
Report of the Head of Development Management

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 09-Mar-2017

Subject: Planning Application 2016/93923 Change of use of land to domestic for erection of two storey and link extension (Listed Building within a Conservation Area) Westroyd Farm, Fulstone, White Ley Bank, New Mill, Holmfirth, HD9 7DL

APPLICANT

Damian Hosker, C S
Planning Ltd

DATE VALID

06-Dec-2016

TARGET DATE

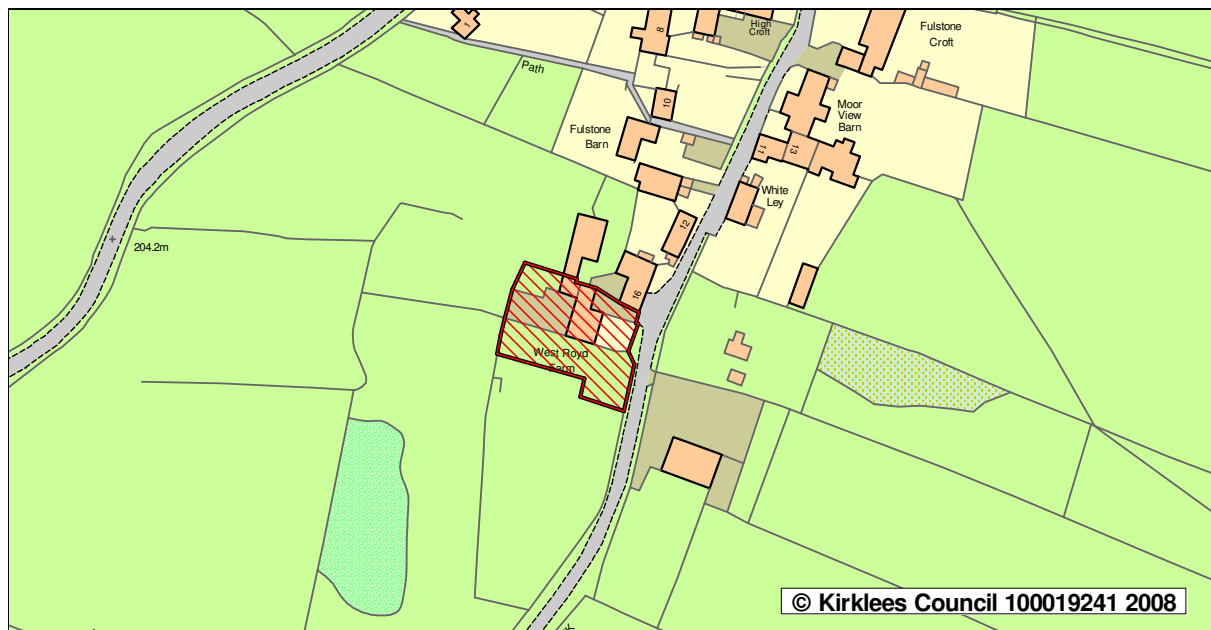
31-Jan-2017

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Holme Valley South

No

Ward Members consulted?

RECOMMENDATION: REFUSE for the following reason:

1. The application site 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 arguments for very special circumstances submitted with the application do 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. It is therefore concluded that the proposal would conflict with Policy D11 of Kirklees Unitary Development Plan and Chapter 9 of the National Planning Policy Framework.

1.0 INTRODUCTION

1.1 This application is brought to Sub-Committee at the request of Cllr Nigel Patrick for the following reason:

'I think from what you are saying the decision comes down to an opinion of scale in the green belt which could be subjective'

1.2 The Chair of Sub-Committee has confirmed that Cllr 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 Westroyd Farm house is a two storey detached property faced in stone with slates on the gabled roof. Attached is a two storey barn. The dwelling has small front and rear gardens. An access running along the north of the house leads to the old farm mistal, which originally received permission in 2015 to convert to a separate dwelling. To the south of the site is an open field, under the farm's ownership.

2.2 The farm house is grade 2 listed, within Fulstone Conservation Area. The site is within the Green Belt.

3.0 PROPOSAL

- 3.1 The extension is to project 8.5m from the dwelling's south facing side elevation. The extension includes a 1.5m wide glazed linking section. The main body of the extension is to be 6.3m wide. The extension is to be two storeys in height, with a double pitched roof. The eaves and ridge heights are to be 4.0m and 6.0m respectively. The extension is to be set back 3.5m from the front elevation of the original dwelling.
- 3.2 The main body of the extension is to be faced in materials matching those of the host building. Openings are proposed on each exposed elevation of the dwelling.

4.0 RELEVANT PLANNING HISTORY:

4.1 Westroyd Farm

2015/92006: Erection of extension and alterations to store/workshop to form living accommodation and change of use of land to extend garden (Listed Building within a Conservation Area) – Conditional Full Permission (Not implemented)

2015/92007: Listed Building Consent for erection of extension and alterations to store/workshop to form living accommodation and change of use of land to extend garden (within a Conservation Area) – Consent Granted (Not implemented)

2016/92822: Listed Building Consent for erection of extensions and other alterations and change of use of land to garden (within a Conservation Area) – Consent Granted (Not implemented)

2016/92821: Erection of extensions and other alterations and change of use of land to garden (Listed Building within a Conservation Area) – Conditional Full Permission (Not implemented)

2016/93924: Listed Building Consent for change of use of land to domestic for erection of two storey and link extension (within a Conservation Area) – Ongoing (Allied application)

2017/90452: Certificate of lawfulness for existing use of land as curtilage for Westroyd Farm – This application is pending consideration. If the application is determined before the 9th March an update will be brought to Committee.

4.2 The Old Mistal, West Royd Farm

2015/92008: Erection of extension and conversion of former mistal and adjoining building to form one dwelling with garden (within a Conservation Area) – Conditional Full Permission (Not implemented)

2015/92009: Listed Building Consent for erection of extension and conversion of former mistal and adjoining building to form one dwelling (within a Conservation Area) – Consent Granted (Not implemented)

2016/93206: Erection of extension and conversion of former mistal and adjoining building to form one dwelling with garden (modified proposal) (within a Conservation Area) – Conditional Full Permission (Implemented)

2016/93361: Listed Building Consent for erection of extension and alterations to openings – Consent Granted (Implemented)

5.0 HISTORY OF NEGOTIATIONS

5.1 The application under consideration has been submitted following the determination of 2016/92821. 2016/92821 approved various works to the dwelling, formation of a parking area, rear extensions and the enlargement of the rear garden.

5.2 2016/92821 initially included a two storey side extension similar, albeit larger, to that proposed. Concerns over the scale of the extension and encroachment into the Green Belt were expressed by the LPA. While the applicant maintains that the land in question is domestic curtilage, it was agreed that the side extension would be removed from 2016/92821 with a view of submitting a separate application for the extension only. A certificate of lawfulness, ref. 2017/90452, has been submitted to attempt to resolve this matter.

5.3 Negotiations have been held between the applicant and LPA to discuss potential amendments. This included a two storey rear extension. However this was concluded to be unsuitable by both parties. While the size of the side extension has been reduced this does not overcome the LPAs concerns about encroachment into the Green Belt nor concerns of the cumulative scale of the extensions compared to the original building.

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).

6.2 The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight 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. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007

- **D11** – Extensions in the Green Belt
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE5** – Conservation Areas
- **BE13** – Extensions to dwellings (design principles)
- **T10** – Highway safety
- **T19** – Parking standards

6.4 National Planning Guidance

- **Paragraph 17** – Core planning principles
- **Chapter 7** – Requiring good design
- **Chapter 9** – Protecting Green Belt land
- **Chapter 11** – Conserving and enhancing the natural environment
- **Chapter 12** – Conserving and enhancing the historic environment

7.0 **PUBLIC/LOCAL RESPONSE**

7.1 Six representations have been received from the proposal. Five are in objection with one in support.

7.2 The objections raised can be summarised as follows;

- The proposal will harm the character and aesthetics of both the listed building and the conservation area.
- The development will harm views of Fulstone from Kirklees Way.
- The proposal will extend the village beyond its historic origins, with Fulstone not changing in over 300 years.
- Objections to agricultural land, within the Green Belt, being changed to domestic land.
- The glazed link extension does not harmonise with the host building or wider area.
- Question why two 'identical applications' were submitted, however only one was advertised via post.
- Approval of the development would make 'future undesirable developments' easier to attain.
- The proposal is inappropriate development in the Green Belt. The very special circumstances provided do not clearly outweigh the harm caused.

7.3 The letter in support can be summarised as follows;

- The village of Hepworth has changed significantly over the last several decades. Therefore comments that the village has no changed are incorrect.
- Comments that Kirklees Way would be harmed via the proposal are incorrect, due to the site's separation distance from the way. The extension will not be readily distinguishable from Kirklees Way.
- The land in question is curtilage associated with Westroyd Farm. The extension is not disproportionate.
- The proposal will enhance the listed building and conservation area by bringing a damaged building back into use. There are no close-by separate listed buildings to be impacted upon.
- Each application is taken on its own merits, and the granting of this application would not establish a precedent which could lead to greater harm to the Conservation Area.

8.0 CONSULTATION RESPONSES

8.1 Non-statutory

K.C. Biodiversity: Requested a bat survey as part of 2015/92008. The same survey was submitted. Given the age of the survey some concern was raised. To address this it was requested that, in addition to the development being implemented in accordance with survey, an additional methodology for roof works be conditioned. Subject to these conditions no objection.

8.2 K.C. Conservation and Design: No objection subject to condition. However it was considered most suitable for the conditions to be imposed on the associated Listed Building Consent (ref. 2016/93924).

9.0 MAIN ISSUES

- 1) Principle of development
- 2) Impact on the listed building and Hepworth Conservation Area as heritage assets
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

10.0 APPRAISAL

Principle of development

10.1 The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 89 or 90 of the NPPF.

- 10.2 The erection of an extension to an existing building is considered acceptable in the Green Belt by policy D11 of the UDP and Paragraph 89 of the NPPF subject to the extension not being disproportionate in size to the original building or dominant in appearance.
- 10.3 The land that the extension is to be sited upon is an open and undeveloped field. It is not considered to be part of the dwelling's domestic curtilage. Therefore the proposal includes a change of use of land to domestic. Neither paragraph 89 or 90, nor a saved policy in the UDP, makes reference to the change of use of open land to residential as appropriate development within the Green Belt.

Whether the proposal is inappropriate development in the Green Belt

- 10.4 The change of use of land adjacent to the site, the NPPF and UDP do not contain policies supporting the change of use of open Green Belt land to residential and/or parking. Therefore this aspect of the proposal is considered inappropriate development in the Green Belt.
- 10.5 The proposal, considered cumulatively with the extensions approved under application 2016/92821, would represent a volume increase of approx.60% to the original building. This is considered to be a disproportionate addition to the scale of the original building. Therefore the scale of the proposed extension is considered inappropriate development within the Green Belt.
- 10.6 Notwithstanding the above the applicant disputes this calculation. It is argued that percentage increase is not a suitable method to determine the scale of the extension. The applicant states that the volume of the extension to the structure post development should be used, to establish a ratio between the original building and extensions. Using this method the extensions would be 38% of the building as proposed.
- 10.7 The use of percentage increase as opposed to ratio by the Local Planning Authority is well established and considered to be supported by the National Planning Policy Framework, which makes reference to comparing additions to the scale of the original building (paragraph 89) as opposed to the extended building.

Whether there would be any other harm to the Green Belt, including visual amenity

- 10.8 The general design of the extension, including the architectural features, fenestration and materials of construction, would reflect that of host building in accordance with Policies BE1 BE2 and BE13 of the UDP. Conversely the glazed link extension is a modern feature. Nevertheless well design and harmonizes modern features can be used to compliment historic environments, which is considered to be the case here.

10.9 The design of the proposed extension is not considered detrimental to the visual amenity of the built environment. This includes the individual appearance of the host building, and wider built environment. The proposed extension is therefore deemed to comply with Policies BE1, BE2 and BE13 of the UDP and Chapter 7 of the NPPF. However, this does not weigh in favour of the proposal but rather has a neutral effect on the overall balance when taking Green Belt issues into account.

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

10.10 Consideration needs to be given to whether there are any 'very special circumstances' to clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. Notwithstanding the dispute regarding interpretation of the use of the land and disproportionate additions, during the course of the application the following very special circumstances have been provided;

- *Bring a listed building back into use*

Response: The building has two extant permissions, 2016/92821 and 2015/92006. It is not considered by officers that the proposed side extension or change of use of land to residential is intrinsically required to ensure the building can be brought back into use. Personal financial arrangements are not a material consideration in this regard.

- *Provision of woodland planting*

Response: the planting of trees will not mitigate the harm to the Green Belt caused by the proposed development. Therefore limited weight is given to this consideration.

- *Works approved under previous application [2016/92821] were permitted development*

Response: Certain aspects of 2016/92821 could have been erected under Permitted Development. However extensions approved under permitted development are still considered extensions and not part of the original building. Paragraph 89 states 'disproportionate additions over and above the size of the original building'. Original is defined as;

"Original" - means a building as it existed on 1 July 1948 where it was built before that date, and as it was built when built after that date.

Therefore extensions which are/could be erected under Permitted Development are a material consideration when assessing if development would represent a disproportionate addition.

- *Fallback position of permitted development*

Response: The agent states that, were the site not within a Conservation Area, a side extension could be erected under Permitted Development. As outlined the Local Planning Authority does not agree that the land to the south is domestic curtilage. Permitted Development Class A relates to domestic curtilage land only. Therefore a side extension could not be erected under Permitted Development, in addition to the Conservation Area restriction.

- *Development in the local area*

Response: All planning applications are assessed on their own merits. Development within the local area will have been assessed against the relevant planning policies and appropriately approved or refused. This may have included the applications having very special circumstances of their own which clearly outweighed the harm caused to the Green Belt. Nevertheless the grant of other development in the area itself does not form a very special circumstance for the development being considered.

- *Comments regarding the SHLAA*

Response: The SHLAA identifies potential housing sites, including within the Green Belt. The applicant states that developing these Green Belt sites would have a greater impact on the Green Belt. The SHLAA is policy neutral and does not take into account the Green Belt. The three tests for the SHLAA are 'suitable, available and achievable', without taking into account planning constraints. An application on a site noted within the SHLAA would still have to comply with Green Belt policy.

10.11 Considering the above 'very special circumstances' it is not considered, either individually or cumulatively, that they clearly outweigh the identified harm to the Green Belt.

Principle of development: Conclusion

10.12 The proposal would be inappropriate development in the Green Belt, causing harm to the Green Belt's openness and permanence. As per the NPPF substantial weight is given to harm to the Green Belt. It is not considered that there are any very special circumstances which clearly outweigh the harm to the Green Belt. The proposal is in breach of policy D11 and Chapter 9 of the NPPF, and the principle of development is considered unacceptable.

Impact on the listed building and Hepworth Conservation Area as heritage assets

10.13 The site is located within the Fulstone Conservation Area and is a grade 2 Listed Building. Sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 introduce a general duty for the protection of listed buildings and conservation areas respectively. For Conservation Areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Additionally, Policy BE5 and NPPF

Chapter 12 outline the principle of development and restrictions for development in Conservation Areas. For development which affects a listed building or its setting the LPA should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 10.14 Paragraph 129 of the NPPF requires LPAs to identify the particular significant of a heritage asset which may be impacted via a proposal. The heritage value of the listed building comes from its traditional architectural value and its farmstead setting, which are representative of its origins in the C18. The Fulstone Conservation Area does not have a formal appraisal, however its heritage value is deemed to stem from similar reasons to the Listed Building: the traditional form of development in the area, leading to a definitive characteristic of a C18 settlement.
- 10.15 As addressed within paragraphs 10.8 and 10.9 the design of the extension, including the architectural features, fenestration and materials of construction and modern glazed link, is considered to suitably harmonise with the host building. When considering the proposed extension's impact on the building's heritage value, the proposed extension is not considered to harm the aspects identified as contributing to the heritage value of the host building.
- 10.16 A more detailed analysis on the proposal's impact upon the listed building is undertaken in the associated Listed Building Consent, referenced 2016/93924. For the purposes of the Planning Application under consideration the development is not considered to cause harm to the building as a heritage asset.
- 10.17 Regarding the impact upon the Conservation Area, the proposal will not prejudice the traditional architecture and setting of the building which contributes to the wider area's heritage value. Looking at the wider context of the site and the Fulstone Conservation Area, while the site is located near a 'gateway' to the conservation area, it is set back from the dwelling's principal elevation, with a suitable subservient design, so as not to appear visually prominent. As noted previously the design is considered to harmonise with that of the host building and will not appear an incongruous feature. It is thereby deemed to comply with the objectives set out in paragraph 137 of the NPPF, UDP policy BE5 and Section 72 of the Planning (Listed Building & Conservation Areas) Act 1990.

Impact on residential amenity

- 10.18 The proposed extension will not project towards any of the neighboring dwellings. It is not anticipated to impact upon the amenity of any neighboring property. The proposal is considered to comply with Paragraph 17 of the NPPF.

Impact on highway safety

10.19 The proposed extension is not sited to impact upon driver sightlines. The car parking area and amount of on-site parking, approved under 2016/92821, is sufficient for the scale of the dwelling. The proposal is considered to comply with Policy T10 of the UDP.

Other matters

Biodiversity Impact

10.20 During 2015/92008 a bat survey was undertaken. The survey was reviewed by K.C. Biology and deemed to be acceptable, subject to the recommendations being complied with. The survey found no bats present, however identified the building as having medium to high roost potential.

10.21 The same survey was submitted as part of this application. Typically bat surveys are considered valid for two years. However, the survey submitted recommended, because of the medium to high roost potential, that the survey only be valid for one year. This year has now lapsed.

10.22 Discussions were held with K.C. Biology. Given that only a single roosting season has passed, while the caution of the bat survey's author is noted, on balance the submitted survey is still deemed valid. This is subject to all other recommendations being complied with, in addition to a detailed method statement on roof works being submitted prior to development commencing. Should bats be found during development, work must stop and the appropriate process be followed. This is the case for all development. Therefore, subject to the outlined conditions, the proposal is deemed to comply with Chapter 11 of the NPPF.

Representations

10.23 Objections

- The proposal will harm the character and aesthetics of both the listed building and the conservation area.
- The development will harm views of Fulstone from Kirklees Way.
- The proposal will extend the village beyond its historic origins, with Fulstone not changing in over 300 years.
- The glazed link extension does not harmonise with the host building or wider area.

Response: Consideration of the proposal's impact upon the host building and Conservation Area as heritage assets is outlined within paragraphs 10.13 – 10.17. The impact was not considered harmful.

- Objections to agricultural land, within the Green Belt, being changed to domestic land.
- The proposal is inappropriate development in the Green Belt. The very special circumstances provided do not clearly outweigh the harm caused.

Response: Consideration of the principle of development within the Green Belt is outlined in paragraphs 10.1 – 10.12. The development was identified as being inappropriate, with no very special circumstances to outweigh the harm caused.

- Question why two 'identical applications' were submitted, however only one was advertised via post.
- Approval of the development would make 'future undesirable developments' easier to attain.

Response: The application under consideration, 2016/93923, was submitted alongside the associated Listed Building Consent 2016/93924. The LPA does not advertise Listed Building Consent applications by site notice.

Each application is assessed on its own merits, and the current development would not establish a precedent.

10.24 Support

- The village of Hepworth has changed significantly over the last several decades. Therefore comments that the village has no changed are incorrect.
- Comments that Kirklees Way would be harmed via the proposal are incorrect, due to the site's separation distance from the way. The extension will not be readily distinguishable from Kirklees Way.
- The proposal will enhance the listed building and conservation area by bringing a damaged building back into use. There are no close-by separate listed buildings to be impacted upon.
- Each application is taken on its own merits, and the granting of this application would not establish a precedent which could lead to greater harm to the Conservation Area.

Response: These comments are noted, and officers do not disagree, as detailed within the report.

- The land in question is curtilage associated with Westroyd Farm. The extension is not disproportionate.

Response: Consideration of the principle of development within the Green Belt is outlined in paragraphs 10.1 – 10.12. The development was identified as being inappropriate, with no very special circumstances to outweigh the harm caused.

11.0 CONCLUSION

- 11.1 The proposed development is considered to represent inappropriate development in the Green Belt which would be harmful to the openness and character of the Green Belt.
- 11.2 The justification submitted by the applicant has been assessed. However this is not considered to demonstrate very special circumstances that clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm.
- 11.3 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.
- 11.4 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that there are specific policies in the NPPF which indicate the development should be restricted

Background Papers

Application web page: <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93923>

Certificate of Ownership – Certificate A signed