

PLANNING COMMITTEE – 20 July 2021

REFERENCE NUMBER: 21/00191/FL

**Application Expiry
Date:** 27.07.2021

Application Type: Full application

Proposal Description: Application for the construction of two agricultural buildings

At: Land North East of 17 Main Road, Shirland

For: Mr A Oughton

Third Party Reps:
1 obj, 2 support

Parish: Shirland

Ward Name: Shirland and Higham

Author of Report: Emily Cartwright

**Date of
Report:** 6 July 2021

MAIN RECOMMENDATION: CONDITIONALLY APPROVE



Fig 1: Site Location Plan

1.0 Reason for Report

- 1.1 Local ward member, Councillor Liggett has formally requested that the application be considered by members of planning committee due concerns raised in relation to the proposed use.

2.0 Proposal and Background

Site Description

- 2.1 The application site comprises of a field to the south east of the application dwelling, 2 Town End, a Grade II Listed building within the 21 acre holding. The dwelling sits fronting the highway to the north west corner of the site, with a range of outbuildings extending from the building.
- 2.2 A track, with two timber gates, provides access to the field from Main Road and extends around the south and eastern perimeter of the grounds associated with 2 Town End.
- 2.3 The field is currently subdivided into paddocks as the previous owners of the land uses the site for equestrian purposes and is screened by mature vegetation to the west and south.
- 2.4 The field is bounded by neighbouring properties gardens to the north, open fields to the east and south, and to the west of the track, within the south east corner of the application dwelling's grounds is a former riding arena and has recently been converted into a commercial sale of vehicles area
- 2.5 The application field is relatively flat in topography, however as you travel east the land gradually falls away down towards the watercourse. Beyond this watercourse and a further field is Public footpath PRoW No 15 runs in a south west to north east direction 180m to the east of the application field.
- 2.6 The application site is located within open countryside.

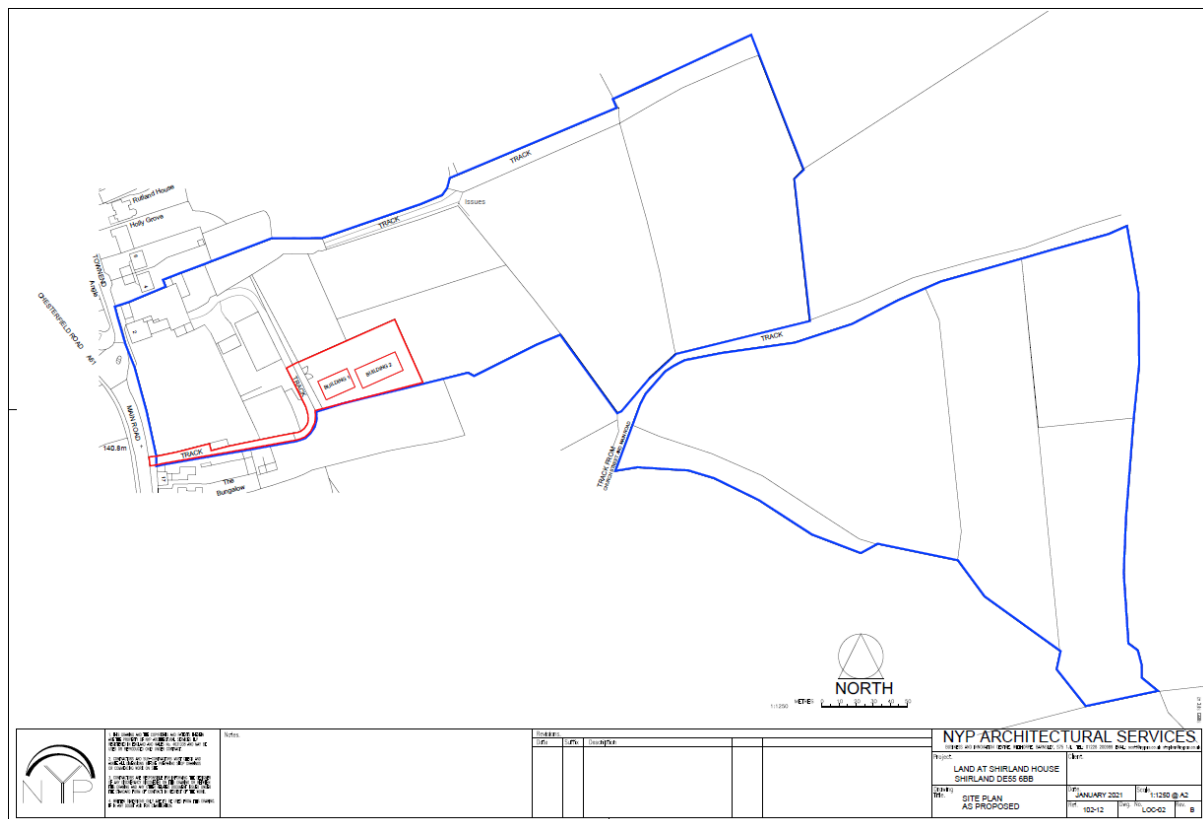


Fig 2: Location Plan showing

Proposal

- 2.7 Permission is sought for the construction of two agricultural buildings sited within 5m of one another within the south west corner of the field adjacent to the track in order to develop a small agricultural business.
- 2.8 Building one would have maximum dimensions of 18.76m wide by 12.0m deep, with a ridge height of approximately 5.2m. The portal structure would be constructed from green profile steel sheeting and would feature three roller shutter openings within the north (facing) front elevation. This building would be for the storage of a tractor and associated agricultural equipment.
- 2.9 Building two would have maximum dimensions of 26.0m wide by 12.0m deep with a ridge height of approximately 5.2m. The portal structure would be constructed from fair faced blockwork with vertical timber boarding above with a profile steel sheeted roof. The north (facing) front elevation would be open sided and would provide storage for hay and shelter of livestock.
- 2.10 The two buildings would be accessed via the existing access point and track off Main Road, and would not require any track or hardstanding construction.

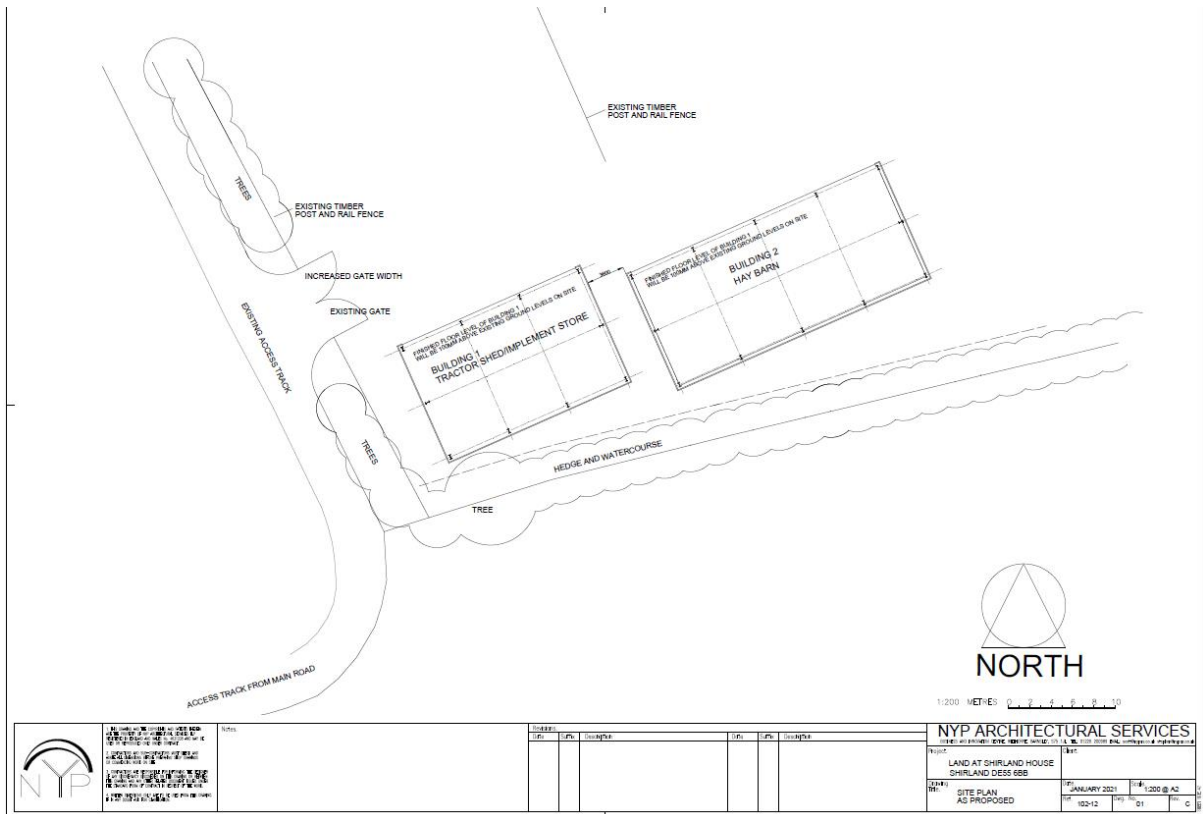


Fig 3: Block Plan

3.0 Amendments

- 3.1 Revised plans have been submitted following concerns raised by Officers in respect of the siting of the two buildings.

4.0 Relevant Planning History

- 4.1 20/00977/DISCON – Application to discharge condition (Parking, Manoeuvring Areas and Access Track) and 13 (Landscaping) of planning application 20/00285/FL (Conditions Discharged)
- 4.2 20/00285/FL – Change of use from manege to commercial sale of vehicles (Affecting Setting of a Listed Building/Amended Title/Amended Plans) **(Conditionally Approved)**
- 4.3 18/01082/OL - Outline Planning application with all matters reserved for two dwellings (resubmission of 18/00607/OL) (Amended Plans/Information) **(Conditionally Approved)**.

[OFFICER NOTE: this approval includes use of part of the access into the application site only]

- 4.4 91/00872/FL - Erection of a block of five stables, a block comprising single stable and tack room and a building for use as garden/hay store (**Conditionally Approved**)
- 4.5 88/01091/LB - Listed Building Consent for internal and external alterations to stables (**Conditionally Approved**)
- 4.6 88/01092/FL - Conversion of loft and stables into ancillary flat (**Conditionally Approved**)
- 4.7 80/01272/FL - Rebuild barn (**Conditionally Approved**)

5.0 Consultation Responses

- 5.1 The **Parish Council** objection to this application for the following reasons:
- The proposed buildings are not in keeping with the nature of a listed building.
 - Concern about the height of the eaves.
 - Concern regarding what the buildings are to be used for particularly the one for livestock – this is too close to existing buildings and may lead to smells, problems with flies etc.
 - Concern that there is a watercourse in close proximity to this site.
- 5.2 The **Ward Member** called the application into committee.
- 5.3 County **Highways Authority** were consulted, and raised no highways objections on the basis the building is used for agricultural purposes, in support of farming activities carried out on surrounding controlled farmland.
- 5.5 **Environmental Health** (EHO) were consulted, and originally stated that it was unclear if any groundworks would be taking place, and recommended an excavation condition be attached to any permission granted. Subsequent information was supplied by the agent, and EHO confirmed that the condition relating to the soil excavation is no longer required.
- 5.6 **Coal Authority** (CA) were consulted, and concur with the recommendations of the Coal Mining Risk Assessment report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. The Coal Authority withdraws its objection to the proposed development subject to the imposition of conditions.

6.0 Representations

- 6.1 The application was publicised by way of neighbour letters and the display of a site notice. Two letters of representation raising a number of material objections have been raised by one neighbouring resident which can be summarised as follows:

Objections:

- Find it very deceitful that the planners mention the site is to the north and east of (the Bungalow) this I see as a debate attempt to avoid my property being mentioned and the further impact it will have.(officer note: this is addressed in the assessment below)
- All the traffic passes over a right of way over my drive which I contested in the last application (commercial vehicles sales)
- The entrance already services Shirland House, the bungalow, my house and a commercial van business, if this is passed with farming activities using the entrance it would not only be a potential safety risk but also a total infringement of our privacy and welfare
- Activities on this entrance to this site effects only my property, and it's totally unacceptable for us not to be taken into consideration.
- Planning passed two dwellings on my land, if and when this goes ahead, there will be a further two properties using this entrance.

7.0 Relevant Policy and Strategic Context**North East Derbyshire Local Plan (Adopted November 2005)**

- 7.1 The following policies of the Local Plan are material to the determination of this application:

GS1 Sustainable Development
GS6 Open Countryside
NE1 Landscape Character
NE7 Protection of Trees and Hedgerows
BE9 Development in the Vicinity of a Listed Building
T2 Highway Access and the Impact of New Development
T9 Car Parking

Emerging North East Derbyshire Local Plan (Under Examination)

- 7.2 The emerging Local Plan (eLP) was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector issued her interim findings in letters dated 18 February and 21 March, 2019. Following local elections in May 2019, the Council paused the Plan, pending consideration of its options around housing numbers and Green Belt release. On 27 February, 2020 the Council announced the un-pausing of the Plan to allow it to proceed to the next stage of consultation on the Main Modifications. This consultation took place between 2 November 2020 and 31 January 2021. The plan is now considered to be at an advanced stage and its policies may be afforded significant weight in line with the criteria outlined at para 48 of the NPPF.

7.3 This consultation is currently underway, with no further changes being proposed to the eLP prior to adoption, as such it should be given significant weight in the determination process.

7.4 The following emerging policies of the eLP are material to the determination of this application:

SS1 Sustainable Development
SS9 Development in the Countryside
SDC2 Trees, Woodlands and Hedgerows
SDC3 Landscape Character
SDC6 Development Affecting Listed Buildings
SDC12 High Quality Design and Place Making
SDC13 Environmental Quality
SDC14 Land potentially affected by Contamination or Instability
ID3 Sustainable Travel
ID7 Greenways and Public Rights of Way

National Planning Policy Framework (NPPF)

7.5 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application. The main sections are covered in the assessment below.

Other Material Planning Considerations

7.6 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities have special regard to the desirability of preserving Listed Buildings including their setting.

7.7 Successful Places Interim Planning Guidance, adopted December 2013.

8.0 Planning Issues

Principle of Development

8.1 The proposed site is located outside of any defined Settlement Development Limit (SDL), falling within a countryside location.

8.2 Local Plan Policy GS6 states that developments in the open countryside should be considered acceptable subject to the following criteria:

- a) the development is for the operation of a use appropriate to such a location;
- b) it is in keeping with the character of the countryside;
- c) it causes minimal disturbance to farming and minimises the loss of agricultural land, particularly that of the best and most versatile quality;
- d) it does not require major new or improved infrastructure provision;
- e) it causes minimal problems of noise, disturbance and pollution and other environmental impact; and

f) it does not represent a prominent intrusion into the countryside.

- 8.3 eLP Policy SS9 states that development will be supported if it falls into one of the outlined categories. Two of the categories states that “*it is necessary for the efficient or viable operation of agriculture, horticulture, forestry and other appropriate land based businesses, including the diversification of activities on an existing farm unit*” and/or “*it involves small scale employment uses relate to local farming, forestry, recreation or tourism.*” In both cases development is required to respect the form, scale and character of the landscape, through careful siting, scale, design and use of materials.
- 8.4 The NPPF set out a general presumption in favour of sustainable development, and Paragraph 15 of the NPPF seeks to contribute and enhance the natural and local environment
- 8.5 In view of the above, it is considered that the proposal development would be acceptable in principle, subject to the considerations below.

Justification Consideration

- 8.6 New development in the countryside should be for an operation of a use appropriate to such a location.
- 8.7 Initial concerns relating to the use and scale of the proposed building were raised following the site visit as the site had a more equestrian feel to it rather than agricultural. However, the accompanying planning statement clarifies that the previous owners used the site mainly for equestrian purposes and that the applicant intends to develop an agricultural business from the site.
- 8.8 The applicant has confirmed that since purchasing the site the land has been used for the growth/sale of hay via a contractor. As part of the proposed agricultural business the applicant intends to cut and process the hay themselves and to use this as a food source for a herd of cattle and sheep, with any excess hay sold on. Based on the current land holding it is expected that up to 400 hay bales would be stored at any one time with Building 2.
- 8.9 Building 2 would also be used for the shelter of livestock. Whilst it is noted that there is currently no livestock on site. The applicant intends to build up a herd of pedigree Hereford cattle. Due to the time involved in the construction of the proposed two barns, this will not happen until 2022. However, in the meantime the applicant intends to take on 10 or so Hereford Cross sucklers with calves off their father in the late part of the year to graze the land.
- 8.10 The applicant has also provided the following list of machinery and implements that would be stored within Building 1:
- Massey Ferguson tractor
 - JCB 3c
 - Drum mower
 - Hay bob

- Hay bailer both round and traditional square bail
- Muck spreader
- Fertilizer spreader
- Field roller
- Chain harrow
- Yamaha quad
- John Deere gator
- Verge mower
- Tractor mounted hedge cutter
- Bobcat 1.5 tonne mini digger
- Tractor mounted post knocker
- Various smaller implements

8.11 In view of the above, Officers consider that sufficient justification has been put forward and that the proposed buildings would be for an operation appropriate to this location and for the land holding the applicant owns.

Design and Impact on Countryside Considerations

- 8.12 The application site comprises of a large field split into three small fields with intersecting timber post and rail fencing, bounded by mature vegetation on all four sides.
- 8.13 The block plan illustrates that the two proposed buildings would be sited close together within the south west corner of the field, adjacent to the existing gate.
- 8.14 It is considered that the proposed buildings by reason of their design and finished material would not be harmful to the countryside character and appearance of the area, and that they would both be of an appropriate scale for their designated use.
- 8.15 Due to the flat topography of the land, the building would be visible from public viewpoints along the public footpath to the east. However, officers are of the view that the development would be read in context with the existing built form of Shirland in the background.
- 8.16 No lighting scheme has been submitted as part of the proposed plans, and a condition restricting any external lighting on the building shall be included on any decision to ensure that the building is not inappropriately illuminated.
- 8.17 Furthermore, it is considered that no hard standing should be included to limit any localised harm from the proposed development, which can be addressed via a suitably worded condition.
- 8.18 In view of the above, Officers consider that the proposed buildings would represent acceptable development that would be of a siting, design and finished material in keeping with the character of the countryside and other agricultural buildings in the area. In view of the eLP and subject to a levels condition, Officers consider that the buildings siting, scale, design and materials would be appropriate to its countryside location.

Heritage Considerations

- 8.19 Whilst it is noted that the field subject to the application is located outside of the application dwellings grounds, it is considered to be read in context with the built form associated with no.2 Towns End.
- 8.20 The application dwelling is a Grade II Listed Building, with the listing mentioning the house itself and attached stable building as being of particular importance. As such, there is a requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities have special regard to the desirability of preserving Listed Buildings including their setting.
- 8.21 Local Plan Policy BE9 states that development affecting the setting of a Listed Building will only be permitted if it preserves or enhances its setting, and includes where appropriate the retention of trees and other landscaping features.
- 8.22 The proposal would include the construction of two agricultural buildings sited approximately 95m to the south east of the Listed Building. The proposed buildings would be well screened from public viewpoints from the A1 to the west and from wider viewpoints in the countryside from the east. Due to the level of planting within the orchard to the south of the main dwelling and planting along the track, views of the two buildings would be very limited, if not impossible.
- 8.23 Officers consider that the views of the agricultural buildings would be limited from public viewpoints and well screened from the listed building, as such Officers are satisfied that the development proposed would preserve the setting of the listed building.

Privacy and Amenity Considerations

- 8.24 The layout plan indicates that the closest neighbouring property is 17 Main Road, which is located approximately 86m to the south west of the proposed agricultural buildings. It is noted, that the existing access point is sited adjacent to this neighbouring property.
- 8.25 Building 1 would be used for the storage of machinery and implements associated with tending to the land holding. Building 2 would be used for the storage of hay and the shelter of livestock.
- 8.26 It is noted that the Parish Council have raised concerns in relation to the proposed livestock use of Building 2 due to the close proximity to existing buildings which may lead to issues with smells and flies.
- 8.27 The Councils Environmental Health Officer (EHO) was consulted on the application and raised no objections to the development.

- 8.28 In view of the above, Officers consider that the proposed agricultural building would not give rise to any loss of privacy and amenity to neighbouring residents or land uses due to the sufficient separation distances.

Highway Safety Considerations

- 8.29 The proposed development would utilise the existing access point of Main Road, and would not include any new road infrastructure or additional hard standing.
- 8.30 It is noted that concerns have been raised in relation to the intensification of the use of the access and possible safety risks.
- 8.31 The County Highways Authority was consulted on the proposal, and raised no objections on the basis that the buildings would be used for agricultural purposes, in support of farming activities carried out on surrounding controlled farmland.
- 8.32 In view of the above, it is not considered that the proposed development would lead to a demonstrable harm to highway safety.

Land Contamination and Stability Considerations

- 8.33 The Councils EHO was consulted, and originally noted that it was unclear if any groundworks would be taking place and recommended an excavations condition be attached to any permission granted. Subsequently the agent confirmed that any soil excavated would be stored within the farm linked to the agricultural management of the site and that no soil or material from the development will leave the wider site. In light of the additional information provided, EHO confirmed that they are satisfied that the condition relating to soil excavation can be removed from any planning permission granted.
- 8.34 The application site lies within a Development High Risk Area as defined by the Coal Authority (CA).
- 8.35 The applicant has provided a Coal Mining Risk Assessment (CMRA) (March 2021, prepared by RB Geotechnical) which was reviewed by the CA. The CA concurs with the recommendations of the CMRA; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. Should planning permission be granted for the development, it is recommended that pre-commencement conditions are included on any decision.
- 8.36 In view of the above, it is considered that subject to the inclusion of conditions the proposed development would not lead to any land contamination or instability.

Other Considerations

- 8.37 The application site is within Flood Zone 1, which has a low probability of flooding and surface water flooding.
- 8.38 A number of representations have been received which have been considered and addressed in the report. It is noted that reference had been made to the address point, change of address point and consultee responses. Officers have addressed this concern through the following correspondence with the neighbouring resident.
- 8.39 The application site is a field, it therefore does not benefit from its own address plot. As with any application similar to this the GIS team have to create an address point in order for us to plot and register the application. The GIS team gave the site the address of 'Land to the north of The Bungalow, Main Road, Shirland'. Concerns were raised that the address point given wasn't clear and it was requested that the site address should read 'land to the rear of Shirland House' to match previous applications. However, it was considered that because the application site wasn't directly to the rear of Shirland House it could not be named as that. The GIS team changed the address to *Land North East of 17 Main Road* as the site is clearly accessed from this part of Main Road, and the primary reason is if the emergency services needed to access this land for any reason they can easily identify where it is as they use the addressing information we create as a local authority. With regards to the consultee responses, the consultation letters will have been sent out before the address was amended and the consultee's will have responded to back to the consultation. This should not have any implications on the application.
- 8.40 Officers have addressed this concern through the above correspondence with the neighbouring resident.

9.0 Summary and Conclusion

- 9.1 Having taken into account all the material considerations, it is considered that the proposal would be for an operation of a use appropriate to such a location. The scale, design and siting of the building is considered, on balance, to be in keeping with the character and appearance of the surrounding countryside.
- 9.2 The proposed development would not result in an adverse detrimental impact upon the privacy and amenity of nearby residential properties or neighbouring land uses, nor would it lead to an adverse impact upon highway safety.
- 9.3 It is therefore considered that the proposed development would be in line with the emerging local plan policies of the Council and the overarching aims of the NPPF, therefore the proposal should be granted subject to conditions.

10.0 Recommendation

- 10.1 APPROVE Permission for the above reasons, subject to the following conditions:-

Conditions

1. The development hereby permitted shall be started within 3 years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following submitted plans, unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice.
 - Drawing No. 102-12-02 Building 1 Tractor Shed Plans and Elevations (date stamped 16.02.2021)
 - Drawing No. 102-12-03 Building 2 Hay Barn Plans and Elevations (date stamped 16.02.2021)
 - Drawing No. 102-12-LOC 02 Rev B Location Plan (date stamped 22.04.2021)
 - Drawing No. 102-012-01 Rev C Site Plan as Proposed (date stamped 21.05.2021)
3. Building 1 hereby approved shall be used for the storage of agricultural machinery only.
4. No external lighting shall be installed on the buildings hereby approved and the buildings shall not in any way be artificially illuminated.

With the exception of the development specifically hereby approved, and notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) and specifically Class B of Part 6 of that Order, no extensions or alterations, plant or machinery, sewers, mains, pipes, cables or other apparatus, private ways or the provision of additional hard surfacing shall be erected/constructed/formed/installed without first obtaining planning permission