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# Appeal Decision

Site visit made on 19 July 2016

**by David Cross BA (Hons), PGDip, MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22<sup>nd</sup> August 2016**

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**Appeal Ref: APP/Z4718/W/16/3148709**

**114 West Royd Avenue, Mirfield, West Yorkshire WF14 9LE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Brooke against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/90586/E, dated 18 February 2016, was refused by notice dated 14 April 2016.
  - The development proposed is demolition of existing dwelling and formation of two detached dwellings.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. I consider the main issues to be:
  - The effect of the proposal on the character and appearance of the area; and
  - The effect of the proposal on the living conditions of the occupiers of nearby residential properties, having regard to outlook and light.

## Procedural Matter

3. I have been referred to a previous appeal decision on the site dated 15 January 2016 (ref. APP/Z4718/W/15/3133151). The proposal considered by this previous appeal is broadly similar to the case currently under consideration, in that it consisted of a detached two storey dwelling to the front of the site (house 01) and a bungalow to the rear (house 02). The significant difference between the schemes is that the design of house 02 has been changed to remove rooms in the roof space of the bungalow and to reduce the ridge height by approximately 1.3m. However, house 02 is in the same location and has a similar footprint in both appeals. Due to the similarities between the schemes I have had regard to the previous decision when reaching my conclusions.

## Reasons

### *Character and Appearance*

4. The appeal site is located in a residential area which has a mixture of house types including Victorian terraced houses and more recent detached properties. The appeal site consists of a detached dwelling with a plot extending to the
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rear which is predominantly surrounded by the gardens of adjacent dwellings. It is proposed to demolish the existing dwelling and erect a new two storey dwelling to the front (house 01) and a bungalow on the plot to the rear (house 02). House 02 would be accessed via a driveway adjacent to house 01 and which would lead to a parking and turning area.

5. House 01 is of a design that would be typical for the area and it would be located in a manner that reflects the street scene along West Royd Avenue. However, due to the need to accommodate house 02 and the associated amenity and parking area, house 01 would have a limited garden/amenity area to the rear which would give the site an unduly cramped appearance for a dwelling of this size.
6. Due to the constrained size and arrangement of the rear plot, house 02 would be located in very close proximity to the boundary of the site to the north, east and south. There would be minimal amenity area to the rear, with the main amenity area for house 02 being located to the front and which would have limited privacy as it would be overlooked by adjacent dwellings.
7. I note that the appellant refers to a significant reduction in the gross internal floor area of house 02 compared to the scheme which was the subject of the previous appeal. However, the footprint of house 02 is very similar to that considered in the previous appeal and I agree with the concerns expressed by the previous Inspector in that the dwelling would cover a significant area of the plot and would appear cramped within the appeal site.
8. I therefore conclude that the proposed dwellings would be a discordant feature in this residential area due to the limited amenity space around the proposed dwellings, and in particular due to the close proximity of house 02 to the boundaries of adjacent residential plots. The proposal would represent a cramped scheme on an overdeveloped site which would harm the character and appearance of the area.
9. The proposal is therefore contrary to policy D2 of the Kirklees Unitary Development Plan (UDP) which seeks to avoid overdevelopment. The proposal is also contrary to policy BE1 of the UDP which states that development should be of a good quality design which retains a sense of local identity and includes space around buildings. These policies are broadly consistent with the National Planning Policy Framework (the Framework) which seeks to secure high quality design.

#### *Living Conditions*

10. House 02 would be located in very close proximity to the boundary with No 56 Lee Green. Although there is a stone wall between the properties which offers a degree of screening, the proposed bungalow would be higher than this boundary wall and would be readily visible from No 56. The reduction in height of the bungalow compared to the previous scheme would lead to a commensurate reduction in the degree of overshadowing of No 56. However, due to the close proximity of house 02 to the boundary between the properties, the proposal would have an overbearing appearance and create a sense of enclosure to the rear of No 56.
11. The proposed house 02 would also be located in close proximity to the boundary with Freshfields. However, due to the size of the garden area of

Freshfields and the relationship between the dwelling and house 02, I consider that the proposal would not have an unduly adverse effect on the living conditions of residents. The lack of rooflights in the rear roof slope of House 02 would also address concerns in relation to privacy and overlooking highlighted in the previous appeal.

12. The rear boundary of No 116 West Royd Avenue would also be in close proximity to house 02. No 116 is a bungalow with an outlook to the rear which would look directly onto the gable wall of house 02. Despite the reduction in the height of the ridge of the roof from the previous proposal, the proximity of house 02 to the boundary with No 116 would create an overbearing appearance and a sense of enclosure to the rear.
13. I note that the appellant has made reference to the separation distances specified in policy BE12 of the UDP and that he considers that the proposal complies with these, as indicated on the proposed site plan. However, whilst I have had regard to the provisions of policy BE12, I consider that the close proximity of house 02 to the boundaries with adjacent properties raises concerns about the impact on the living conditions of neighbouring residents which are not addressed by the separation distance between dwellings.
14. I conclude that the proposal would be harmful to the living conditions of the residents of nearby properties due to an overbearing effect, impact on outlook and the creation of a sense of enclosure. The proposal would therefore conflict with policy D2 of the UDP which seeks to protect residential and visual amenity. This policy is broadly consistent with the Framework which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

### **Other Matters**

15. The appellant has stated that a building with a larger footprint could be erected on the site under the property's permitted development rights. However, I have no substantive evidence to indicate that there is a significant probability that such a building would be constructed should this appeal be dismissed. This limits the weight I can attach to this as a fallback position.
16. I am mindful of the personal circumstances cited by the appellant, particularly in relation to the preferred accommodation required for his relative. I am also aware of the benefits arising from the provision an extra dwelling in this area. However, these matters do not outweigh the harm I have identified above.

### **Conclusion**

17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Cross*

Inspector

## Appeal Decision

Site visit made on 27 June 2016

**by Geoff Underwood BA(Hons) PGDip(UrbCons) MRTPI IHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24<sup>th</sup> August 2016**

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**Appeal Ref: APP/Z4718/W/16/3147247**

**Mug Mill Farm, Mug Mill Lane, Wakefield WF12 0QE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Richard Dawson against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2015/62/91961/E, dated 19 June 2015, was refused by notice dated 28 September 2015.
  - The development proposed is redevelopment of dilapidated farm building to create two dwellings with associated car parking.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Although the dwellings and car parking would be situated within Kirklees Metropolitan Borough Council, that part of the site including the access which would run through the farm yard of Mug Mill Farm would be within the Wakefield Metropolitan District Council area.

### Main Issues

3. The main issues raised by this appeal are:
  - i) whether the proposal would be inappropriate development in the Green Belt;
  - ii) the proposed development's effect on the openness of the Green Belt and the purposes of including land in it;
  - iii) whether the proposed development would provide a suitable site for housing, having regard to the proximity of services;
  - iv) the proposed development's effect on highway safety, and;
  - v) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### Reasons

#### *Whether inappropriate development*

4. The appeal building is located between two streams to the west of a dispersed group of farm buildings. The building is largely unroofed, has missing walls and has vegetation growing within parts of its footprint. Although some of the
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- upstanding parts are tall, overall it has the appearance of a ruin set within the landscape.
5. The National Planning Policy Framework (the Framework) considers that some forms of development are not inappropriate in Green Belt provided they preserve its openness and do not conflict with the purpose of including land in Green Belt. This includes the re-use of buildings provided that they are of permanent and substantial construction. The structure on site evidently has a degree of permanence given its apparent age however it would not be capable of re-use without significant work to create the proposed dwellings.
  6. The appellant considers it is dilapidated and whilst of the view that about 50% of the walls remain acknowledges that some existing walls may have to be taken down and rebuilt. In the absence of any evidence to the contrary, it would therefore appear likely that in order to create the proposed dwellings there would need to be significant new build where walls and roofs are missing as well as rebuilding those parts of the extant structure which are not capable of being repaired. As such the structure overall cannot reasonably be considered as being of substantial construction or the intended development a re-use.
  7. Although the Framework considers that the partial or complete redevelopment of previously developed sites is not inappropriate (subject to caveats on impact on openness and Green Belt purpose) it excludes land that is or has been occupied by agricultural buildings from its definition<sup>1</sup> of previously developed land. The Council consider that the building is, or was, part of an agricultural building and there is no suggestion that this is not the case.
  8. Therefore, from the evidence before me, the proposal could not be considered as not inappropriate development when considered against the Framework's exceptions.

*Effect on openness and Green Belt purpose*

9. The site currently has a high degree of openness albeit limited to a degree by the upstanding elements of the dilapidated building. This corresponds with the wider surroundings of the site which consists of open fields on two sides although there are farm buildings and associated hardstandings to the south and east.
10. The amount of additional structure which would be required to create the appeal development would add significant size, mass and bulk to the current structure. This would include raising the height of walls, or adding them where missing, and adding a roof which overall would add a substantial mass to what is currently effectively an open shell. Whilst the proposed building may well be of a similar configuration, footprint, size and mass to that of the original buildings before they fell into disrepair, the significant additional building required to implement the development would, by virtue of a more substantial structure being on site, reduce and consequently harm the openness of the Green Belt.
11. In addition, although partially set behind an existing stone wall, the proposed forecourt incorporating parking spaces and a turning head would further reduce the openness of the Green Belt. The resulting effect would be that of encroachment into the countryside, the safeguarding from which is one of the Green Belt's purposes.

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<sup>1</sup> Annex 2: Glossary.

### *Suitability for housing*

12. Mug Mill Farm is situated in a rural location with no facilities or services in the immediate vicinity. The nearest shops, schools, recreation facilities and other services would be in Thornhill Edge which, whilst not a great distance away, is only accessible by ascending steep gradients. The combination of distance, topography and the lack of footways and lighting along Mug Mill Lane is such that only dedicated walkers or cyclists would be likely to regularly make such a journey particularly in the dark or in poor weather. Consequently, the likelihood would be that occupiers of the proposed dwellings would rely on the use of private cars to serve most of their day to day needs.
13. Taking into account the Framework's core planning principle of actively managing patterns of growth to make the fullest use of public transport, walking and cycling, the likely reliance on private car journeys would mean that the proposal would not constitute sustainable development which the Framework presumes in favour of, even considering the modest economic and social benefits of constructing two additional houses.

### *Highway safety*

14. Mug Mill Lane is narrow with no provision for vehicles to pass one another other than two recessed field entrances approximately mid-way along. The junction with Edge Road is at a very sharp angle and Mug Mill Lane rises up at a steep gradient to meet it. From what I observed when on site it currently only serves two dwellings, one adjacent to that junction and Mug Mill Farm house.
15. The level of vehicle movements associated with two dwellings might be expected to be modest, even allowing for the likelihood of most occupiers' journeys being made in private vehicles. However, in absence of evidence to the contrary this would be a significant proportionate increase over that which could be reasonably expected to currently use the Lane. Whilst some of deficiencies of the width and condition of Mug Mill Lane highlighted in the Council's officer's report would be likely to lead to inconvenience or a reliance on car use rather than harm to safety, the restrictions to visibility at the junction with Edge Lane combined with the skewed junction and steep, narrow lane would be of a more severe nature.
16. There would appear to be the potential for the safety of users of both Edge Road and Mug Mill Lane to be harmed arising from vehicles coming into conflict with other users, whether in other vehicles or on foot, cycle or horse. Therefore, in the absence of any evidence to the contrary, it has not been demonstrated that the proposed development would not create or materially add to highway safety problems. This would be contrary to saved Policy T10 of the Kirklees Unitary Development Plan, 2007.
17. In support of his appeal, the appellant has referred to two planning permissions (Ref 12/01008/FUL and 12/01010/FUL) for dwellings at Mug Mill Farm granted by Wakefield Council, who also provided highways advice in respect of the appeal scheme. I note that both these consents have now expired. I also note that in the officer's report for the former, the highways concerns which appear to be similar to those raised in this appeal, were considered to be overcome as the proposal was for a replacement dwelling rather than an additional one. I can therefore only attach very limited weight to these decisions which do not,

therefore, lead me to a different conclusion on highway safety or locational matters.

#### *Other considerations*

18. Although the adjoining authority have in the past permitted the abovementioned replacement dwelling and a barn conversion to a dwelling adjacent to the appeal site, the fact that one of those was a replacement dwelling appears from the Wakefield Council Development Control Manager's report to have been a determinative factor in its acceptability. I have not been provided with the same level of information regarding the barn conversion and so cannot be certain that the circumstances, including the permanence and substantive nature of that barn's construction were the same as those of the appeal case.
19. Therefore, notwithstanding that they will have been considered in light of a different development plan, it is not certain that the circumstances of either of these decisions are the same as those in this appeal. I find that other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

#### **Other Matters**

20. The appeal site lies within a high risk flood area, Flood Zone 3. Paragraph 100 of the Framework advises that development in areas at risk from flooding should be avoided by directing development away from areas at highest risk. Paragraph 101 of the Framework goes on to advise that a sequential, risk-based approach must be taken that steers development towards areas of lower risk. The Framework requires such a Sequential Test to be applied to all development in high risk areas.
21. I note that whilst the appellant's Flood Risk Assessment considers the proposal would not be at risk of flooding it acknowledges at paragraph 6.11 that a sequential Test will need to be passed. Although the Environment Agency have suggested a mitigation condition, they have not concluded that the zoning is incorrect which Kirklees Council Drainage Department considered necessary or else a Sequential Test would be required and unlikely to be passed. As such, it would appear that the proposal would fail to address flood risk in line with the Framework's approach. However, given my findings on the main issues above, I have not pursued this matter further.

#### **Conclusion**

22. In light of the above, the proposal would be inappropriate development in, and harm the openness of, and purpose of including land in, the Green Belt, would not be an appropriate location for new dwellings and would harm the safety of highway users, contrary to the development plan and the Framework. The appeal is therefore dismissed.

*Geoff Underwood*

INSPECTOR



## Appeal Decision

Site visit made on 5 September 2016

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: **08 September 2016**

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**Appeal Ref: APP/Z4718/D/16/3154173**

**11 Fisher Way, Heckmondwike, West Yorkshire WF16 0BU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Miss L McDermott against the decision of Kirklees Council.
  - The application Ref 2016/62/91232/E, dated 14 April 2016, was refused by notice dated 8 July 2016.
  - The development proposed is a side extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect on the character and appearance of the area.

### Reasons

3. Fisher Way is a relatively modern development of detached and semi-detached houses. The curve in the road and the intermediate turning head result in a layout that is not uniform, although there is some uniformity with regard to the set-back of the houses and their general design characteristics and materials. The majority of houses along the cul-de-sac have gaps between them of at least the width of a driveway but there is also a significantly number that are more closely spaced.
  4. This proposal would erode what is already a relatively limited existing gap between this property and its neighbour. These two houses are staggered with the appeal property set further back, beyond the turning head. The combination of the exposed side facing gable of 9 Fisher Way and the higher and extended frontage of number 11, would result in the loss of most of the perceived gap between these properties. It would also result in a substantial mass of relatively unrelieved development on the outside of this corner. I consider that it would result in a cramped appearance that would be at odds with the generally more spacious layout of this small estate.
  5. Whilst I acknowledge that a number of properties have only a limited gap between them, the differing design elements, the position of the properties in relation to each other and the spaces that have been retained, generally distinguish them from this proposal. The property opposite has a similar
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extension but as this adjoins an area of communal open space, it does not reduce the spaciousness of its setting.

6. The design of the extension would include a slight set-back from the frontage but the roof would be of full height. Overall, the extension would add significantly to the perceived scale of development. It would not detract from the appearance of the dwelling itself but the relationship with the neighbouring property would detract from the character and appearance of the street scene.
7. The proposal would be contrary to Policies D2(vii), BE2(i) and BE14(iii) of the Kirklees Unitary Development Plan 1999 which require a good standard of design and layout and seek to avoid a terracing effect being established in relation to adjacent dwellings. As the policies generally accord with the design requirements of the *National Planning Policy Framework*, I afford them considerable weight.
8. I acknowledge that the neighbouring residents have not objected to the proposal and the works would result in improved accommodation that would bring benefits to the appellant. However, I do not consider that there are any matters that are sufficient to outweigh my concerns. I therefore dismiss the appeal.

*Peter Eggleton*

**INSPECTOR**