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**Report of the Head of Strategic Investment**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 18-Apr-2019**

**Subject: Planning Application 2018/91244 Erection of detached bungalow (farm workers dwelling) Hollin Bank Farm, Cross Gate Road, Holmfirth, HD9 1SL**

**APPLICANT**

B Roberts, Hollin Bank  
Farm

**DATE VALID**

16-Apr-2018

**TARGET DATE**

11-Jun-2018

**EXTENSION EXPIRY DATE**

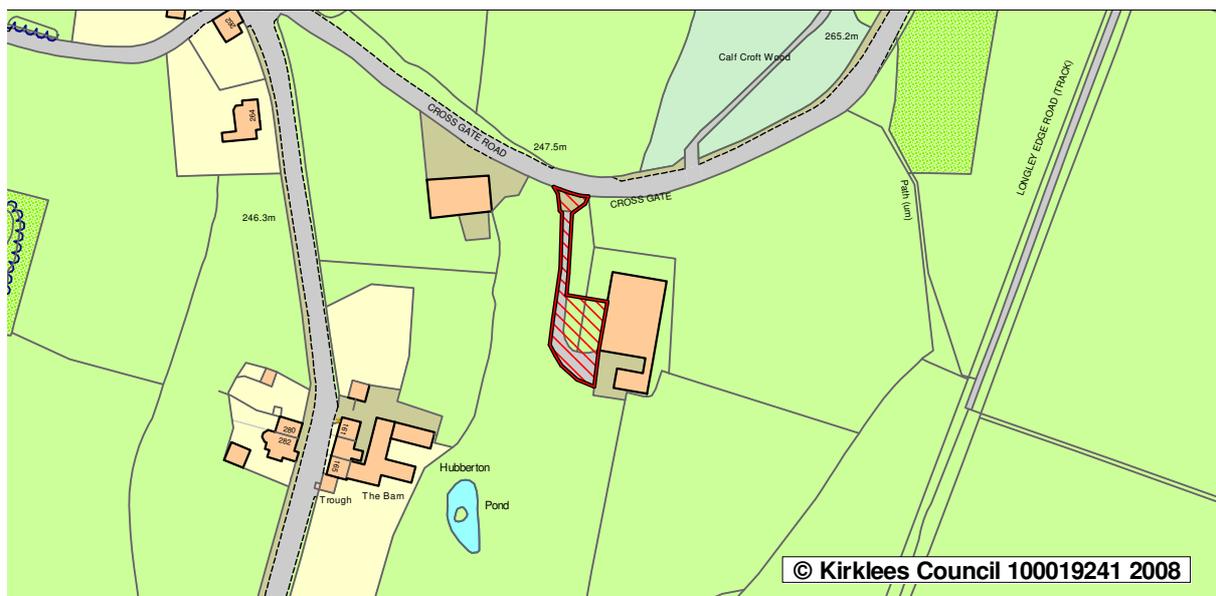
20-Jul-2018

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**



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

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**Electoral Wards Affected: Holme Valley South**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION: REFUSE**

The application site is located within the designated Green Belt, whereby, as set out in the National Planning Policy Framework the construction of new buildings, subject to certain exceptions, is regarded as inappropriate development. In this case, exceptions to this are where the functional and essential requirements for the purpose of 'agricultural' has identified the need for a full-time worker to be on site; or the essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside as set out in paragraph no.79. The applicant has failed to sufficiently demonstrate that the existing enterprise is financially sound to sustain a permanent need for an agricultural/rural worker both now and as can reasonably be seen ahead, having regard to Policy PLP55 of the Kirklees Local Plan and paragraph 79 of the NPPF. The proposals therefore, by definition and other harm set out above, would constitute inappropriate development, which are not clearly outweighed by the very special circumstances (statement of need for himself and his daughter being employed in the existing business, to live on site) put forward, contrary to paragraph nos. 143 and 144 of the National Planning Policy Framework and Policy PLP55 of the Kirklees Local Plan.

**1.0 INTRODUCTION:**

1.1 the application is brought to committee at the request of Councillor Nigel Patrick who states:

*"I think an agricultural workers dwelling is needed and is justified. I think the national and local planning policies around agricultural workers dwellings are subjective in application and as such are not very helpful. Similar applications in England have been approved on appeal".*

1.2 The Chair of Sub-Committee confirmed that Cllr Nigel Patrick's reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is situated off Cross Gate Road and currently accommodates three units. The largest of these units houses rabbits in cages and conceals a caravan where the applicant is stated to reside on a permanent basis. The other two are used for storage purposes for other livestock, implements/farm vehicles and hay. The site is served by a linear access track, north of the buildings from Cross Gate Road, within a rural setting. Land rises steeply up towards the east behind the buildings and falls towards the west in front of the buildings with the consequence of the existing buildings being partly visible from Dunford Road.

## **3.0 PROPOSAL:**

- 3.1 The application seeks permission for a farm workers dwelling, the justification for which is based on the current operations of the enterprise and the need for on-site security, primarily required as the applicant has said to “*on a number of occasions had to challenge individuals seeking to access the land/property*” and that the dwelling is required to provide accommodation for the applicant and his daughter who is an employee of the farm business and this would allow:

*“a more streamlined operation of the agricultural activities, lambing and rabbit rearing which is intensive and time consuming..... to ensure appropriate operations of the agricultural activities a presence on site is required 24 hours a day, 7 days a week, 356 days a year. This is less so with the lambing which is less intensive during the spring lambing time when new lambs are delivered in pens within the farms agricultural buildings (Jan – April).*

The plans indicate a modest sized dwelling to provide accommodation on one floor and would measure approximately 13m by 7m with an overall height of 6m to the ridge of the pitched roof. External facing materials are proposed to be natural stone with concrete roof tiles.

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

- 4.1 2011/92263 - Proposed roof over part of hard standing area adjacent to existing farm building – granted May 2013

2010/90543 - Retention of the engineering works to form the level plateaux and access track and the erection of an agricultural building - Approved

2009/91814 – Erection of agricultural building with associated hardstanding and driveway from Cross Gate Road, Holmfirth – Refused (on same grounds as below – size of building and excavation works)

2008/92517 – Erection of an agricultural building with associated hard standing and driveway – Refused (on grounds of size of building and excavation works)

Hearing dismissed in relation to breach of engineering operations including the formation of access track and formation of level area to building (November 2008)

2007/93032 – Agricultural Notification for the prior approval of details for the erection of hay straw and machinery store – Details Approved

## Enforcement

COMP/07/0508 – engineering operations involving significant excavation works carried out and an access road formed and materials imported in to surface it. Enforcement notice served, appeal upheld. (Operations were eventually regularised under application no 2010/90543)

COMP/16/0020 – material change of use of barn to residential – no evidence of breach

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

5.1 Additional information received to justify proposed development following report of independent Agricultural Surveyor and meeting between case officer and applicant/agent.

### **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

#### Kirklees Local Plan (2019):

6.2 PLP 21 – highway safety and access  
PLP 24 – design  
PLP51 – protection and improvement of air quality  
PLP52 – protection and improvement of environmental quality  
PLP55 – agricultural and forestry workers dwellings  
PLP58 – garden extensions in the green belt

#### Supplementary Planning Guidance / Documents:

6.3 N/A

#### National Planning Guidance:

6.4 Chapter 6 Building a strong, competitive economy  
Chapter 12 achieving well designed places  
Chapter 13 - Protecting Green Belt Land  
Chapter 15 -Conserving and enhancing the natural environment

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

7.1 The Council has advertised the application by site notices and through neighbour notification letters.

7.2 As a result of the publicising the proposals, two representations were received. The concerns of which are summarised below:

- The site cannot sustain any further development for the business
- The current state of the site has had a massive impact on the green belt land
- There are numerous local properties for sale or rent within the area
- Building is not essential as such no very special circumstances demonstrated
- Existing buildings not used for intended use
- Site access has poor sight lines & unsafe for pedestrians
- Adverse impact on openness of green belt
- No need for 24hour security on this site
- Not all the land referred to is in the ownership of the applicant.

Holme Valley Parish Council - support the application

The additional information was not re-publicised as this did not materially alter the development applied for.

## **8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**  
KC DM Highways – no objections or concerns

8.2 **Non-statutory:**  
KC Environmental Health - support subject to condition relating to package treatment plant for foul water disposal

## **9.0 MAIN ISSUES**

- Principle of development and impact on the Green Belt
- Residential amenity
- Highway issues
- Foul water drainage:
- Representations
- Other matters

## **10.0 APPRAISAL**

10.1 Principle of development & impact on the Green Belt:

10.2 The construction of new buildings in the Green Belt is inappropriate and is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. 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 (paragraphs 87-89 of the NPPF). Paragraph nos. 145 and 146 provides a list of exceptions to this but none of these include the erection of new dwellings.

- 10.3 Paragraph 79 of the NPPF does however state that exception to the presumption against isolated dwellings in the countryside may be considered if one or more of the circumstances set out under this paragraph apply. This includes the essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. This will be taken into account in considering whether any 'very special circumstances' exist.
- 10.4 Policy PLP55 of the Kirklees Local Plan, reiterates the above. The justification for this policy does however also acknowledge that the need for a new dwelling in the green belt for a worker engaged in any other type of enterprise will be judged on a case by case basis. In relation to this, paragraph nos. 19.15 and 19.16 of the Local Plan clearly sets out that the essential need for a new dwelling in the green belt should be demonstrated on the grounds of animal welfare or agricultural /forestry processes where attendance is needed at short notice, at all times of the day or night and where failure to attend could lead to serious loss of crops or livestock.
- 10.5 Furthermore, where the need is permanent, applicants should show that the worker is required on a full time basis, that the enterprise is financially sound, able to sustain the farming enterprise, can support a permanent need both now and as far as can reasonably be seen ahead and that the dwelling will remain available while the need remains.
- 10.6 Subject to there being a clear functional need, for a full time worker on the farm, evidence that the existing farm has been established, is financially sound with clear prospect of remaining so, the principle of a permanent farm workers dwelling or a dwelling for a worker engaged in any other type of enterprise could be supported.
- 10.7 The assessment below will consider whether sufficient information has been submitted that justifies the need for an agricultural workers dwelling, or a dwelling associated to a worker engaged in any other type of enterprise, and whether the proposals causes harm to the Green Belt, if so whether very special circumstances (VSC) exists that clearly outweigh the harm caused.
- 10.8 The accompanying statement states that:

*"the farm holding amounts to 120 acres/48.5 hectares [this is a mixture of tenures] and the business base is sited at Hollin Bank Farm, Cross Gate Road. The applicant has made a living for himself from the business and employees two part time people". To continue to develop and grow the agricultural business the applicant requires more assistance/input for the 24 hour operations (rabbit breeding, all year round, and lambing, during spring along with preparing sheep for sales in the autumn).*

*Hollin Bank Farm is an established farming business that requires appropriate on site living accommodation. The current caravan doesn't provide sufficient space for the applicant and his daughter to live on site. Furthermore the space occupied by the current touring caravan is required to expand the business activities.*

*The current housing/accommodation situation is not fit for purpose for the long term. The touring caravan sited within the largest agricultural building is occupied by the applicant, which is a 3 berth caravan only with one bedroom. The applicant's daughter, an employee of the farm business currently lives with her mother, 4.5miles away. It is intended the applicant's daughter will move in with her father to enable a more streamlined operation of agricultural activities, lambing and rabbit rearing which is intensive and time consuming.*

*Given the need for the staff working on the farm to be available long hours, unsociable hours and at very short notice, the need for the applicant's daughter, farm worker to live on farm has been identified as an issue.*

- 10.9 The accompanying statement describes in detail the overall operations of the existing enterprise and the statement of need for the agricultural workers dwelling which in the applicants opinion amounts to VSC that outweigh harm to the Green Belt by definition and the "minimal other harm". It should be noted that no documentary evidence has been submitted to indicate that the touring caravan referred to above has been continuously occupied continuously in recent past.
- 10.10 Given the lack of in-house expertise for assessing the additional financial information, for such proposals, advice was sought externally from an Independent Agricultural Surveyor on behalf of the Council, to consider the essential need for a permanent agricultural workers dwelling on this site. Additional information, (including sensitive and confidential information) along with a plan showing the full extent of the farm and acreage in ownership of the applicant, was obtained during the course of the application, to allow a thorough assessment to be made, as the proposals seeks permission for a permanent dwelling for an agricultural worker.
- 10.11 The Council's Surveyor also met with the applicant and inspected the site, carrying out a visit to associated land in use with this enterprise. The independent surveyor at the site meeting sought further information and clarity on a number of issues from the applicant. On the basis of the information obtained, the Council's Independent Agricultural Surveyor has considered whether there is an essential need for a rural worker to live permanently on this site and advises in his opinion application raises a number of issues and sets out his case below.

### **1. With regards to Land:**

- 10.12 Overall, the Holding extends to approximately 175 acres which, on the face of it, is a significant area. But, of the 175 acres, I understand that only 10 acres is owned. The remaining 165 acres is occupied under a range of ad-hoc arrangements, with no security from year to year, or season to season. The significance of this is that the land could easily be lost and the justification for the dwelling undermined, or, if the farmstead and proposed house were to be sold, a future owner without the benefit of the other land could seek removal of the agricultural occupancy condition on the grounds it is no longer appropriate.
- 10.13 The Holding is made up of approximately 12 land blocks ranging in size between 4 and 27 acres.

10.14 The land blocks are spread over the District between Newsome HD4, Scholes HD9, High Flatts HD8 and Millhouse Green S36. The areas are therefore not only diverse in area and occupied on an insecure basis, but are also spread up to approximately 6 miles from the Application Site in different directions.

## **2. With regards to Livestock:**

10.15 Livestock amount to approximately 150 breeding ewes, rams and the progeny. In addition there are approximately 350 breeding rabbits and progeny together with sheep dogs in training.

10.16 From Industry Standard Data I calculate that the sheep enterprise, grassland and farm management etc amount to approximately 65% of a full time labour unit.

10.17 I suspect that I might be persuaded that with the rabbits, the Holding is a full time unit. However, I am far from clear as to the extent to which the rabbits are "agricultural" as, firstly, this is merely a breeding unit and the kids are sold at 8 weeks old. Secondly, I am unclear of the extent to which they go on to be reared for meat, as opposed to being bred for pets.

10.18 I note the sheep dog training but whilst this is agriculture related, I do not consider this to be agricultural.

## **3. With regards to Finance:**

10.19 From the financial information provided, profits appear to swing significantly from year to year and I do not feel that they show the business to be reasonably sustainable.

## **4. In summary:**

10.20 On the basis of the lack of security of tenure, number of land blocks and distances involved, it is difficult to consider this as a cohesive sustainable Holding. Only the application site is owned. Other areas are larger or form more significant groupings.

10.21 With regard to land use, number and type of livestock etc I am not convinced that the agricultural activity constitutes a full time activity.

10.22 In considering the financial information, it appears that the profit has only exceeded the National Minimum Wage for 3 out of the past 6 years. And on average the profit has equated to less than 80% of the National minimum/ living Wage. Whereas, I would expect a proprietor to seek a significantly higher income to reflect the "business risk" being taken, interest charges on investment, and funding for future investment etc.

10.23 Overall, whilst I have significant sympathy for the applicant I do not feel that the essential need for a permanent agricultural dwelling has been demonstrated.

10.24 Reference has been made to alternative existing residential accommodation - I would normally focus on properties within approximately 400m of the Site, and in "sight and sound".

10.25 With regards to the concealed existing caravan, if there were to be sympathy for a temporary dwelling then this would offer opportunities to fulfil this role. But one would normally only consider a temporary consent where a business is developing and there is a reasonable expectation that there will be a need for a permanent dwelling in due course. The applicant is not making this case.

**Response by applicant to assessment by Council's Independent Surveyor:**

10.26 In response to the above, the applicant clarifies:

- *the farm holding amounts to "an overall 223 acres of long term rented land not 120".*
- *There are two part time employees along with the applicant and his daughter*
- *Just to clarify the caravan accommodation is compact, it is a 3 berth caravan but given this is the only living space on site it isn't fit for more than one person to live full time within.*
- *livestock numbers and operations of the activities being carried out, as set out below:*

*150 - Breeding Ewes  
80 Female Shearlings  
83 male rams  
204 lambs  
5 stock rams*

*There has been a focus on the figure of 150 sheep plus offspring. The agricultural surveyors report stated "150 breeding ewes, rams and the progeny". As the above numbers confirms this is almost tripled taking into account the annual offspring. Please note livestock levels do fluctuate during the year but as evidence above the farm is continuing to grow and develop.*

*The shearlings and male rams are the offspring from April 2017 – these are now around 18months old. The rams will be sold on at market with some shearlings kept back for breeding and others also sold on. Keeping some back increases the quality of the breeding stock and ensures a tiered age range to provide continuity. Whilst some replace lost or older ewes the overall breeding number increases each year.*

*The male rams are kept separate to prevent bloodline issues.*

*The lambs are this year's offspring (April) and are now around 6 months old. These too will be kept on the farm till they are circa 18months old where some will be selected and kept back the others sold on. This number of 200 lambs evidences the increase in stock/growth of the farm as the previous year was 163.*

*The stock rams are the breeding males used each year to cover the breeding ewes.*

*With reference to rabbit rearing, the applicant has no control over their future destiny once sold, pet or meat.*

With regards to land and it being acquired on an ad hoc basis, the applicant makes the following comments and request this be included within the committee report

- *This is a strange statement that I feel is intentionally misleading. Many farmers (in fact most I know) rent land. The applicant is no different. Since the 'ad-hoc, with no security from year to year' comment further correspondence has been provided to illustrate the arrangement isn't ad-hoc and is indeed a long term and historical arrangement.*
- *6 miles between agricultural land, when rented, is not uncommon. I am currently working for a farmer who's base and owned land is in Holme Village yet his other rented land is in the lakes !*
- *As previously discussed/confirmed the applicant has no control over the destination of the rabbits once he sells them on (they are reared on an agricultural basis) – can you please confirm this is agreed.*
- *Sheep dog training (training working dogs to round up sheep) cannot be seen as anything but an agricultural activity. The agricultural surveyors comment in relation to this not being agricultural is ridiculous.*
- *With regard to finance the business has been proved over a number of years to provide an income for the applicant whilst also paying 2xparttime staff and his daughter. Agricultural enterprises are seldom lucrative businesses, the fact that the business is still operating (years on) and also growing year on year proves it's sustainable*

**Conclusion of principle of development:**

10.27 To summarise, taking into account the assessment of the Council's independent Agricultural Surveyor as set out above, Officers are of the opinion that whilst there may be a case for a worker to be on site, on grounds of animal welfare primarily in relation to the rearing of rabbits only in association with a non-agricultural activity, the need for a full time worker to be on site, based on the functional and essential requirements for the purpose of 'agricultural' activities of the existing enterprise has not been sufficiently demonstrated.

10.28 Furthermore, the information submitted has also failed to demonstrate that the enterprise is sound to financially sustain a permanent need both now and as can reasonably be seen ahead and that the dwelling will remain available while ever the need remains, contrary to Policy PLP55 of the Kirklees Local Plan and guidance in the NPPF.

**Other harm to the openness of the Green Belt:**

10.29 Notwithstanding the above, there now follows an assessment of other harm on the openness and character of the green belt, through various elements of the new built form and the normal domestic paraphernalia and activities associated with the domestic use of the site.

10.30 Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; it later goes on to state that the essential characteristics of Green Belts are their openness and permanence.

- 10.31 The dwelling would be sited along the western elevation of the existing large barn, and served by the access track from Cross Gate Road. The scale and prominence of it within the surrounding landscape would be mitigated somewhat by the existing large agricultural buildings on site and consequently the impact on the green belt can be argued to be reduced. In addition to maintain an open character, withdrawal of permitted development rights for any additional buildings or extensions within the red line boundary, could be conditioned, which defines the residential curtilage, to accord with Policies PLP24 and PLP58 of the Kirklees Local Plan (as modified). Nevertheless, the development would reduce the openness of the Green Belt by its built form on land which is currently open. This would cause harm the Green Belt in principle.
- 10.32 To conclude, Officers are of the opinion the VSC put forward by the applicant do not outweigh the harm by reason of inappropriateness and the other recognised harm and as such would be contrary to paragraph nos. 143 and 144 of the National Planning Policy Framework and Policy PLP55 of the Kirklees Local Plan (as modified).
- 10.33 Residential Amenity:
- 10.34 The nearest residential properties lie approximately 80m on Dunford Road, south west from the proposed siting of the dwelling. It is considered the amenities of the occupiers of these properties would not be materially affected by the proposed dwelling.
- 10.35 Highway issues:
- 10.36 This application is for the erection of a two bedroom farm workers dwelling within the farm yard of Hollin Bank Farm that is accessed by an existing farm track to Cross Gate Road. C577 Cross Gate Road is a rural road set at national speed limit with occasional footways and very limited street lighting present.
- 10.37 The access is as existing and as the applicant already resides there would not be an intensification of use. The application proposal is not expected to generate sufficient traffic as to have an effect on the operation of the local highway network.
- 10.38 Kirklees parking standards for this type and size of development are for two parking spaces, four spaces are proposed to remain and this would allow for the proposed development and also parking for other temporary farm workers. There is sufficient space within the farm yard to allow vehicles to access/ egress these site in forward gear.
- 10.39 Refuse/recycling bin collections would remain as presently carried out from Cross Gate Road, this is approximately 60m from the proposed dwelling which is above the guidance for carry distances, however there is sufficient space within the access to allow for bin collection storage without obstructing the highway/footway.
- 10.40 On the basis of the above, the proposals are not considered to materially add to any highway safety implications and would accord with the aims of Policy PLP21 of the Kirklees Local Plan (as modified).

10.41 Foul water drainage:

No details have been provided of how foul water would be disposed of. Environmental Health have requested a condition regarding the provision of a package treatment system for foul drainage. If main drainage is not feasible to serve the dwelling then a package treatment system would be the most sustainable form of non-mains drainage. In these circumstances if the application was to be approved it would be appropriate to require a pre-commencement condition requiring details of the method of foul drainage. This would accord with Policy PLP52 (as modified) which seeks to ensure the well-being of people and protection of the environment.

10.42 Representations

The preceding paragraphs address the concerns raised.

10.43 Other Matters

*Air Quality:*

Along with reduction of air pollution, the NPPF also encourages the promotion of sustainable transport. The West Yorkshire Low Emission Strategy Planning Guidance has been drafted to take a holistic approach to Air Quality and Planning. In this particular instance taking into account the NPPF and the WYESPG it is considered that promoting green sustainable transport could be achieved on this site by the provision of an electric vehicle charging point should the proposals be supported. This could be conditioned to secure the charging point for the proposal to comply with the aims of Chapters 9 and 15 of the NPPF as well as Policy PLP24 of the Kirklees Local Plan

## 11.0 CONCLUSION

11.1 For the reasons set out above the principle of developing this site for a permanent dwelling has not been sufficiently demonstrated. This application has been assessed against relevant policies in the development plan, the NPPF and other material considerations. Considering all the supporting information submitted Officers are of the opinion the VSC put forward by the applicant do not clearly outweigh the harm that would be caused to the Green Belt by reason of inappropriateness and the other recognised harm.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute what sustainable development means in practice. The application of policies in Chapter 13 of the NPPF provide a clear reason for refusing the development proposed.

### **Background Papers:**

Application and history files. As noted above

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f91244>

Certificate of Ownership –Certificate A signed by Agent, on behalf of applicant