be Plots 4, 5 and 6, which are to be sold at a 20% discount to market value. The criteria for the 'qualifying person' and the mechanism for the sale of these dwellings will be set out in the S106 agreement. Officers are now satisfied that an acceptable level of affordable housing is being provided on the site and that the proposed development complies with affordable housing policy.

#### *MetroCards*

In light of the above and the offer for 3 affordable units, a contribution towards MetroCards is not being provided by the developer. In this instance, this is considered acceptable as Officers would rather see the S106 money being concentrated on the provision of the affordable units as detailed above. It is noted that the layout provides sufficient off street car parking on site and the developer has agreed to a condition to installed electric vehicle charging points for each of the dwellings with demonstrates a commitment to sustainable transportation modes in accordance with the West Yorkshire Low Emissions Strategy.

#### **4. CONCLUSION**

In conclusion, in this case, the tilted balance in favour of sustainable development as advocated by para 14 of the NPPF is engaged. An acceptable level of affordable housing has been provided by the developer which can be secured by S106 agreement. It is considered that there would be no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The conflict with UDP policy D5 and other impacts identified within the main report are outweighed by other considerations and, when considered in the planning balance, the proposal constitutes a sustainable form of development.

## 5. RECOMMENDATION

In light of the above, the amended recommendation is set out below.

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. The provision of affordable housing on-site (3 'Starter Homes')
2. The provision and management of Public Open Space (POS) and natural play facility on-site
3. Management/maintenance of the proposed cricket fencing

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

### **Erection of mixed use agricultural and educational building 20**

#### **Wellhouse Lane, Kirkheaton, Huddersfield, HD5 0RB**

A number of representations have been received prior to the meeting of the Huddersfield Sub - Committee on the 29<sup>th</sup> March. These representations are summarised below.

One representation has been received from the applicant following the publication of the Committee Agenda. Due to the extent of the representation, members were forwarded a copy on Monday 26<sup>th</sup> March, prior to the meeting of Huddersfield Sub - Committee, in order to make their own assessment of the applicant's comments. This is also appended to the update at Appendix 1.

One public representation has been made in objection and a petition has been received in objection on the 27<sup>th</sup> March signed by 4 local residents. The representation made by an objector has also been sent out in full to committee members prior to the meeting for their consideration.

In summary below are a number of main key points the Applicant raises in the representation and have been noted and worth highlighting;

**Comment:**

Very special circumstances do exist

**Response:**

The applicant has submitted a significant amount of information regarding both the agricultural and educational activities that run on site at 20 Wellhouse Lane. Whilst the evidence does show that these activities are carried out on site, it is considered by officer's that the extent to which these are carried out would not amount to the very special circumstances needed to support a new building within the green belt and the benefit that may arise from the education facility would not be substantial enough to clearly outweigh the harm to the green belt caused by new development.

The representation made by the applicant outlines a month by month schedule which shows the types of farming and educational activities that occur during a typical year. While this is useful and does provide evidence to show how the land is used, it does not clarify why it is necessary or appropriate for a new building to accommodate these uses. It is therefore considered to fall short of the requirements needed to meet the exceptions for new buildings in the green belt, as outlined in paragraph 89 of the NPPF.

An in depth summary as to why the development does not meet the very special circumstances required are set out in full in the Agenda.

**Comment:**

Responses submitted by Parkinson Lane primary school have been overlooked

**Response:**

139 responses were received from pupils at Parkinson Lane primary school. These were considered within the application and given appropriate weight in determination. The basis of the letters in support outlined and evidenced the activities that run on site at Hyacinth Farm and the benefit that pupils receive from this type of educational experience. These letters also 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.

However, it is considered that the running of these activities on site would not require a permanent structure of the scale and size that is proposed on this application, and a simple temporary shelter when needed may be more appropriate.

**Comment:**

Built on previously developed land and not in isolation

**Response:**

As stated in paragraph 10.19 of the report, whilst aerial photography shows that there was a partially erected framework, it is not considered that this ever constituted a building or was used in the same capacity as what is proposed under this application. It therefore cannot be considered that the building is a replacement.

While the development is closely located to an existing agricultural style building and in close proximity to the dwellinghouse, the site in itself is isolated and in an open area of green belt with expanses of open fields to the North, East and West of the site. 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.

**Comment:**

HSE Consultation advice misleading

**Response:**

The applicant highlights concern over the HSE response to the proposal and queries the information submitted by the officer to the consultee:

HSE is a statutory consultee. Notwithstanding this the decision to grant or refuse a planning application ultimately rests with the local planning authority (LPA) taking in to account all relevant planning considerations, and not just the advice from one consultee. The recommendation to refuse the application has been given weight to the objection from the HSE which is outlined in paragraphs 10.37 -10.41 of the officer's report

For members information the HSE consultation system is an online tool which generates a decision from asking a series of basic questions. The questions asked pertain to the overall size of the building and its use. In this case the reason for its generated response advising for refusal on this application will have been created due to inputting that the intended use of this building would be for education. It would therefore give rise to the number of vulnerable people on the site given the number of pupils that are stated by the applicant to use the site. The reason why the HSE did not advise against the granting of permission 2017/94075 was that this application was for domestic purposes and was not considered to give rise to the number of people or vulnerable people on the site.



Should sub-committee, taking into account all relevant planning considerations, consider that this reason for refusal is unreasonable then it would be necessary for officers to notify the HSE of this and allow 21-days from that notice for them to give further consideration to the matter. This will enable them to consider whether to request the Secretary of State to call-in the application.

In summary are a number of key points the Objector raises in the representation received and points also made in the petition. These have been noted below;

**Comment:**

There has never been an existing building or footprint that this building could replace.

**Response:**

The officer's response to existing buildings on site is outlined in paragraph 10.19 of the Committee report

**Comment:**

The information and evidence submitted by the applicant to support the application is misleading, inaccurate and creates a false impression.

**Response:**

The information submitted by the applicant has been carefully considered and the evidence that has been provided was given appropriate weight in determining the application.

**Comment:**

Will set a precedent for building within the green belt in the local area if approved.

**Response:** The application is brought to committee with the recommendation of refusal. Each planning application submitted is considered on a case by case basis taking into consideration a number of factors. This would not set a precedent for building in the area if committee members recommend to overturn officer's decision. Any proposal received would need to meet the very special circumstances required for developing new buildings in the green belt and the factors supporting these applications are considered thoroughly.

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**Outline application for erection of one dwelling**

**adj, 102, Gawthorpe Lane, Lepton, Huddersfield, HD5 0NZ**

**AND**

**Planning Application 2017/91922**

**Item 19 – Page 149**

**Outline application for erection of one dwelling**

**adj, 102, Gawthorpe Lane, Lepton, Huddersfield, HD5 0NZ**

**Procedural Comment**

Within paragraphs 10.16 of 2017/91921 and 10.16 of 2017/91922 the application site is referred to as 'greenfield land'.

A recent Court of Appeal ruling determined that the definition of 'Previously Developed Land' (aka Brownfield) in the NPPF is clear and reference to '*land in built-up areas such as residential gardens*' cannot sensibly be interpreted as including residential gardens not in built-up areas, such as the application sites. As such the garden space of no.102 Gawthorpe is now considered to be 'brownfield land'.

Notwithstanding the above the sites being brownfield land does not impact upon officers' assessment of either proposal. Officers maintain that the site is neither within a village or settlement for the reasons outlined within the committee report.

The NPPF, Paragraph 89, does include the following exemption for brownfield sites within the Green Belt;

*limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

Each proposal's impact on openness is assessed within Paragraphs 10.15 – 10.23 of 2017/91921 and 10.15 – 10.23 of 2017/91922. In summary the introduction of a new dwelling on previously vacant land is harmful to openness and would breach the purpose of including land within the Green Belt.

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**Erection of four storey building and landscaping details**

**Joseph Priestley Building, University Of Huddersfield, Queensgate, Huddersfield, HD1 3DH**

*Drainage Issues*

Consultation responses have been received from Yorkshire Water and the Lead Local Flood Authority following the delayed submission of a Drainage Assessment.

In summary neither group objects to the proposed development, however each has provided desired recommendations and/or conditions to be imposed. The Yorkshire Water comments will either require a modest change to the landscaping plan or the diversion of a public sewer, which may be addressed through a condition or amended plans prior to determination. The University is considering their options at this time.

Given the above the recommendation as contained within the committee report remains, with the outstanding technical matters expected to be resolved shortly.

**Installation of additional bay to existing modular building**

**Fixby Junior And Infant School, Lightridge Road, Fixby, Huddersfield, HD2 2HB**

Highway Safety

Since the publication of the Committee Report, Planning Officers have liaised further with Highway Officers in Streetscene and Highway Safety to consider in further detail the points raised by objectors in relation to indiscriminate parking on the highway. The Highway Officers have confirmed that they are aware of the issues regarding the existing parking problems at the School. The Council's Senior Parking Officer has confirmed that that since 1<sup>st</sup> April 2017 the team has spent just over 27.5 hours around Lightridge Road (1 mile radius) and 7 PCN's have been issued within the same period and therefore, the parking issues are being monitored by the Council.

The Council's Highway Safety Officer has also advised that the School themselves need to work with Highways to resolve these issues and they cannot be solely resolved through the intervention of the Local Highway Authority. A school travel plan is considered key and the site benefits from one and Traffic Management Scheme dating from 2006, and this should be adhered too. The Highway Safety Officer has further stated that some schools do have staff and volunteers/a working group outside schools to try to promote safe parking and hand out leaflets without being confrontational. This may be of benefit in this circumstance, but could not be enforced by the Council.

Notwithstanding the above, issues relating to the parking issues do not impact on the proposed extension to the modular building as there would be no additional traffic as a result of the development.

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## APPENDIX 1

Below is a report prepared for the planning sub committee to be taken to committee on the 29/3/18. I am extremely disappointed by the officers lack of transparency, failure to deal with the crux of the issue, manipulation of statements, facts and supporting evidence. Using the HSE to sway the committees decision. I have therefore gone through the report to highlight the inaccuracies and to point to evidence submitted by the applicant who has tried to engage the officer with over 133 email communications and attempted to meet to no avail on 21 separate occasions. My concern regarding the recommendation stem from notices posted on telegraph poles indicating the LPA want full demolition of the barn.

The initial text (italic) is that of the officer and my comment is the highlighted text and follows and comments upon inaccuracies. The purpose of doing this is to demonstrate how easy it is to misrepresent a picture to the committee. I hope the committee will see that this is a genuine application that is in this position due to the miscommunications of the planning department. I have no doubt that my understanding will have played a part in this and have explained my position and apologised several times for this.

*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,*

*HD50RB*

*APPLICANT G Ahmed*

*DATE VALID*

*TARGET DATE*

*EXTENSION EXPIRY DATE*

*07-Nov-2017*

*02-Jan-2018*

*09-Apr-2017*

*Electoral Wards Affected:*

*Dalton*

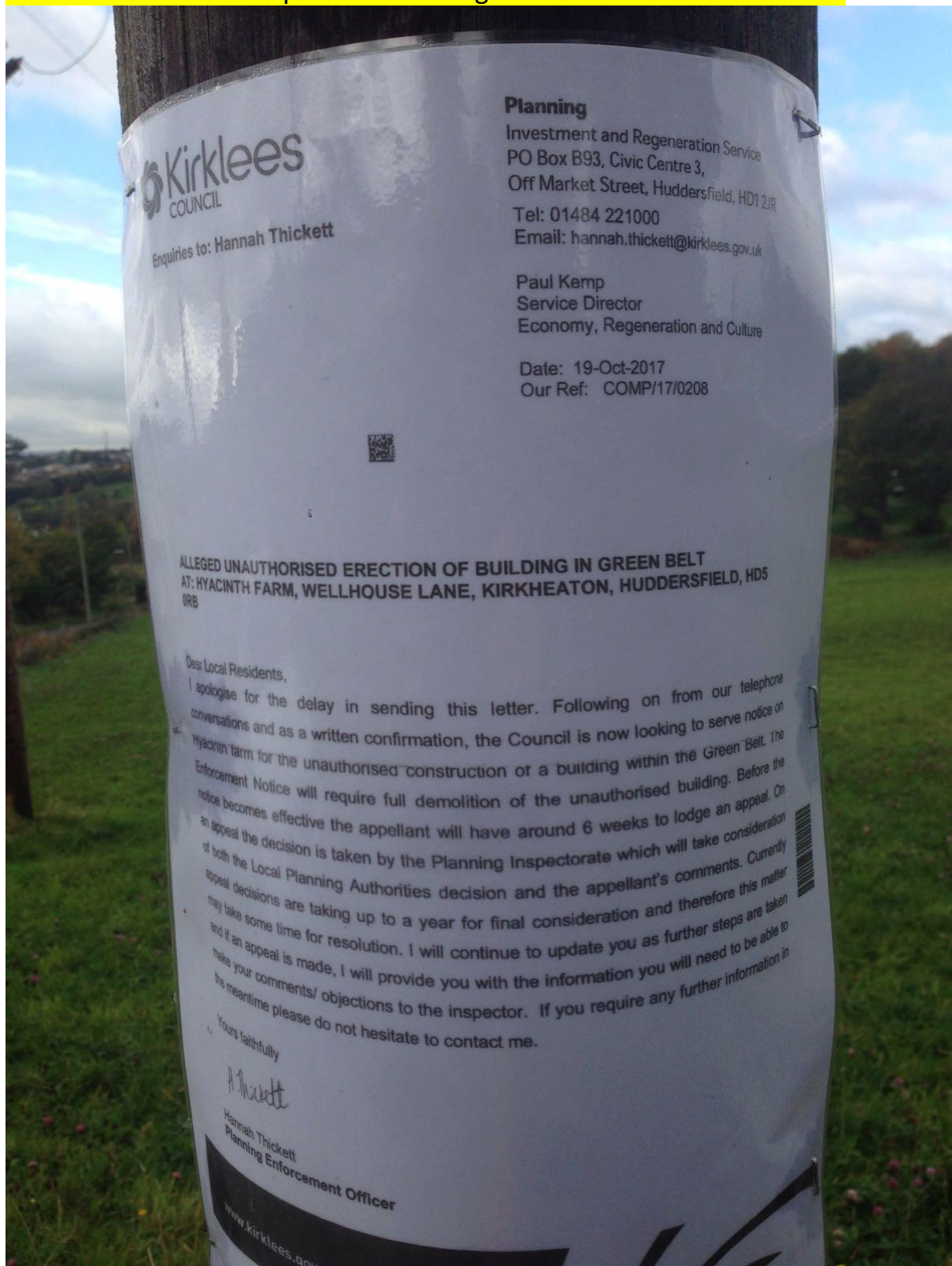
*Ward Members consulted*

*Yes*

*(referred to in report)*

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

This is what the officer published to neighbours on the 25<sup>th</sup> of October



Sent: 25 October 2017 15:02



To: Hannah Thickett

Subject: Re: Hyacinth Farm matter COMP/17/0208

Hi Hannah the notices have been put up as an open letter as per my previous email.

Many thanks

Gugsy

On 25 Oct 2017, at 14:56, Hannah Thickett  
<[Hannah.Thickett@kirklees.gov.uk](mailto:Hannah.Thickett@kirklees.gov.uk)> wrote:

Good Afternoon,

There have been no Notices put up in the area in regards to this development by the Council. The Council has considered all documentation and evidence submitted by Mr Ahmed and have taken the decision that formal enforcement action through the serving of an Enforcement Notice is expedient. A Enforcement Notice report has been drafted to be signed off which does require full demolition of the unauthorised building. Upon service of the Notice Mr Ahmed will have the chance to appeal the decision and put forward any supporting information required to be assessed by the Planning Inspectorate.

Kind Regards

Hannah Thickett

Planning Enforcement Officer

Sent: 25 October 2017 15:02

To: Hannah Thickett

Subject: Re: Hyacinth Farm matter COMP/17/0208

Hi Hannah the notices have been put up as an open letter as per my previous email. Many thanks

Gugsy

Dear Hannah

I am somewhat perturbed and distressed to find on three poles a letter to local residents informing them of the councils intentions to apply to demolish our barn despite complying with all your requests. I am not sure if this is correct as

we have not been informed of any of your decisions. This has merely been corroborated via a neighbour. Despite various outreach for help and advice to yourself and Kevin we are none the wiser as to where we are in the process of your decision making. I have telephoned on various occasions but unfortunately you have not been able to get back to me. I have phoned again today and left messages for you and Kevin and also spoken to Hafsah on your reception. Please could you explain what is happening. It seems that the information informing you of events including visiting your officers have been ignored. I have also tried to arrange a meeting with you but to no avail. If you could please contact me I'd appreciate it.

I have left my contact details on your answer machine but include them below for your information

Please note I shall be working abroad for a week from Saturday the 28th October until Monday the 6th of November.

Many thanks  
Gugsy Ahmed  
Hyacinth Farm

25/10/17 16.01  
Dear Hannah

There are six notices. A couple have been seen taking them down. Can you tell me if you have asked for the notices to be taken down.

Many thanks

Gugsy

Subject:Re: Hyacinth Farm matter COMP/17/0208

To: Hannah Thickett <Hannah.Thickett@kirklees.gov.uk>

Date: Wed, 25 Oct 2017 15:23

The letter has your details and are on letter headed paper.

Many thanks

Gugsy

25/10/17 15.22

Is there any chance of a call please.

Many thanks

Gugsy

Have done that.

Gugsy

25/10/17 15.11

Please find enclosed public notice issued for Hyacinth Farm.

Please can you explain this with regards to your email. We have had no notification of this.

Many thanks

Gugsy

On 25 Oct 2017, at 15:08, Hannah Thickett  
<[Hannah.Thickett@kirklees.gov.uk](mailto:Hannah.Thickett@kirklees.gov.uk)> wrote:

Dear Mr Ahmed,

These letters have not been put up by the Council. If you wish to send a photograph of the letter we will review its content.

Kind Regards

Hannah Thickett  
Planning Enforcement Officer

Sent: 26 October 2017 09:15  
To: Kevin Walton  
Cc: Hannah Thickett  
Subject: Wellhouse Lane Barn

Dear Kevin

Thank you for the time you spent on the phone yesterday. I rang you to express my concern and dismay at a public open letter allegedly served by one of your enforcement officers. The letter was on council headed paper and signed by the officer. The contents of the letter expressed the councils intention of total demolition of the barn we are constructing and in our opinion attempted to illicit the local residents to come together to support this venture.

I presume whilst the officer has not instructed this to be put up, it is obvious that this communication seems to have originated from the council and thereby ethically and morally has upset my family since we were not aware of its existence until it was discovered by my wife whom i expressly asked you to avoid communication with. You are aware i have informed you on several occasions that she has suffered with a stroke and has multiple bleeds on the brain.

I appreciate that you instructed your officer to remove the notices although much of the damage has been done with locals openly talking about the decision. Thankfully many of them are as dismayed as we are to have found the notice and its contents. It should be noted that two more notices were found this morning.

I summarising our telephone conversation am I right in stating that you will not serve the notice if we apply for planning permission and that this will either go to an officer for a decision or be taken to committee.

Could you please inform me how long we would have to amend our plans, you will know we submitted our files to you which included planning documents on the 22nd of August. Unfortunately I am abroad on British council business until the 6th of November and would appreciate some time to look through the documents submitted to you.

If you could reassure us that you will not serve the enforcement notice and allow us to put in a retrospective planning application as discussed we would appreciate it. You also stated you would forward to me all your enforcement policies and procedures and alternatives regarding planning routes and possible outcomes now available to us.

I look forward to hearing from you so we can work together for a mutual solution.

G Ahmed

Please note I am out of the country from the 28/10/17 until 6/11/17

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.

This section fails to refer to what exceptions are permitted in the Green Belt. It mis-represents the building being in isolation, when in reality, it is in close proximity to other buildings. Nor does the officer take into account the councils UDP or elements of the NPPF which state that there are exceptions which allow buildings on the green belt and this application meets those exceptions.

The report states the overall design and its intended use does not amount to very special circumstances. I hope to convince you that it does. Throughout my justification statement I refer to the exceptions associated to recreation and agriculture. This is again incorrect, my emails in December to the officer attempts to set out clearly what these are exceptions are.

Sent November

Dear Ms Thickett

I suppose the crux of our issue is what in this area constitutes very special circumstances, we know local and national policy allow exceptions for applications that have very special circumstances, that's taken for granted.

In regards to Hyacinth Farm the statements and indeed the Justification statement in my opinion categorically paints the picture of this application amounting to very special circumstances. There is no need for the factors that constitute to very special circumstances needing to be unique but I'm sure you will agree these set of factors are unique and very different if not exceptional in themselves. They allow a small farm to diversify into educating pupils about the very countryside we are trying to protect. Given that development is by definition is harmful, I believe we must consider whether the harm caused to the Green belt is outweighed by the counter benefit arising from the application which in turn amounts to an application with very special

circumstances justifying an exception to the green belt presumption. This seems to put us as custodians of the immediate area enabling us to care for the environment whilst being in a position to educate the next generation. This factor in itself is innovative and exciting and enables us to influence the next generation.

Fundamentally the question of whether this application is harmful to the Green belt. Hypothetically one could propose that any building would in itself be harmful and therefore we need to consider if any individual factor taken by itself would outweigh the harm. The NPPF allows for exception for use for recreation and sport, so it must naturally follow that this building should meet the exceptions rule. I understand this is a subjective decision that planners may need to consider further. This is when case law comes into its own and I am of the understanding that we must then consider all the factors at Hyacinth Farm. We may not find any one factor that outweighs the perceived harm but there are collective factors when combined together very much outweigh the harm, one factor in isolation may not counter balance the harm, several factors when combined create very special circumstances. I understand that each factor may have a weighting and this is for you to show your judgement as to how much weight you will attribute to each factor.

In my opinion the whole issue around development on the Green belt is very subjective and whilst I understand there cannot be a formula to apply – neither can there therefore be a formula in deciding whether any particular factor amounts to very special circumstances. In this application I believe the factors for allowing this initiative is one based on qualitative measures. You as the decision maker have a value judgement to make which I am led to believe has a wide latitude.

Hyacinth farm is a family owned farm, the very fibre of small farms such as these are being eroded, many going to the wall because the cost of keeping land in good condition is costing the farmer. Rising costs in machinery and maintenance of such, labour costs means the farmer has to look to other sources of income which in turn labels him a hobby farmer because he can't make a living off the hectares he has. Without farms like ours managing the countryside, we wouldn't have a green and pleasant land. The natural environment is central to this but a living and thriving countryside also means one that is sustainable, economically viable and one that thrives for future generations. This in reality involves small farms needing to diversify to allow

jobs to be created which are directly and indirectly connected to farming and the countryside. Hyacinth farm has come up with a solution that works for it.

From 1950 to 1980 40% of farms were lost in England alone, this amounts to 128000 farms. From 2005-2015 a further 20% of farms were lost with a third of those under 50 hectares. It is expected at the current rate of loss there will be no small farms by 2040. These farms make up the rich tapestry of our landscape, with that loss comes the loss of diversity that comes from farms like Hyacinth Farm doing different things for different reasons in different locations. With this loss also comes the loss of conservation, animal husbandry, knowledge passed from generation to generation. As farms are amalgamated we lose hedgerows and the flora, fauna and natural habitats associated with it. You notice that Hyacinth Farm is the only farm locally that has trees planted on it, hedgerows and puts down Mallards pheasants and partridge for the greater good of the community.

I understand you are coming from the angle of inappropriate development of the Green belt and for the project to succeed at Hyacinth farm it must meet the tests in the framework. The former ramshackle construction was an eyesore and a health and safety concern. It already had an impact on the openness of the Green belt. The hard standing area the building occupied and the footprint of the old building has been reduced greatly. I am aware the framework doesn't discuss height, scale, footprint or volume and merely relates to the openness for which I cannot locate a prescribed method of assessment.

The benefit of this application from Hyacinth Farm is one based on sustainability-economic, social, educational and environmental factors. The framework and local plan states;

'The NPPF states that local planning authorities should plan positively to enhance the beneficial use of the Green belt, such as looking at opportunities to provide access to provide opportunities for outdoor sport and recreation, to retain and enhance landscapes, visual amenity and bio-diversity or to improve damaged and derelict land.'

Kirklees local plan 2016



I believe that Hyacinth Farm has through this factor corroborated with the local plan and not only in doing so but is also policy compliant with many other aspects of policy both local and national.

‘The use of high quality materials, a design that is sensitive to its Green belt setting, consideration of the amenity of neighbours and in all cases that any impact on openness is kept to a minimum.’

Kirklees local plan 2016

I am sure you will agree that the LPA accepts some development on Green Belt areas and supports applications. I ask you to support this application which is based on an upland farm building that is no bigger than is required to enable the proper functioning of it according to the number of visitors the farm has on previous occasions. The location plan shows the building located at its most unobtrusive, planning permission was granted here in 2002. No improved access is required and the site will be monitored so that numbers attending do not lead to a harmful aspect in terms of amenity for neighbours.

‘Protect and enhance the characteristics of the built, natural and historic environment, and local distinctness which contribute to the character of Kirklees.’

Kirklees local Plan 2016

In reference to our Justification statement I can wholeheartedly state that the combination of factors outlined below when combined create very exceptional circumstances and far outweigh the harm caused to the Green belt through inappropriateness.

I therefore ask you to take the following into consideration with regards to the application. The factors are all contributing factors to very exceptional circumstances giving considerable weight to our proposal.

- Development contributes to sport and recreation.

- The site was previously developed.
- The local authority would have extra recreational facilities.
- The built environment is a improvement on what was located at the site previously through the use of quality materials.
- The small farm would retain its sense of purpose and in turn retain the character of the area.
- Employability of individuals is retained thus helping the economy to thrive.
- Local economy is enhanced.
- The next generation is educated about rural affairs and skills and interest in rural affairs is maintained.
- Re use of recycled materials is encouraged.
- Diversification maintains the distinct nature of Kirklees and that of small upland farms. This encourages the rich tapestry we currently enjoy whilst preserving that for future generations to enjoy.
- Maintenance of hedgerows, natural habitats and agricultural husbandry of animals on the farm.
- Communities who would not normally come into contact with each other spend time with each other and are not so insular in their outlooks. This encourages community cohesion.
- Well-being of children and adults alike is enhanced.
- Planning was previously granted on this site in 2002.
- Proposal is located so it doesn't compromise the openness of the Green belt.

I very much hope you consider the above in relation to the Justification statement also submitted.

G Ahmed

## 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*

**Thank you Councillors**

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## **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.

**It should be noted that the building is in fact masked from the nature reserve and cannot be seen from it. In fact the prevalent westerly view from the reserve is the chemical works. Other views consist of the unsightly asbestos barns South of Hyacinth Farm.**

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.

**3.1 The officer refers to mixed use of agriculture and educational facility – little time is afforded to the educational provision which is in effect recreational provision supported by the NPPF. The building is quite clearly to be used as a multipurpose building with two main uses as recreation and agriculture. Indeed an email sent to me, on the 13<sup>th</sup> November 2017, by the officer recognises this and refers to renaming the application and asked if I objected to it been named as erection of mixed use and educational there was no mention of agricultural. This was assumed to be a secondary use of the building.**

3.2 The development occupies a total floor area of 216.75m<sup>2</sup> 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.

**3.3 The stone is indeed reclaimed stone – not regular in shape and quite random. To work to a straight edge a linear clean cut shape was required. The officer acknowledged this on the site visit. The officer refers to the 'front' of the building, I presume this is the aspect facing West.**

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.

**The building hasn't got any windows as yet or a roller shutter door, or indeed any stairs leading from the outside. The building work was stopped after the applicant took advice from the officer to secure the building. (See email dated 9<sup>th</sup> August 2017) The email advised that work should stop once secure.**

9/8/17 10.14

Hi Hannah. Thank you for your email. Yes we will minimise all works on the site other than to make the building safe and to minimise any further damage. Thank you both for your time yesterday.

Many thanks

On 9 Aug 2017, at 09:56, Hannah Thickett  
<[Hannah.Thickett@kirklees.gov.uk](mailto:Hannah.Thickett@kirklees.gov.uk)> wrote:

Dear Mr Ahmed,

Thank you for your time on site yesterday and discussing your proposal with us. As discussed any work carried out until the correct permissions are sought are carried out at your own risk. I would recommend that any work carried out from this point would be done to secure the building and works should cease following this. I would be grateful if you could respond outlining your intentions as to the carrying on of development on this site.

Kind Regards

Hannah Thickett  
Planning Enforcement Officer

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.*

3.5 The plans do show the primary use of the building is for storage. This was changed due to the negotiations with officers, this was in response to her suggestions. The officer took it upon herself to make the changes and to ensure that the application was for the one structure. This was changed after speaking with Kevin Walton. Please see emails dated on 25<sup>th</sup> October and a substantial email on 23<sup>rd</sup> November outlining the exact primary use and its relation to the NPPF. You will understand the application needed to be submitted because you served a planning contravention notice. I did ask for clarification and waited for your response. See email file. You will be aware we did not have time to make the changes to the planning regarding the primary and secondary uses.

Sent: 25 October 2017 14:39

To: Hannah Thickett

Cc: Gugsy Ahmed;

Subject: Hyacinth Farm matter COMP/17/0208

Good afternoon Hannah,

My Client informs me that a Notice has appeared on a telegraph pole in the vicinity of his property. The Notice is in the form of an open letter, and states that the Council will be serving an Enforcement Notice in respect of the building at Hyacinth Farm. Naturally my Client is upset by the appearance of said Notice.

Could I ask that before an Enforcement Notice is served, you consider the potential of the building as an educational resource with connections to farming? As you are aware, my Client is the Headmaster of a school in Halifax. He regularly organises educational visits to Hyacinth Farm and wishes to continue doing so. It is indisputable that Hyacinth Farm is a working farm and such visits are of great benefit to pupils within his school's primarily urban catchment area.

This is a use that is 'appropriate to a Green Belt Area' as per NPPF requirements.

Would it not make more sense to permit such a use rather than demolishing the building?

I await your comments.

-

On 24 Nov 2017, at 09:06, Hannah Thickett  
<[Hannah.Thickett@kirklees.gov.uk](mailto:Hannah.Thickett@kirklees.gov.uk)> wrote:

Dear Mr Ahmed,

Thank you for your further statement, I have filed it to your case. All information submitted will be considered accordingly and given appropriate weight within the determination of your application.

Kind Regards

Hannah Thickett  
Planning Enforcement Officer  
[www.kirklees.gov.uk/planning](http://www.kirklees.gov.uk/planning)

Sent: 23 November 2017 11:24  
To: Hannah Thickett  
Subject: 2017/62/93853W

Dear Ms Thickett

You will have gathered that this issue has consumed me since your visit in July. Once again i apologise for my misunderstanding of the semantics associated with the complexities of planning. I have spent hours and hours on trying to research these twists and I confess that my knowledge is no where near the theoretical and working knowledge that you have. I can only offer my thoughts about my proposals. I don't know if these should come to you or be

sent to be put on file but I trust you to deposit them where they are of most use.... I hope that's not the bin.  
Please get in touch if you need to discuss anything.

Gugsy Ahmed

Dear Ms Thickett

I suppose the crux of our issue is what in this area constitutes very special circumstances, we know local and national policy allow exceptions for applications that have very special circumstances, that's taken for granted.

In regards to Hyacinth Farm the statements and indeed the Justification statement in my opinion categorically paints the picture of this application amounting to very special circumstances. There is no need for the factors that constitute to very special circumstances needing to be unique but I'm sure you will agree these set of factors are unique and very different if not exceptional in themselves. They allow a small farm to diversify into educating pupils about the very countryside we are trying to protect. Given that development is by definition is harmful, I believe we must consider whether the harm caused to the Green belt is outweighed by the counter benefit arising from the application which in turn amounts to an application with very special circumstances justifying an exception to the green belt presumption. This seems to put us as custodians of the immediate area enabling us to care for the environment whilst being in a position to educate the next generation. This factor in itself is innovative and exciting and enables us to influence the next generation.

Fundamentally the question of whether this application is harmful to the Green belt. Hypothetically one could propose that any building would in itself be harmful and therefore we need to consider if any individual factor taken by itself would outweigh the harm. The NPPF allows for exception for use for recreation and sport, so it must naturally follow that this building should meet the exceptions rule. I understand this is a subjective decision that planners may need to consider further. This is when case law comes into its own and I am of the understanding that we must then consider all the factors at Hyacinth Farm. We may not find any one factor that outweighs the perceived harm but there are collective factors when combined together very much outweigh the



harm, one factor in isolation may not counter balance the harm, several factors when combined create very special circumstances. I understand that each factor may have a weighting and this is for you to show your judgement as to how much weight you will attribute to each factor.

In my opinion the whole issue around development on the Green belt is very subjective and whilst I understand there cannot be a formula to apply – neither can there therefore be a formula in deciding whether any particular factor amounts to very special circumstances. In this application I believe the factors for allowing this initiative is one based on qualitative measures. You as the decision maker have a value judgement to make which I am led to believe has a wide latitude.

Hyacinth farm is a family owned farm, the very fibre of small farms such as these are being eroded, many going to the wall because the cost of keeping land in good condition is costing the farmer. Rising costs in machinery and maintenance of such, labour costs means the farmer has to look to other sources of income which in turn labels him a hobby farmer because he can't make a living off the hectares he has. Without farms like ours managing the countryside, we wouldn't have a green and pleasant land. The natural environment is central to this but a living and thriving countryside also means one that is sustainable, economically viable and one that thrives for future generations. This in reality involves small farms needing to diversify to allow jobs to be created which are directly and indirectly connected to farming and the countryside. Hyacinth farm has come up with a solution that works for it.

From 1950 to 1980 40% of farms were lost in England alone, this amounts is 128000 farms. From 2005-2015 a further 20% of farms were lost with a third of those under 50 hectares. It is expected at the current rate of loss there will be no small farms by 2040. These farms make up the rich tapestry of our landscape, with that loss comes the loss of diversity that comes from farms like Hyacinth Farm doing different things for different reasons in different locations. With this loss also comes the loss of conservation, animal husbandry, knowledge passed from generation to generation. As farms are amalgamated we lose hedgerows and the flora, fauna and natural habitats associated with it. You notice that Hyacinth Farm if the only farm locally that has trees planted on it, hedgerows and puts down Mallards pheasants and partridge for the greater good of the community.

I understand you are coming from the angle of inappropriate development of the Green belt and for the project to succeed at Hyacinth farm it must meet the tests in the framework. The former ramshackle construction was an eyesore and a health and safety concern. It already had an impact on the openness of the Green belt. The hard standing area the building occupied and the footprint of the old building has been reduced greatly. I am aware the framework doesn't discuss height, scale, footprint or volume and merely relates to the openness for which I cannot locate a prescribed methods of assessment.

The benefit of this application from Hyacinth Farm is one based on sustainability-economic, social, educational and environmental factors. The framework and local plan states;

'The NPPF states that local planning authorities should plan positively to enhance the beneficial use of the Green belt, such as looking at opportunities to provide access to provide opportunities for outdoor sport and recreation, to retain and enhance landscapes, visual amenity and bio-diversity or to improve damaged and derelict land.'

Kirklees local plan 2016

I believe that Hyacinth Farm has through this factor corroborated with the local plan and not only in doing so but is also policy compliant with many other aspects of policy both local and national.

'The use of high quality materials, a design that is sensitive to its Green belt setting, consideration of the amenity of neighbours and in all cases that any impact on openness is kept to a minimum.'

Kirklees local plan 2016

I am sure you will agree that the LPA accepts some development on Green Belt areas and supports applications. I ask you to support this application which is based on an upland farm building that is no bigger than is required to enable the proper functioning of it according to the number of visitors the farm has on

previous occasions. The location plan shows the building located at its most unobtrusive, planning permission was granted here in 2002. No improved access is required and the site will be monitored so that numbers attending do not lead to a harmful aspect in terms of amenity for neighbours.

‘Protect and enhance the characteristics of the built, natural and historic environment, and local distinctness which contribute to the character of Kirklees.’

Kirklees local Plan 2016

In reference to our Justification statement I can wholeheartedly state that the combination of factors outlined below when combined create very exceptional circumstances and far outweigh the harm caused to the Green belt through inappropriateness.

I therefore ask you to take the following into consideration with regards to the application. The factors are all contributing factors to very exceptional circumstances giving considerable weight to our proposal.

- Development contributes to sport and recreation.
- The site was previously developed.
- The local authority would have extra recreational facilities.
- The built environment is a improvement on what was located at the site previously through the use of quality materials.
- The small farm would retain its sense of purpose and in turn retain the character of the area.
- Employability of individuals is retained thus helping the economy to thrive.
- Local economy is enhanced.
- The next generation is educated about rural affairs and skills and interest in rural affairs is maintained.
- Re use of recycled materials is encouraged.

- Diversification maintains the distinct nature of Kirklees and that of small upland farms. This encourages the rich tapestry we currently enjoy whilst preserving that for future generations to enjoy.
- Maintenance of hedgerows, natural habitats and agricultural husbandry of animals on the farm.
- Communities who would not normally come into contact with each other spend time with each other and are not so insular in their outlooks. This encourages community cohesion.
- Well-being of children and adults alike is enhanced.
- Planning was previously granted on this site in 2002.
- Proposal is located so it doesn't compromise the openness of the Green belt.

I very much hope you consider the above in relation to the Justification statement also submitted.

G Ahmed

23/11/2017 11.24

Dear Ms Thickett

You will have gathered that this issue has consumed me since your visit in July. Once again i apologise for my misunderstanding of the semantics associated with the complexities of planning. I have spent hours and hours on trying to research these twists and I confess that my knowledge is no where near the theoretical and working knowledge that you have. I can only offer my thoughts about my proposals. I don't know if these should come to you or be sent to be put on file but I trust you to deposit them where they are of most use.... I hope that's not the bin. Please get in touch if you need to discuss anything.

Gugsy Ahmed

#### **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**

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

4.0 Relevant planning history makes no reference to previous planning application of housing that was granted. They are as follows.

97/93686 Change of use of outbuilding to farm dwelling – conditional full permission.

98/91284 Re-use of existing barn and extensions to form 1 dwelling.

None of these were acted upon. The report in 10.19 claims there was no lawful

planning or structure. I have shown evidence of this when officers came to to

visit the site.

#### **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.**

**4.2 There is no mention of when the officer visited and there were 120 children enjoying a camping experience.**

#### **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.*

**5.1 The officer is very scant with information here. Councillors are not being told about the 21 requests to meet the officer for advice as your own enforcement policy states advice would be given. This policy was not followed. 133 emails show that the applicant is desperate to be guided. At no time were we asked to consider or negotiate on the design. With regards to the design it's a simple rectangular building, we used the Kirklees UDP for advice.**

#### **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.*

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**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

**The officer fails to state how the application meets all of these requirements**

**BE 1 – Design Principles**

**BE 2 – Quality of Design**

**T 10 – Highway Safety**  
**T 19 – Parking Standards**  
**D 2 – 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*

**6.4 I presume the officer is acknowledging in the report that the application adheres to**

**PLP 1**  
**PLP 2**  
**PLP 3**  
**PLP 10**  
**PLP 21**  
**PLP 24**  
**PLP 54**  
**PLP 56**

**Otherwise it doesn't make sense to include them. Therefore it is clear that the application is intrinsically linked to these policies. Therefore the building has met the needs to be exempted and the benefit outweighs any perceived harm to the Green Belt.**

*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.*

**This doesn't accurately reflect the number of responses. Many are overlooked because of the link with Parkinson Lane. I cannot understand that the public regardless of age or background should not have had their voices heard. This needs to be addressed. Other schools who have visited the facility have also written in and they too have been sidelined because of the association with another educational establishment. This shouldn't form the basis for consultation. Your own letter indicating a site visit contains reference to all getting involved. 'So that everyone can be involved in the debate before a decision is made on these applications',**

*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*

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*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*

**7.3 The comments received for objection are inaccurate and can be proven. The arguments made are not relevant to planning and should be dismissed. The whole reason of involving other children from deprived insular communities is for community cohesion, social inclusion and ethnic mixing. The chemical works is also adjacent to the nature reserve.**

*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.*



I don't think my role as headteacher has anything to do with this aspect of the report. The children quite rightly are using their democratic voice to express their frustration at something they may potentially lose the use of. I cannot find where the officer places comments and states the benefit of pupils as reported above. It states 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.

You will see that the HSE have written giving permission on the farm recently see section 10.37

8.1 This becomes farcical when HSE advice is given on a website app. Clearly this was not an issue when planning was granted on application 2002/91353, the officer states that she has looked at the background papers which included this application, it's clear that this wasn't done sufficiently as the officer has failed to see that permission was granted in the same location. This is despite the officer consulting with the HSE. It should be noted that this consultation was not by letter but consulting an app, with the officer determining the inputs. Another application was submitted after the one at committee. It is in the same vicinity. Details will show that a building was permitted on this area - 2017/94075 show the HSE have no objections. This is an absolute red herring and has really upset me. The building is 'lower' than other buildings and to put this scaremongering at its most obscene. Hiding behind health and safety is deplorable and shows the officers true feelings to such an extent as to manipulate the committee.

**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

**9.0 I do not understand the content of this section – it offers no context and certainly no narrative as this would support the application. Nothing in the objector’s statement has any planning merit.**

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## **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.*

**10.1 The officer will not recognise councillor Khans statement “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 circumstance justifying an exception to the Green Belt presumption.**

*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.*

Despite two large files of evidence 133 emails countless voice mails and requests for meeting the officer still has little understanding of special circumstances. I really would like to know what further evidence is needed. I have supplied them with everything and more with very little response.

*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.*

10.3 The officer doesn't mention that the building is built within the footprint of an existing building. The remnants of which are shown to both officers who visited. It is also built upon the hard standing access area to another building. Since a structure already existed the openness cannot be questioned. See email trail 14 Dec 17 which outlines the very special circumstances.

Subject:Re: 2017/62/93853W

To: Hannah.Thickett <Hannah.Thickett@kirklees.gov.uk>

Date: Thu, 14 Dec 2017 23:06

Dear Ms Thickett

I am sorry to be emailing so late but have tried to rush getting the information to you so you are in a position to have a look at this and to make a more informed judgement. I must state I think it is rather unfair to be asked to provide details of visits some of which cannot be planned for due to our variable weather and hence the need for the building in the first place. Just for your information we have had over four thousand children to the farm recently and have been in discussions with many local schools to plan a 'Glastonbury' type festival for young children. This of course would include the council as and when required.

I suppose the crux of our issue is what in this area constitutes very special circumstances, we know local and national policy allow exceptions for applications that have very special circumstances, that's taken for granted. In regards to Hyacinth Farm the statements and indeed the Justification statement in my opinion categorically paints the picture of this application amounting to very special circumstances. There is no need for the factors that constitute to very special circumstances needing to be unique but I'm sure you will agree these set of factors are unique and very different if not exceptional in themselves. They allow a small farm to diversify into educating pupils about the very countryside we are trying to protect. Given that

development is by definition is harmful, I believe we must consider whether the harm caused to the Green belt is outweighed by the counter benefit arising from the application which in turn amounts to an application with very special circumstances justifying an exception to the green belt presumption. This seems to put us as custodians of the immediate area enabling us to care for the environment whilst being in a position to educate the next generation. This factor in itself is innovative and exciting and enables us to influence the next generation.

Fundamentally the question of whether this application is harmful to the Green belt. Hypothetically one could propose that any building would in itself be harmful and therefore we need to consider if any individual factor taken by itself would outweigh the harm. The NPPF allows for exception for use for recreation and sport, so it must naturally follow that this building should meet the exceptions rule. I understand this is a subjective decision that planners may need to consider further. This is when case law comes into its own and I am of the understanding that we must then consider all the factors at Hyacinth Farm. We may not find any one factor that outweighs the perceived harm but there are collective factors when combined together very much outweigh the harm, one factor in isolation may not counter balance the harm, several factors when combined create very special circumstances. I understand that each factor may have a weighting and this is for you to show your judgement as to how much weight you will attribute to each factor.

In my opinion the whole issue around development on the Green belt is very subjective and whilst I understand there cannot be a formula to apply – neither can there therefore be a formula in deciding whether any particular factor amounts to very special circumstances. In this application I believe the factors for allowing this initiative is one based on qualitative measures. You as the decision maker have a value judgement to make which I am led to believe has a wide latitude.

Hyacinth farm is a family owned farm, the very fibre of small farms such as these are being eroded, many going to the wall because the cost of keeping land in good condition is costing the farmer. Rising costs in machinery and maintenance of such, labour costs means the farmer has to look to other sources of income which in turn labels him a hobby farmer because he can't make a living off the hectares he has. Without farms like ours managing the countryside, we wouldn't have a green and pleasant land. The natural environment is central to this but a living and thriving countryside also means one that is sustainable, economically viable and one that thrives for future generations. This in reality involves small farms needing to diversify to allow jobs to be created which are directly and indirectly connected to farming and the countryside. Hyacinth farm has come up with a solution that works for it. From 1950 to 1980 40% of farms were lost in England alone, this amounts to 128000 farms. From 2005-2015 a further 20% of farms were lost with a third of those under 50 hectares. It is expected at the current rate of loss there will be no small farms by 2040. These farms make up the rich tapestry of our landscape, with that loss comes the loss of diversity that comes from farms like Hyacinth Farm doing different things for different reasons in different locations. With this loss also comes the loss of conservation, animal husbandry, knowledge passed from generation to generation. As farms are amalgamated we lose hedgerows and the flora, fauna and natural habitats

associated with it. You notice that Hyacinth Farm is the only farm locally that has trees planted on it, hedgerows and puts down Mallards pheasants and partridge for the greater good of the community.

I understand you are coming from the angle of inappropriate development of the Green belt and for the project to succeed at Hyacinth farm it must meet the tests in the framework. The former ramshackle construction was an eyesore and a health and safety concern. It already had an impact on the openness of the Green belt. The hard standing area the building occupied and the footprint of the old building has been reduced greatly. I am aware the framework doesn't discuss height, scale, footprint or volume and merely relates to the openness for which I cannot locate a prescribed methods of assessment. The benefit of this application from Hyacinth Farm is one based on sustainability-economic, social, educational and environmental factors. The framework and local plan states;

'The NPPF states that local planning authorities should plan positively to enhance the beneficial use of the Green belt, such as looking at opportunities to provide access to provide opportunities for outdoor sport and recreation, to retain and enhance landscapes, visual amenity and bio-diversity or to improve damaged and derelict land.'

Kirklees local plan 2016

I believe that Hyacinth Farm has through this factor corroborated with the local plan and not only in doing so but is also policy compliant with many other aspects of policy both local and national.

'The use of high quality materials, a design that is sensitive to its Green belt setting, consideration of the amenity of neighbours and in all cases that any impact on openness is kept to a minimum.'

Kirklees local plan 2016

I am sure you will agree that the LPA accepts some development on Green Belt areas and supports applications. I ask you to support this application which is based on an upland farm building that is no bigger than is required to enable the proper functioning of it according to the number of visitors the farm has on previous occasions. The location plan shows the building located at its most unobtrusive, planning permission was granted here in 2002. No improved access is required and the site will be monitored so that numbers attending do not lead to a harmful aspect in terms of amenity for neighbours.

'Protect and enhance the characteristics of the built, natural and historic environment, and local distinctness which contribute to the character of Kirklees.'

Kirklees local Plan 2016

In reference to our Justification statement I can wholeheartedly state that the combination of factors outlined below when combined create very exceptional circumstances and far outweigh the harm caused to the Green belt through inappropriateness.

I therefore ask you to take the following into consideration with regards to the application. The factors are all contributing factors to very exceptional circumstances giving considerable weight to our proposal.

- Development contributes to sport and recreation.
- The site was previously developed.
- The local authority would have extra recreational facilities.
- The built environment is a improvement on what was located at the site previously through the use of quality materials.
- The small farm would retain its sense of purpose and in turn retain the character of the area.
- Employability of individuals is retained thus helping the economy to thrive.
- Local economy is enhanced.
- The next generation is educated about rural affairs and skills and interest in rural affairs is maintained.
- Re use of recycled materials is encouraged.
- Diversification maintains the distinct nature of Kirklees and that of small upland farms. This encourages the rich tapestry we currently enjoy whilst preserving that for future generations to enjoy.
- Maintenance of hedgerows, natural habitats and agricultural husbandry of animals on the farm.
- Communities who would not normally come into contact with each other spend time with each other and are not so insular in their outlooks. This encourages community cohesion.
- Well-being of children and adults alike is enhanced.
- Planning was previously granted on this site in 2002.
- Proposal is located so it doesn't compromise the openness of the Green belt.

I know you would like more detail regarding the activities carried out at Hyacinth farm. Can I state the farming activities first:

- March to July is grass growing season for hay.
- July is hay making time.
- July to January is sheep grazing.
- October is repair/ hedge maintenance.
- January to February is lambing.
- February Fertiliser spread for grass growing season.

With regards to educational activities, they are staggered around the school year with certain fields coterminously being used for farming activities in and amongst.

- September to October - fruit picking season.
  - Apples, pears, plums etc to make into pies as part of domestic science.
  - Healthy eating looking at the healthy plate.
  - Origins of fruit/ carbon footprint.
  - Geographical links to the other countries and similar produce charted on a world map.
  - Taste comparison of preserved fruit compared to fresh fruit.

- **October half term – team building days**
  - International exchanges.
  - Water cycle.
  - Destructive elements of water – drought and deluge in the UK and abroad.
  - Renewable energy.
  - Land use.
- **October as above plus**
  - St Thomas School visit.
  - land use.
  - plant identification.
  - Community cohesion.
  - Harvest festival – donation of cans.
- **November**
  - World War 1 evacuations
  - Study of land girls
  - Advantages and disadvantages of living in a city as appose to living in a village.
  - Types of houses.
  - Reward trips.
- **December**
- **January and February**
  - Reward visits
  - Tree planting
  - Life cycles
  - Bird migration
  - Food for animals
  - Hibernation
  - Games, archery, table tennis.
- **March as above**
  - New life, lambs.
  - Life cyles
  - Chickens hatching
  - Habitats
  - St Thomas visit residential
- **July and August**
  - Summer club residential
  - Archery
  - Table tennis
  - Kite flying
  - Dry stone wall building
  - Drones
  - Art and crafts

- Sports
- Outdoor cooking
- Team building
- Community cohesion

The farm has recently purchased new archery butts, 3 table tennis, drones, and team building equipment, tug of war, sumo suits, laser quest, and projection equipment. We've also purchased considerable outdoor cooking equipment. If you require any more information please do not hesitate to contact me.

**Gugsy Ahmed**

*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.*

**10.5 Doesn't recognise that the application has complied with the requirement mentioned.**

***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.*

**10.6 Again the officer is very aware of the uses of all the other buildings on site. Yet no mention is made of the substantial equipment in the storage containers related to recreational and agricultural use. This demonstrates the use and personal expense of the applicants. Over 400 sleeping bags, liners, bed, towels, tents etc**

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*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.*

**The except... as stated in the above is a very large exception here. The officer seems to ignore this. . It is also incredibly short sighted not to recognise that this building is for the stated uses. Isn't what this whole application relates to??**

*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.*

**10.8 I take offence to the semantics of 'the owner asserts'. The owner has proved that the use is very much needed. The officer has already told me that my case on agriculture will amount to nothing as I have another form of income. As my email on 14<sup>th</sup> December shows the decline of farms, yet interestingly enough other applications have been passed. I do not believe the office has a grasp of what we are trying to achieve and has missed many opportunities in order to engage with the applicant. This unfortunately gives a real feeling of predetermination. I have given multiple sources of evidence both for recreation /educational and for agriculture.**

*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.*

**10.9 This is a very misleading statement. I have given every viable evidence of ongoing agricultural activity. Many photos have been provided and ongoing communications show our use. One only has to use a bit of common sense and look at the land wonder how it is in such good condition. The sheep on the land with associated photos show the activity. In this paragraph once again it refers to my occupation of head teacher but then doesn't relate this to the recreational activities. It would be interesting to note how many full time custodians / farmers we have left that make up this rich tapestry of the countryside.**

*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.*

**10.10 I object again to the officer using the word may and could. I think it has been proven beyond any doubt that the recreational/educational activities exist. So if the farm is not a farm I'm not sure how or what angle the officer is coming at this. This shows little understanding of the needs of young children.**

*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.*

**10.11 I am sorry but in my humble opinion I think the officer is not really qualified to say whether the camp has successfully run. It is not doubted the summer club has run for 17 years. However to say the activities have been successful is subjective and the officers yard stick is not mine where we try to stand out from the outstanding. I am a national leader in education, ofsted inspector and run a teaching school that is a national support school and a teaching school recruiting and training teachers. We are also a fully recognised international school currently leading a project in Europe on British values translating into European values. This comment by the officer is totally wrong and loaded. How are establishments meant to improve if good is good enough or worse still the bar is raised and you struggle to improve.**

*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.*

**The officer needs to make her mind up... is the farm a farm or something else. The officer needs to look at her previous statement and ask why the visits are limited. We run farming and recreation together. See the time sheet sent through.**

**The following is an extract of an email sent to the officer. I know you would like more detail regarding the activities carried out at Hyacinth farm. Can I state the farming activities first:**

- **March to July is grass growing season for hay.**
- **July is hay making time.**
- **July to January is sheep grazing.**
- **October is repair/ hedge maintenance.**
- **January to February is lambing.**
- **February Fertiliser spread for grass growing season.**

**With regards to educational activities, they are staggered around the school year with certain fields coterminously being used for farming activities in and amongst.**

- **September to October - fruit picking season.**
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  - **Healthy eating looking at the healthy plate.**
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  - **Geographical links to the other countries and similar produce charted on a world map.**
  - **Taste comparison of preserved fruit compared to fresh fruit.**
- **October half term – team building days**
  - **International exchanges.**
  - **Water cycle.**
  - **Destructive elements of water – drought and deluge in the UK and abroad.**
  - **Renewable energy.**
  - **Land use.**
- **October as above plus**
  - **St Thomas School visit.**
  - **land use.**
  - **plant identification.**
  - **Community cohesion.**
  - **Harvest festival – donation of cans.**
- **November**
  - **World War 1 evacuations**
  - **Study of land girls**
  - **Advantages and disadvantages of living in a city as appose to living in a village.**
  - **Types of houses.**
  - **Reward trips.**
- **December**
- **January and February**
  - **Reward visits**
  - **Tree planting**
  - **Life cycles**

- Bird migration
- Food for animals
- Hibernation
- Games, archery, table tennis.

- March as above

- New life, lambs.
- Life cycles
- Chickens hatching
- Habitats
- St Thomas visit residential

- July and August

- Summer club residential
- Archery
- Table tennis
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- Dry stone wall building
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- Art and crafts
- Sports
- Outdoor cooking
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The farm has recently purchased new archery butts, 3 table tennis, drones, and team building equipment, tug of war, sumo suits, laser quest, and projection equipment. We've also purchased considerable outdoor cooking equipment. If you require any more information please do not hesitate to contact me.

**Gugsy Ahmed**

*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.*

**10.13 + 10.14 Both statements are incredibly short sighted and show a lack of understanding in working with young vulnerable children. I am happy to supply planning applications with less evidence that have been granted.**

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.

10.15 The officer then goes on to contradict themselves and talks about a secure building for storage of tractors and refers to the farm. We explained fully the fenestration and have supplied the officer with those of security breaches to both ourselves and to local neighbours. Please see files and photographs supplied.

*Whose opinion is this is a dwelling house. Planning has been put in for a dwelling house. The officer has access to previous planning applications and can see categorically we have not acted on previous applications by former owners to convert to a dwelling house. This is typically an upland farm barn... a quick search on google will show the many fenestrations available. This works for us. It is to be used for children who are entering and exiting the building in a safe and organised manner.*

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.

*I find this incredibly frustrating. The officer is commenting on what she sees not what and why we wanted things the way we designed them. The whole building has been designed to separate dangerous chemicals and vehicles from young inquisitive individuals. If the officer had agreed to meet and discuss why we had done things in that manner she would understand. Again missed opportunities... if you do things the same way you will always get the same results. We wanted to be child friendly and safe.*

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.

*Where is the officers comment on the recreational and educational use and that combined they make up exceptional circumstances. An extract from an email to the officer which was ignored puts this clearly. I suppose the crux of our issue is what in this area constitutes very special circumstances, we know local and national*

policy allow exceptions for applications that have very special circumstances, that's taken for granted.

In regards to Hyacinth Farm the statements and indeed the Justification statement in my opinion categorically paints the picture of this application amounting to very special circumstances. There is no need for the factors that constitute to very special circumstances needing to be unique but I'm sure you will agree these set of factors are unique and very different if not exceptional in themselves. They allow a small farm to diversify into educating pupils about the very countryside we are trying to protect. Given that development is by definition is harmful, I believe we must consider whether the harm caused to the Green belt is outweighed by the counter benefit arising from the application which in turn amounts to an application with very special circumstances justifying an exception to the green belt presumption. This seems to put us as custodians of the immediate area enabling us to care for the environment whilst being in a position to educate the next generation. This factor in itself is innovative and exciting and enables us to influence the next generation.

Fundamentally the question of whether this application is harmful to the Green belt. Hypothetically one could propose that any building would in itself be harmful and therefore we need to consider if any individual factor taken by itself would outweigh the harm. The NPPF allows for exception for use for recreation and sport, so it must naturally follow that this building should meet the exceptions rule. I understand this is a subjective decision that planners may need to consider further. This is when case law comes into its own and I am of the understanding that we must then consider all the factors at Hyacinth Farm. We may not find any one factor that outweighs the perceived harm but there are collective factors when combined together very much outweigh the harm, one factor in isolation may not counter balance the harm, several factors when combined create very special circumstances. I understand that each factor may have a weighting and this is for you to show your judgement as to how much weight you will attribute to each factor.

In my opinion the whole issue around development on the Green belt is very subjective and whilst I understand there cannot be a formula to apply – neither can there therefore be a formula in deciding whether any particular factor amounts to very special circumstances. In this application I believe the factors for allowing this initiative is one based on qualitative measures. You as the

**decision maker have a value judgement to make which I am led to believe has a wide latitude.**

*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.*

***The structure also stored other farm implements.***

*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.*

**10.19 Past permission 2002/91353 clearly shows lawful permission for agricultural stores.**

**The officer has clearly not looked at the background papers. This was never an abandoned project, the building was demolished and made fit for purpose. We have put a series of arguments to counter balance this statement and the arguments against development.**

*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.*

**It is quite clear that the farm needs the building, just as the plans state, a mixed use building that allows flexibility for recreation and agriculture. There have been substantial photographs reports and files showing the need. The officer again ignores the recreational and educational use of the facility. We had dual use building before and the building is clearly dual use now.**

*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.*

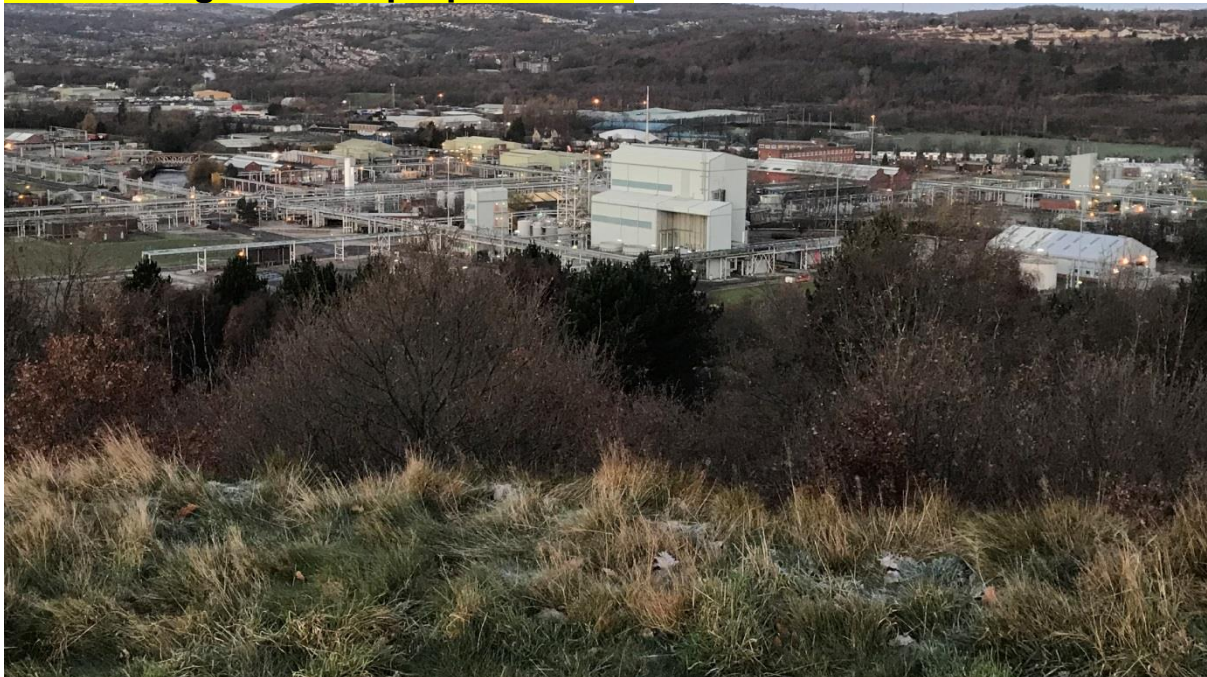
**I clearly don't think this statement is correct and one needs to read the whole of the NPPF.**

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### **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'.*

**10.23 The building retains the character of an upland farm building. I do not agree that the development prejudices the character of the surroundings. See Syngenta photos. The officer is reluctant to admit that the building is of a good quality design and will serve extremely well the children it is intended to, whilst giving the applicant the freedom to use it for agricultural purposes too.**



**View of the chemical works from the path that runs adjacent to the farm.**





*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.*

**There is so much factual inaccuracies in this statement.  
-No blue slate anywhere on the building**

- vernacular is quite clearly that of a good quality stone built barn  
- the rural location as the officer puts it means no animals can be put in this building because it is too close to other dwellings.  
- the building is clearly not in an isolated position away from the cluster of existing buildings and this is clearly a falsification.  
Consequently the impact on the openness is no more no less than what was previously there. Can I ask how the setting is sensitive? I ask how the setting is sensitive, the only sensitivity is reflected in the objection that the children who visit are not from the 'local' community. The officer is contradictory in this section. She refers to nearby dwelling houses and then refers to barns isolated position. The barn is in close proximity to other buildings – would say about 12 metres, The nearby dwelling houses that are occupied are several hundred metres away.

*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.*

This would not work with young children sitting on the floor to work take instruction etc it would be cold drafty and totally impractical. Seems the officer is intent on looking at one use of the facility. This is clearly centred around agriculture. Its already been ascertained that this structure is for dual use – recreation and agriculture.

*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.*

I have provided the officer with dates showing rural crime on both mine and neighbouring properties. This simply is not true.

**Arson attack on the neighbouring farm.**





To: Hannah Thickett <Hannah.Thickett@kirklees.gov.uk>

Date: Fri, 5 Jan 2018 15:43

Hi Miss Thickett I am probably not making myself clear. The building is indeed mixed use. The domestic storage is proven from the police reports that show the stolen items were domestic products such as children bikes.

Many thanks

Gugsy

To: Hannah Thickett <Hannah.Thickett@kirklees.gov.uk>

Date: Fri, 5 Jan 2018 15:31

Hi Miss Thickett

As previously stated in my emails the building was a mixed use building and has been for the last 17 years. This is evidenced through the police reports and items stolen as per the insurance auditors report and go back to June 2005.

Many thanks

G Ahmed

*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.*

**10.27 I thought the officer clearly understood that the primary use of the building was to be recreational/ educational. However the officer seems to continue down the path of exploring farming. Many pictures alongside reports were sent to the planner. Non the less the applicant has clearly submitted evidence of farming activities.**









**These pictures were given to the officer.**

*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.*

**The officer is incorrect in this. The building is not isolated and doesn't encroach into open fields. The building is quite clearly sustainable. It uses the hard standing area of what was left of the remaining building. Footing can still be seen. Why does the author of the report think the buildings are isolated or encroach into the open fields.**

### ***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.*

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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.

**I don't understand why this would be worthy of note. The applicant owns all of the land around the building.**

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.

**I can provide receipts to prove the stone has been sourced locally. This is so subjective .. the officer considers the building has a domestic style.**

**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.*

**The officer needs to reflect on the exception for which buildings are allowed in the green belt. These are buildings for agriculture, provision of appropriate facilities for outdoor sport, outdoor recreation, the extension or alteration of a building, the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.**

**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.*

**I afraid this is something that we significantly disagree on. See planning application in 2002. This was approved on this precise location and referenced in your background papers.**

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**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.*

**The scale on site of the building is significantly smaller than the plans approved in this location in 2002.**

*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*



***This is a sensitive subject since it has been reported to the police and to council officers some of the racial prejudice suffered by the applicant. Paint still adorns Hyacinth farm drive.***

***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.

***Why is the officer reacting to the whims of an individual but hasn't reacted in any detail to the many scores of responses in favour. Indeed the report is fashioned in such a way to shape the committee's mind to be set against the proposal.***

10.37 Ward Cllr Musarrat Khan requested the application be determined by subcommittee

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.

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## **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.*

**10.37 Health and Safety. This is a disgraceful leading statement that shows a blatant disregard. The officer is the same officer who dealt with an application submitted after this one. The advice gained from the HSE was clearly not to withhold planning permission.**

**The major hazard site is a high pressure gas main three fields away.**

**This is incorrect. The officer has inputted data that will bring out the results they want. This is a disgraceful attempt to use health and safety as a premise to refuse permission. Quite clearly a more recent application shows when approached methodically the HSE have no qualms about issuing permission. See email from HSE**

**From:** Kevin Walton  
**Sent:** 13 February 2018 12:45  
**To:** Hannah Thickett  
**Subject:** HSE Consultation Response - 20 Wellhouse Lane - 2017/94075  
**Attachments:** 20 Wellhouse Lane Kirkheaton 2017\_94075.pdf  
Please find attached

**Advice : HSL-180213122933-243 DO NOT ADVISE AGAINST**

**Your Ref:** E08000034

**Development Name:** Erection of replacement building

**Comments:** 2017/94075

Land Use Planning Consultation with Health and Safety Executive [Town and Country Planning (Development Management Procedure) (England) Order 2015, Town and Country Planning (Development Management Procedure) (Wales) Order 2012, or Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013]

The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Distance of Major Hazard Sites/ pipelines. This consultation, which is for such a development and is within at least one Consultation Distance, has been considered using HSE's planning advice web app, based on the details input on behalf of Kirklees District (B).

**HSE's Advice: Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.**

Commercial In Confidence

HSL-180213122933-243 Date enquiry completed :13 February 2018 (417382,418226)

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.”

**This attempts to place the LPA as the main driver. They know categorically as can be seen above that this is not the case.**

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 basis of HSE's assessment.

**This is just an attempt to play on the committees potential insecurities. The building is already in situ as are other buildings closer to the gas line.**

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.

**This will accentuate the delay when quite clearly you can see from the letter above the health and safety exec have no issues in granting planning permission.**

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## **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.*

**I hope I have shown clearly and evidenced the need and justification for this building. The building clearly offers much to the community, it is an excepted building and justifies its place in the current setting**

*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.*

**It's interesting how a new agricultural development can use new materials. We have become a disposable society, When young people want new when perfectly good stone, quarried no more than 500 metres from the farm cannot be accepted as a perfectly good building material. Its comes down to finances this stone was to be put into land fill. I explained that to your officers. You can see workmanship victors over poor quality materials. Where many builders want new stone our builder was happy with the challenge of using time lost techniques.**

*11.5 Members are requested to accept the officer recommendation and authorise Planning Enforcement action to seek to remove the building.*

#### **Background Papers:**

**It should be noted the officer has ignored the very full large files of evidence that was supplied to the LPA. The evidence in emails and the background papers have not been used extensively.**

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-planningapplications/detail.aspx?id=2002%2F91353>

2017/94075 – Erection of replacement building – Conditional full permission

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planningapplications/detail.aspx?id=2017%2F94075>

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

Certificate of Ownership – Signed Certificate A