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## Appeal Decision

Site visit made on 10 April 2017

**by Harold Stephens BA MPhil DipTP MRTPI FRSA**

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

**Decision date: 24 April 2017**

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**Appeal Ref: APP/Z4718/D/17/3170909**  
**14 Standiforth Road, Huddersfield HD5 9HD**

- 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 Mrs G Ison against the decision of Kirklees Metropolitan Council.
  - The application Ref 2016/62/93166/W dated 20 September 2016, was refused by notice dated 19 December 2016.
  - The development proposed is the erection of a single storey rear extension with rooms in the roofspace.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this appeal is the effect of the proposal on the character and appearance of the host dwelling and the surrounding area.

### Reasons

3. The appeal proposal relates to a semi-detached dwelling faced with render on a stone plinth. The property is single storey with a bay window to the front elevation. To the rear elevation the property extends outwards on the western side with a single storey kitchen measuring about 4m x 2.9m and with a lean-to entrance porch attached to it.
  4. The submitted plans provide for an extension across the rear of the property with a pitched roof over to accommodate rooms in the roof. The rear extension would project some 4m from the rear elevation with an overall height of some 5.6m and an eaves height of some 2.7m. The roof would extend above the height of the existing ridge line by some 0.4m where it is proposed for a triangular glazed panel to be installed measuring some 0.94m<sup>2</sup>. The proposed extension would be set in 0.9m from the shared boundary with the adjoining bungalow 16 Standiforth Road to the east. The extension would be finished with a stone plinth course with some render and cedar boarding.
  5. The statutory development plan includes the saved policies of the Kirklees Unitary Development Plan (UDP). The Council's Local Plan was published for consultation in November 2016 and in accordance with the guidance in paragraph 216 of the National Planning Policy Framework (NPPF) has limited weight in planning decisions at this stage. The site is unallocated on the UDP Proposals Map and saved policies D2, BE1, BE2, BE13 and BE14 are relevant in this case. The NPPF is a material consideration in this case.
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6. At my visit I saw that the property lies within a residential area where there are both bungalows and two storey dwellings. The original built form of the bungalows on Standiforth Road is similar although not entirely uniform in style and appearance as many have been altered with a variety of rear extensions and roof alterations reflecting individual tastes and needs. The Appellant considers the proposal to be well designed and would meet family needs in terms of room sizes and configuration. I disagree for a number of reasons.
7. Firstly, the overall height and mass of the extension would create an overpowering and dominant feature in relation to the existing dwelling. The scale and bulk of the extension would not form an appropriate addition to this modest bungalow. Secondly, the pitched roof of the extension would not be tied into the original roof but set at a higher level extending 0.4m above the existing ridge line. The extension would therefore appear disjointed from the host dwelling creating a dominant feature from the east and west elevations and obliquely when viewed from Standiforth Road. Thirdly, the extension would appear out of keeping with other properties within the vicinity. The other properties in the vicinity are true single storey dwellings when viewed from the front even where dormers may have been added to the rear. The scale and height of the appeal proposal would therefore be an incongruous feature.
8. Given the overall height of the extension and the roof design, the appeal proposal would result in an incongruous and dominant feature which would not be in keeping with the character and appearance of the host dwelling and the surrounding area. I conclude on the main issue that the proposal would be contrary to Policies D2 (vi and vii), BE1 (i and ii), BE2 (i), BE13 (iii) and BE14 of the UDP and to section 7 of the NPPF which requires good design. On the main issue I conclude that the appeal must fail.
9. I have taken into account all other matters raised. I acknowledge that the window within the western elevation would result in some overlooking at ground floor level onto a window at 12 Standiforth Road. However, I find that this would not cause significant harm to the living conditions at that property and could be dealt with by means of a planning condition. Subject to this the proposal would be acceptable in terms of residential amenity in that it would not adversely impact on the privacy, outlook or daylight of neighbours and would not offend aforementioned policies in this regard. There would be no detriment to highway safety from the proposals.
10. Reference is made to other properties within the wider area where extensions have been approved by the Council. I do not have all the details about these properties. However, none of these developments persuaded me that the appeal proposal would be appropriate in this situation. Suffice it to say that each decision must be considered on its own merits and in accordance with the provisions of the development plan and any other material considerations. Planning conditions would not overcome the objections I have described. I conclude that the proposal is in overall conflict with the development plan. None of the points raised are sufficient to outweigh this conflict. The proposal would not constitute sustainable development. My overall conclusion is that the appeal should be dismissed.

*Harold Stephens*

INSPECTOR

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## Appeal Decision

Site visit made on 18 April 2017

**by D Guiver LLB(Hons) Solicitor**

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

**Decision date: 15<sup>th</sup> May 2017**

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**Appeal Ref: APP/Z4718/D/17/3168839**

**5 Round Wood Avenue, Waterloo, Huddersfield HD5 9XS**

- 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 Ms Vikki Corcoran against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/93117/W, dated 8 September 2016, was refused by notice dated 19 December 2016.
  - The development proposed is a two storey rear extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The effect the proposed development would have on the living conditions of the occupiers of the neighbouring property at 7 Round Wood Avenue.

### Reasons

3. The development site at 5 Round Wood Avenue is the end house of a short terrace of four properties. The proposed development is a two-storey extension that would run along the boundary with No 7, projecting approximately three metres from the rear elevation of No 5. The rear elevation of No 7 has a ground floor kitchen window, a rear door and two first-floor windows. The first-floor window closest to the boundary with No 5 is identified as a bedroom window.
  4. The appellant said that the rear of the property is south facing and receives sunlight throughout the day. I visited the site in the morning and the rear elevation of Nos 5 and 7 were both in shadow and the front elevations were in direct sunlight. The appellant also said that there is existing overshadowing of No 7 from the properties at 1 and 3 Round Wood Avenue. At the time of my visit these buildings did cast a shadow but it did not reach the boundary of No 7. I take account of the fact that any shadow will change throughout the day and at different times of the year. However, it was clear to me that the orientation of the terrace is such that the rear elevation receives some late afternoon sunlight, by which time any overshadowing from Nos 1 and 3 would be on the side elevation of No 5 and not the rear elevation of No 7.
  5. The proposed development would rise to approximately the same height as the roof of No 7 and would therefore be higher than No 7's first-floor windows.
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Given the orientation of the property, the proximity of the extension to the boundary is likely to result in a substantial loss of direct afternoon sunlight to the rear elevation of No 7, and specifically to the first-floor bedroom window. This would cause significant harm to the living conditions of the occupiers of No 7 and would be contrary to saved policies D2 and BE14 of the Kirklees Unitary Development Plan 2007, which seek to ensure that development does not have a detrimental effect on the occupiers of neighbouring properties.

6. The appellant also states that a single storey extension would have the same effect on the living conditions of the occupiers of No 7 and would be permitted development. Whether such a structure would be permitted development is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. However, I am satisfied that the effect of the proposed development would be significantly more detrimental to the living conditions of the occupiers of No 7, in terms of loss of direct afternoon sunlight, than a single storey structure would.
7. The scale and height of the proposed development would also affect the outlook from No 7. The current outlook is across a short space towards buildings of similar height and design to the proposed extension. Therefore, I conclude that the impact of the extension would be unlikely to be significantly harmful. However, the fact that the extension would not be harmful to the outlook from No 7 is insufficient to overcome the harm caused by overshadowing.

### **Other Matters**

8. The appellant states that the extension is required to accommodate a growing family, which is a matter that I give significant weight. However, I also have regard to the fact that the extension would remain long after the appellant's personal circumstances changed. I conclude that the need for additional accommodation does not outweigh the harm to the living conditions of the occupiers of No 7 that would arise from the proposed development.

### **Conclusion**

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

*D Guiver*

INSPECTOR

## Appeal Decision

Site visit made on 27 April 2017

**by M Seaton BSc (Hons) DipTP MRTPI**

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

**Decision date: 24 May 2017**

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**Appeal Ref: APP/Z4718/W/17/3168416**

**Land next to 38 Dodlee Lane, Longwood, Huddersfield, West Yorkshire, HD3 4TZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr J Wimpenny & Mr D Wimpenny against Kirklees Council.
  - The application Ref 2016/60/93322/W, dated 30 September 2016, was refused by notice dated 16 December 2016.
  - The development proposed is for the erection of one detached dwelling (within a conservation area).
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline with all matters (access, layout, appearance, landscaping and scale) reserved for later approval. I have therefore dealt with the appeal on this basis, with submitted plans as indicative of the development which could be undertaken.

### Main Issues

3. The main issues are:
  - whether the proposed development would amount to inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
  - the effect on the openness of the Green Belt and the purposes of including land within it;
  - whether the proposed development would preserve or enhance the character or appearance of the Longwood Edge Conservation Area; and,
  - if the development is deemed inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### Reasons

4. The appeal site comprises a sloping area of undeveloped land between existing dwellings and curtilage to the south-west and north-east of Nos. 38 & 40
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Dodlee Lane respectively. The land currently forms part of a large field which extends behind the existing development on the north-west side of Dodlee Lane, with further open land beyond. The boundary with Dodlee lane is defined by a stone wall. Dodlee Lane also defines the Green Belt boundary, with properties and dwellings on the western side being located within, but those on the eastern side being without.

*Whether inappropriate development*

5. Paragraphs 87-89 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "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. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. The listed exceptions in paragraph 89 of the Framework include *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan*. In this instance, both the Council and appellant have directed me to the first element of this exception as a basis for assessment.
7. The appellant contends that the existing dwellings on the western side of Dodlee Lane form part of Huddersfield in the absence of any policy or physical terms which dictate otherwise. This conclusion is opposed by the Council on the basis that the Green Belt boundary is positioned along Dodlee Lane, with the properties on the eastern side considered to be set within the settlement, whilst those within the Green Belt on the western side should not be considered in the same manner, but as ribbon development not part of a settlement.
8. I have carefully considered this point but note that neither party has placed any definitive evidence before me regarding current or previous established settlement limits or boundaries. I would agree that settlements can quite clearly be established within the Green Belt itself, and whilst in this instance the physical characteristics of the western side of Dodlee Lane would reasonably support the Council's contention of ribbon development, I have no compelling reason to exclude the existing development on the western side of Dodlee Lane from the settlement given it is contiguous with development on the eastern side of the same road.
9. I have carefully considered the proposal against the wording of paragraph 89 of the Framework. Whilst I have concluded that the western side of Dodlee Lane would be regarded as within the settlement, I am mindful that the exception refers to *limited infilling in villages*. In this respect, I have been referred to the general absence of definition of the terms 'limited infilling' and 'village' within the evidence placed before me, as well as by the appellant to a recent dismissed appeal decision at Hall Bower Lane in Huddersfield for outline residential development, where the Inspector considered broadly the same points.
10. I have had regard to the previous appeal decision, and accept that in the absence of agreed definitions, that it is the judgement of the decision-maker which should be relied upon, and that it would be appropriate for the

Development Plan to guide how development should be assessed. In this respect, I would conclude that the indicative proposal for a single dwelling would fit within a reasonable definition of limited, and also that the site could be argued to be largely surrounded by development as required by saved Policy D13(ii) of the Kirklees Unitary Development Plan 2007 (the UDP). However, whilst I am mindful that there is another proposal for outline residential development also being considered at appeal on land adjacent to No. 18 Dodlee Lane, the western side of Dodlee Lane cannot as a consequence be considered to be an otherwise continuously built-up frontage as required by saved Policy D13(i) of the UDP.

11. In this respect, the proposal would be contrary to saved Policy D13 of the UDP as it would not meet the requirement for infill development to be situated within an otherwise continuously built-up frontage. As a consequence, I am satisfied that the proposed development would not accord with any of the exceptions for new buildings in the Green Belt set out at paragraph 89 of the Framework, and I therefore attach substantial weight to the harm arising due to the inappropriate nature of the development.

*The effect on the Green Belt and the purposes of including land within it*

12. Paragraph 79 of the Framework identifies that openness and permanence are the two essential characteristics of Green Belts, whilst paragraph 80 highlights that the Green Belt serves five purposes, including checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns from merging into one another; safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and assisting in urban regeneration by encouraging the recycling of derelict and other urban land.
13. Whilst it would be my judgement that the addition of a single dwelling in this circumstance would not in itself result in any significant contribution towards the unrestricted urban sprawl of built-up areas, the proposal would in my view represent a limited encroachment of development into the countryside on this otherwise open and undeveloped site. Whilst I acknowledge that the indicative form of development would not be dissimilar to that found elsewhere in the area, I find the appeal site makes a positive and significant contribution towards the openness of the Green Belt at this point. As a consequence, the proposal would result in a permanent loss of openness to the land within the Green Belt, and would represent an encroachment into the countryside. This would be contrary to the third purpose of including land within the Green Belt set out at paragraph 80 of the Framework.

*Conservation area*

14. In exercise of planning functions, I am mindful that I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with respect to any buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
15. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this

harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.

16. I have carefully considered the Council's contention that the development of the appeal site would result in a failure to preserve or enhance the character of the Longwood Edge Conservation Area, having particular regard to value of the gap in the developed frontage in providing views to open countryside beyond, and the impact on the existing boundary stone wall.
17. In this respect, I am mindful that the proposed scheme is in outline only at this stage, with all matters reserved. Nevertheless, I am satisfied that even allowing for the indicative nature of the proposed layout of development as submitted, the development of a dwelling on the appeal site would undoubtedly result in at least the partial loss of views towards the countryside. However, whilst the development would result in a change to the existing character and appearance of the site, I have no detailed evidence before me to support the Council's contention regarding the importance of the views in defining the significance of the heritage asset. I have noted the reference made in the submitted evidence to Appendix 1 of the UDP as the latest character assessment of the conservation area, but this does not highlight the importance of the views to the conservation area, but concentrates on the function and importance of the link provided by the stone-settled street to cottages on the hillside. I am satisfied that the proposed development would, in this respect, accord with existing opportunities on Dodlee Lane to view the countryside beyond, and as such would preserve the character of the conservation area.
18. The Council has also assessed that the proposed development would result in the loss of the existing stone boundary wall from the front of the appeal site. Whilst I am mindful that the proposals have been submitted with all matters reserved at this stage, I note that the indicative proposed plan is annotated to highlight that the existing stone wall would be rebuilt. It is on the basis of this plan that it would appear that there would be the opportunity to avoid the removal of the entire wall to provide access, with in excess of 50% of the wall shown as rebuilt, which from existing development in the vicinity, would not be a departure from breaks in dry stone and stone walling achieved in order to facilitate access.
19. I have also had regard to the Council's reference to the nearby Grade II Listed Buildings at Nos. 40 & 42 Dodlee Lane, and am mindful that in determining this appeal, I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the setting of the listed building. However, I have noted the Council's contention that despite the outline nature of the proposals, a two-storey dwelling in this location could potentially have an adverse effect on the setting of the listed building. Nevertheless, I consider that the principle of the development of the site for a dwelling of appropriate detailed design and scale would be likely to be acceptable and not detract from the setting. I am satisfied that the significance of the heritage asset would not therefore be diminished by the outline proposal.
20. I conclude that the proposal would preserve the character and appearance of the Longwood Edge Conservation Area and would therefore accord with the



requirements of s72(1) of the Act. The proposal would not conflict with saved Policy BE5 of the UDP as identified by the Council, which seeks to ensure that development preserves or enhances the character or appearance of the conservation area. In addition, given the great importance of the heritage asset, the proposal would not be contrary to paragraph 132 or the core planning principles of the Framework, that require, amongst other things, the conservation of heritage assets in a manner appropriate to their significance.

*Other considerations*

21. It is indicated that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. The Council has indicated as a consequence of its housing policies being out-of-date that proposals should be considered against paragraph 14 of the Framework and the presumption in favour of sustainable development. However, in this respect, footnote 9 to paragraph 14 applies, and identifies that land designated as Green Belt to be one of the exceptional criteria where the '*tilted balance*' under the first limb of the second bullet-point of the decision-taking section of paragraph 14 does not apply. Furthermore, I am mindful that paragraph 34 of the chapter on Housing and Economic Land Availability Assessment within national Planning Practice Guidance (the Guidance) states that *in decision-taking, unmet housing need (including for traveller sites) is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the green belt.*
22. In this instance, the provision of a single additional dwelling to the local housing stock would have only a very limited impact on meeting any shortfall of supply of deliverable housing sites, and would therefore not weigh significantly in favour of the proposals. Nevertheless, the provision of a single dwelling would have the potential to bring economic benefits in terms of the provision of jobs for local builders, and it is also likely that the addition of a family or other occupants would result in support for locally accessible businesses and services. Whilst I acknowledge that these are factors which are likely to weigh in support of the proposals, I am not persuaded that these would attract anything more than limited weight in this respect.
23. I have also carefully considered the appellant's contention that the proposed dwelling would have the potential to improve upon the existing architectural quality of the street, and as a consequence enhance the area. Whilst I accept that any design or architecture of the dwelling would at reserved matters stage be read in the context of the conservation area, this does not necessarily guarantee an enhancement and therefore a benefit from the proposals, as preservation would also be acceptable. I have not therefore attached any significant weight to this point.
24. I have noted the Council's conclusions in respect of impact on the living conditions of existing occupiers, highway safety, biodiversity, and air quality. However, these would be neutral factors and would not weigh in support of the proposal.

*Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations*

25. I have identified that the scheme would amount to inappropriate development in the Green Belt, and the presumption against inappropriate development

means that this harm alone attracts substantial weight. The development would also have an adverse effect on the openness of the Green Belt and would result in some limited harm by way of encroachment into the countryside. The development would therefore be contrary to the purposes of the Green Belt as set out in the Framework.

26. Notwithstanding the harm identified above, I have had careful regard to the benefits of the development as advocated by the appellant, and accept that these must carry some limited weight in favour of the proposals. Nevertheless, these would not be sufficient to clearly outweigh the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

### **Conclusion**

27. For the reasons above, and having regard to all matters before me, the appeal must be dismissed.

*M Seaton*

INSPECTOR

## Appeal Decision

Site visit made on 27 April 2017

**by M Seaton BSc (Hons) DipTP MRTPI**

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

**Decision date: 24 May 2017**

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**Appeal Ref: APP/Z4718/W/17/3168419**

**Land adjacent to 18 Dodlee Lane, Longwood, Huddersfield, West Yorkshire, HD3 4TZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr J Wimpenny & Mr D Wimpenny against Kirklees Council.
  - The application Ref 2016/60/93321/W, dated 30 September 2016, was refused by notice dated 16 December 2016.
  - The development proposed is for the erection of a residential development (within a conservation area).
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline with all matters (access, layout, appearance, landscaping and scale) reserved for later approval. I have therefore dealt with the appeal on this basis, with submitted plans as indicative of the development which could be undertaken.

### Main Issues

3. The main issues are:
  - whether the proposed development would amount to inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
  - the effect on the openness of the Green Belt and the purposes of including land within it;
  - whether the proposed development would preserve or enhance the character or appearance of the Longwood Edge Conservation Area; and,
  - if the development is deemed inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### Reasons

4. The appeal site comprises a sloping area of undeveloped land between existing dwellings and curtilage to the south-west and north-east of Nos. 18 & 36
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Dodlee Lane respectively. The land currently forms part of a large field which extends behind the existing development on the north-west side of Dodlee Lane, with further open land beyond. The boundary with Dodlee lane is defined by a stone wall. Dodlee Lane also defines the Green Belt boundary, with properties and dwellings on the western side being located within, but those on the eastern side being without.

*Whether inappropriate development*

5. Paragraphs 87-89 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "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. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. The listed exceptions in paragraph 89 of the Framework include *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan*. In this instance, both the Council and appellant have directed me to the first element of this exception as a basis for assessment.
7. The appellant contends that the existing dwellings on the western side of Dodlee Lane form part of Huddersfield in the absence of any policy or physical terms which dictate otherwise. This conclusion is opposed by the Council on the basis that the Green Belt boundary is positioned along Dodlee Lane, with the properties on the eastern side considered to be set within the settlement, whilst those within the Green Belt on the western side should not be considered in the same manner, but as ribbon development not part of a settlement.
8. I have carefully considered this point but note that neither party has placed any definitive evidence before me regarding current or previous established settlement limits or boundaries. I would agree that settlements can quite clearly be established within the Green Belt itself, and whilst in this instance the physical characteristics of the western side of Dodlee Lane would reasonably support the Council's contention of ribbon development, I have no compelling reason to exclude the existing development on the western side of Dodlee Lane from the settlement given it is contiguous with development on the eastern side of the same road.
9. I have carefully considered the proposal against the wording of paragraph 89 of the Framework. Whilst I have concluded that the western side of Dodlee Lane would be regarded as within the settlement, I am mindful that the exception refers to *limited infilling in villages*. In this respect, I have been referred to the general absence of definition of the terms 'limited infilling' and 'village' within the evidence placed before me, as well as by the appellant to a recent dismissed appeal decision at Hall Bower Lane in Huddersfield for outline residential development, where the Inspector considered broadly the same points.
10. I have had regard to the previous appeal decision, and accept that in the absence of agreed definitions, that it is the judgement of the decision-maker which should be relied upon, and that it would be appropriate for the

Development Plan to guide how development should be assessed. In this respect, I would conclude that the indicative proposal for two dwellings would fit within a reasonable definition of limited, and also that the site could be argued to be largely surrounded by development as required by saved Policy D13(ii) of the Kirklees Unitary Development Plan 2007 (the UDP). However, whilst I am mindful that there is another proposal for outline residential development also being considered at appeal on land adjacent to No. 38 Dodlee Lane, the western side of Dodlee Lane cannot as a consequence be considered to be an otherwise continuously built-up frontage as required by saved Policy D13(i) of the UDP.

11. In this respect, the proposal would be contrary to saved Policy D13 of the UDP as it would not meet the requirement for infill development to be situated within an otherwise continuously built-up frontage. As a consequence, I am satisfied that the proposed development would not accord with any of the exceptions for new buildings in the Green Belt set out at paragraph 89 of the Framework, and I therefore attach substantial weight to the harm arising due to the inappropriate nature of the development.

*The effect on the Green Belt and the purposes of including land within it*

12. Paragraph 79 of the Framework identifies that openness and permanence are the two essential characteristics of Green Belts, whilst paragraph 80 highlights that the Green Belt serves five purposes, including checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns from merging into one another; safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and assisting in urban regeneration by encouraging the recycling of derelict and other urban land.
13. Whilst it would be my judgement that the addition of a two dwellings in this circumstance would not in itself result in any significant contribution towards the unrestricted urban sprawl of built-up areas, the proposal would in my view represent a limited encroachment of development into the countryside on this otherwise open and undeveloped site. Whilst I acknowledge that the indicative form of development would not be dissimilar to that which flanks the appeal site, I find the appeal site makes a positive contribution towards the openness of the Green Belt at this point. As a consequence, the proposal would result in a permanent loss of openness to the land within the Green Belt, and would represent an encroachment into the countryside. This would be contrary to the third purpose of including land within the Green Belt set out at paragraph 80 of the Framework.

*Conservation area*

14. In exercise of planning functions, I am mindful that I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with respect to any buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
15. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this

harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.

16. I have carefully considered the Council's contention that the development of the appeal site would result in a failure to preserve or enhance the character of the Longwood Edge Conservation Area, having particular regard to value of the gap in the developed frontage in providing views to open countryside beyond.
17. In this respect, I am mindful that the proposed scheme is in outline only at this stage, with all matters reserved. Nevertheless, I am satisfied that even allowing for the indicative nature of the proposed layout of development as submitted, the development of two dwellings on the appeal site would undoubtedly result in at least the partial loss of views towards the countryside. However, whilst the development would result in a change to the existing character and appearance of the site, I have no detailed evidence before me to support the Council's contention regarding the importance of the views in defining the significance of the heritage asset. I have noted the reference made in the submitted evidence to Appendix 1 of the UDP as the latest character assessment of the conservation area, but this does not highlight the importance of the views to the conservation area, but concentrates on the function and importance of the link provided by the stone setted street to cottages on the hillside. I am satisfied that the proposed development would, in this respect, accord with existing opportunities on Dodlee Lane to view the countryside beyond, and as such would preserve the character of the conservation area.
18. I have also noted the reference to the loss of the dry stone wall, but would agree with the Council's assessment that the impact from the removal of the wall would be reduced given that it would not be lost in its entirety. I do not regard this to be a departure from elsewhere within the vicinity where breaks in dry stone and stone walling have been achieved in order to facilitate access.
19. I conclude that the proposal would preserve the character and appearance of the Longwood Edge Conservation Area and would therefore accord with the requirements of s72(1) of the Act. The proposal would not conflict with saved Policy BE5 of the UDP as identified by the Council, which seeks to ensure that development preserves or enhances the character or appearance of the conservation area. In addition, given the great importance of the heritage asset, the proposal would not be contrary to paragraph 132 or the core planning principles of the Framework, that require, amongst other things, the conservation of heritage assets in a manner appropriate to their significance.

#### *Other considerations*

20. It is indicated that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. The Council has indicated as a consequence of its housing policies being out-of-date that proposals should be considered against paragraph 14 of the Framework and the presumption in favour of sustainable development. However, in this respect, footnote 9 to paragraph 14 applies, and identifies that land designated as Green Belt to be one of the exceptional criteria where the '*tilted balance*' under the first limb of the second bullet-point of the decision-taking section of paragraph 14 does not apply. Furthermore, I am mindful that paragraph 34 of the chapter on Housing and Economic Land Availability Assessment within national Planning Practice Guidance (the Guidance) states that *in decision-taking, unmet housing need (including for*

*traveller sites) is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the green belt.*

21. In this instance, the provision of two dwellings to the local housing stock would have only a very limited impact in meeting any shortfall of supply of deliverable housing sites, and would therefore not weigh significantly in support of the proposals. Nevertheless, the provision of two additional dwellings would have the potential to bring economic benefits in terms of the provision of jobs for local builders, and it is also likely that the addition of families or other occupants would result in support for locally accessible businesses and services. Whilst I acknowledge that these are factors which are likely to weigh in support of the proposals, I am not persuaded that these would attract anything more than limited weight in this respect.
22. I have also carefully considered the appellant's contention that the proposed dwellings would have the potential to improve upon the existing architectural quality of the street, and as a consequence enhance the area. Whilst I accept that any design or architecture of the dwellings would at reserved matters stage be read in the context of the conservation area, this does not necessarily guarantee an enhancement and therefore a benefit from the proposals, as preservation would also be acceptable. I have not therefore attached any significant weight to this point.
23. I have noted the Council's conclusions in respect of impact on the living conditions of existing occupiers, highway safety, biodiversity, and air quality. However, these would be neutral factors and would not weigh in support of the proposal.

*Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations*

24. I have identified that the scheme would amount to inappropriate development in the Green Belt, and the presumption against inappropriate development means that this harm alone attracts substantial weight. The development would also have an adverse effect on the openness of the Green Belt and would result in some limited harm by way of encroachment into the countryside. The development would therefore be contrary to the purposes of the Green Belt as set out in the Framework.
25. Notwithstanding the harm identified above, I have had careful regard to the benefits of the development as advocated by the appellant, and accept that these must carry some limited weight in favour of the proposals. Nevertheless, these would not be sufficient to clearly outweigh the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

## **Conclusion**

26. For the reasons above, and having regard to all matters before me, the appeal must be dismissed.

*M Seaton*

INSPECTOR

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# Appeal Decision

Site visit made on 9 May 2017

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

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

**Decision date: 26 May 2017**

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**Appeal Ref: APP/Z4718/W/17/3169900**

**Land adjacent to 18-20 Marsh Platt Lane, Honley, Huddersfield HD9 6JZ**

- 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 F Eaton against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2015/62/90582/W, dated 24 February 2015, was refused by notice dated 12 December 2016.
  - The development proposed is described as the erection of 2 dwellings, replacement garaging to existing dwellings and formation of a turning head.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings with integral garages and two detached garages to Nos 18 and 20, and formation of a turning head at land adjacent to 18-20 Marsh Platt Lane, Honley, Huddersfield HD9 6JZ in accordance with the terms of application Ref 2015/62/90582/W, dated 24 February 2015, subject to the conditions set out in the attached schedule.

## Procedural Matter

2. The Council changed the description of application Ref 2015/62/90582/W from that contained on the application form to 'the erection of two detached dwellings with integral garages and two detached garages to Nos 18 and 20, and formation of a turning head'. This is a more accurate description of the development proposed which I have therefore used in this decision.

## Main Issue

3. The main issue is the effect of the proposed development on highway and pedestrian safety.

## Reasons

4. The appeal site comprises a roughly rectangular area of land containing a number of mature trees and is located between No 16 Marsh Platt Lane to the west and Nos 18 and 20 to the east. The proposed access would be off Marsh Platt Lane which is an unadopted road that is surfaced for most of its length and which the Council suggests provides existing access to ten dwellings. The road is also the route of a public right of way but is a cul-de-sac for vehicular traffic. It has no footways, is relatively narrow in parts and other than existing entrances to residential properties it has few passing places.
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5. The proposed development would involve the construction of two detached dwellings and the construction of two detached garages to serve Nos 18 and 20 located to the east. The proposed dwellings would have sufficient space for the off-road parking of three vehicles. In addition, a wide turning head is also proposed for all users of the road which would facilitate the turning of service vehicles. An additional visitor car parking bay is also proposed close to the turning head.
6. As a consequence of the narrow width of Marsh Platt Lane the speed of vehicles using it is low. Whilst there are no formal passing places, there is sufficient space at intervals along the road to allow vehicles to pass. Other than in the vicinity of a sharp bend near No 14, pedestrian and vehicular indivisibility is adequate and the road width is sufficient for pedestrians to seek refuge either on the road, or on the verge, to avoid any conflict with traffic. Given the quiet, semi-rural nature of the area, even in the position where the road bends any traffic in the vicinity can be heard.
7. Owing to the cul-de-sac nature of the road and the small number of residential properties served from it, the road is lightly trafficked. The limited number of additional vehicles associated with a development of two dwellings would not materially impact on the overall volume of traffic using the road to the extent that highway and pedestrian safety would be compromised.
8. I have no evidence of any accidents associated with the use of the road and I note that the Council's Highway Engineer raised no objections to the proposed development. I have also attached significant weight to the benefit of the provision of the turning head. This would assist in reducing the reversing movements of large vehicles along a considerable length of the road which currently occur as a consequence of the limited opportunity to turn and thereby provide some improvement to the existing highway and pedestrian safety conditions.
9. Taking the above factors into account, the proposed development would not cause demonstrable harm to the interests of highway and pedestrian safety of an extent to warrant the dismissal of this appeal. Consequently, there would be no conflict with Saved Policies D2 and T10 of the Kirklees Unitary Development Plan (2007). These policies seek, amongst other things, to ensure that new development does not create or add to highway safety problems.

*Other matters*

10. I have taken into account the concerns of local residents regarding the long term use of the proposed turning head and the perceived lack of any swept path analysis. Whilst I recognise the concerns that the future occupiers of the proposed dwellings may have a desire to encompass the turning head into their domestic curtilage, an appropriate planning condition can be imposed to ensure that this facility is only used for the manoeuvring of vehicles. I have no evidence that a swept path analysis has been produced but equally I have no evidence to suggest that the proposed turning head would not be suitable for the manoeuvring of vehicles. Consequently, the lack of any swept path analysis would not be a sufficient sustainable reason to dismiss the appeal.

## Conditions

11. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. In order to protect the character and appearance of the area, I have also imposed conditions concerning the external materials to be used, details of the proposed building and site levels, details of boundary treatment, the implementation of a scheme of landscaping and the protection of trees.
12. In order to protect the living conditions of the occupants of the proposed dwellings and the occupants of properties to the west and east, with particular regard to privacy, a condition is necessary requiring the provision of obscure glazing in the windows in the side elevations of the proposed dwellings. For the same reason, I also agree that a condition limiting the insertion of any additional windows in the side elevations is also necessary. However, I have amalgamated the Council's suggested conditions relating to these matters into one condition.
13. The National Planning Policy Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. I am not satisfied that the Council's suggested condition removing many householder rights is necessary as no detailed explanation for it is given and no other evidence is provided that would provide any justification for such condition to be considered appropriate.
14. In the interests of highway and pedestrian safety I agree that a condition is necessary requiring the provision of the turning head and parking arrangements prior to the occupation of the dwellings. For the same reason and to minimise to risk of on-road parking, a condition requiring that the proposed attached garages are retained for such use is also necessary and reasonable. Also, given the narrow nature of the road and similarly in the interests of highway and pedestrian safety, a condition is necessary requiring details of the parking of vehicles associated with the construction of the development and the delivery of materials within the site is necessary.
15. In order to encourage the use of more sustainable vehicles than those using an internal combustion engine I agree that a condition requiring the provision of electric vehicle charging points is reasonable and necessary.
16. Given the semi-rural nature of the site, in the interests of mitigating the effects of the proposed development on ecology, conditions are necessary relating to the undertaking of surveys for the presence of protected species. Given the degree of statutory protection afforded to such species these surveys are required to be undertaken prior to the commencement of development. In the interest of protecting the habitat of nesting birds I have imposed a condition that restricts vegetation clearance to a period outside of the bird nesting season.
17. I note that the Council's Highway Engineer did not suggest a condition relating to the submission of a pre and post development condition survey of Marsh Platt Lane. I do not consider that the Council's suggested condition relating to this matter is reasonable, enforceable, necessary or related to planning matters, particularly as other development recently has occurred on Marsh Platt Lane and there would be some difficulty in identifying which development

caused any alleged damage. There are other powers available to deal with extraordinary damage to the road as a consequence of construction work contained within other legislation and I have therefore deleted the suggested condition.

**Conclusion**

18. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

*Stephen Normington*

INSPECTOR

## **CONDITIONS SCHEDULE**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Drawing Nos 2232 -01; 2232-03B; 2232-04C; 2232-05C; 2232-06; 2232-07; 2232-08B; 2232-09A; 12525/SR.
- 3) No development above foundation level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved sample details.
- 4) The finished floor and ground levels shall be no higher than those shown on the approved plans and these shall be thereafter retained as such.
- 5) All side facing windows in the new dwellings shall be fitted with obscure glazing (minimum grade 4) before the dwellings are first occupied. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) windows of this type shall thereafter be retained and no additional windows shall be formed in the side elevations of either of the new dwellings at any time.
- 6) Timber fencing shall be erected along the full length of all side boundaries in accordance with the details shown on the approved plans before the dwellings are first occupied and shall thereafter be retained.
- 7) All of the parking and turning arrangements both for the new dwellings and the existing dwellings, shown on the approved plans, including the provision of the shared turning head within Marsh Platt Lane, shall be provided in accordance with the details shown on the approved plans and shall be laid out with a hardened and drained surface, before either new dwelling is first occupied. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) these areas shall be thereafter retained, kept clear of all obstructions and shall only be used for the parking and manoeuvring of vehicles. The turning head shall be used for no purpose other than for the manoeuvring of vehicles traveling on Marsh Platt Lane.
- 8) Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) the integral garages shall be retained as such and shall not to be converted to living accommodation.
- 9) One electric vehicle recharging point shall be installed within the dedicated parking area or integral garage for each of the approved dwellings before the dwelling to which the recharging point relates is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a

minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

- 10) Prior to the commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority identifying the measures to ensure that the safety of the users of the public footpath network is not compromised during the construction period. The measures identified in the approved scheme shall be implemented prior to the commencement of the development works and shall thereafter be retained for the duration of construction works.
- 11) An Arboricultural Method Statement, in accordance with British BS 5837, shall be submitted to and approved in writing by the Local Planning Authority, which shall include details on how the construction work will be undertaken with minimal damage to the adjacent protected trees and their roots. No works shall be carried out on site except in accordance with the approved Method Statement, for the duration of the construction works.
- 12) In the event of additional tree works being required during the construction process other than those identified within the approved Arboricultural Method Statement, full details of these shall be submitted to and approved in writing by the Local Planning Authority prior to such works being carried out. The additional tree works shall not be carried out other than in accordance with the approved details.
- 13) Before development commences, a schedule of means of access to the site for construction traffic including construction deliveries and the parking of construction workers' vehicles within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall come into effect before the commencement of the development and shall be maintained in accordance with the details agreed for the duration of the construction works.
- 14) Prior to the commencement of development a badger survey shall be undertaken and the report of the survey including (where applicable) any mitigation measures proposed, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the requirements of the approved report.
- 15) Prior to the commencement of the development any mature or semi-mature trees scheduled for removal shall be inspected to confirm bat roost potential by a qualified ecologist and a report of the survey, including any mitigation and enhancement measures proposed, shall be submitted to and approved in writing by the Local Planning Authority. Any enhancement measures (artificial bat roost features) recommended in the report shall be installed before either of the two new dwellings is first occupied and shall thereafter be retained.
- 16) Any vegetation clearance shall be undertaken outside of the bird breeding season (March to August inclusive), or else shall be preceded by a nesting bird check by a qualified ecologist and any nests shall be protected until such time that the young have fledged.

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## Appeal Decision

Site visit made on 31 May 2017

**by Siobhan Watson BA(Hons) MCD MRTPI**

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

**Decision date: 1 June 2017**

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**Appeal Ref: APP/Z4718/D/17/3172298**

**12 Woodroyd Avenue, Honley, Holmfirth, HD9 6LG**

- 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 Mrs Lynda Wood against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/90175/W, dated 17 January 2017, was refused by notice dated 14 March 2017.
  - The development proposed is a side dormer and alterations to rear elevation.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the extension upon the character and appearance of the host building and the surrounding area.

### Reasons

3. Woodroyd Avenue is characterised by dwellings with low eaves and steeply pitched roofs with gables at the front and rear. The appeal house is of this design. It has a large dormer to one roof slope and the proposal is to install a similar dormer to the other roof slope. In addition, the rear elevation, which can be seen from the fields to the rear, would be built up, significantly increasing the rear eaves height.
  4. This would result in the rear of the house having a shallow roof which would look squat and disproportionate to the height of the walls. It would also be out of character with the low-eaved design of the dwelling and those surrounding it. Furthermore, it is unclear from the plans how the dormers would tie in with the built up rear elevation and I have concerns about how this might look, especially from the side view which can be glimpsed from Woodroyd Avenue. I appreciate that other properties in the road have been extended but my attention has not been drawn to any extensions quite like the proposed one.
  5. Overall, the extension would be unsympathetic and incongruous to the design of the host building which would, in turn, harm the character and appearance of the house and wider area. Consequently, I find conflict with Policies D2, BE1, BE2, BE13 and BE14 of the Kirklees Unitary Development Plan which, in combination, seek to protect visual amenity and ensure that development is in keeping with any surrounding development in respect of its design.
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Furthermore, it would conflict with Chapter 7 of the National Planning Policy Framework which encourages good design.

6. I have considered all other matters raised, but none outweigh the conclusions I have reached.
7. Therefore, I dismiss the appeal.

*Siobhan Watson*

INSPECTOR

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# Appeal Decision

Site visit made on 31 May 2017

**by Siobhan Watson BA(Hons) MCD MRTPI**

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

**Decision date: 6 June 2017**

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**Appeal Ref: APP/Z4718/W/17/3170264**

**10 Cherry Tree Walk, Scholes, Holmfirth, HD9 1XG**

- 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 and Mrs Hough against the decision of Kirklees Metropolitan Council.
  - The application Ref 2016/62/92406/W, dated 13 July 2016, was refused by notice dated 10 October 2016.
  - The development proposed is the re-use and adaptation of the existing garage to form a dwelling with associated access, parking and curtilage areas.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed dwelling upon the character and appearance of the area.

## Reasons

3. Cherry Tree Walk is characterised by dwellings which are set back from the road by generous and well-landscaped front gardens. The area has a spacious and open feel to it with the fronts of the houses looking directly onto the street.
  4. The proposed 2-storey dwelling would be very close to the highway and would lack garden space between it and the road. Furthermore, the gable elevation facing the road would be plain and boring as it would have no windows or doors. The chimney stack would provide insufficient visual interest to make the appearance of the gable acceptable. The combination of these factors would result in the proposed dwelling appearing obtrusive and incongruous within the street-scene. This would be in spite the proposed use of traditional materials and the land level being slightly lower than the land level of the houses opposite.
  5. I note the appellants' reference to other dwellings in the area which have gables close to the road, but these are on different sites with different visual characteristics to that of the appeal site.
  6. I therefore conclude that the proposed dwelling would harm the character and appearance of the area. Consequently, it would conflict with Policies BE1, BE2 and D2 of the Kirklees Unitary Development Plan which, together, seek to ensure that development respects visual amenity and is of a good design which
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is in keeping with the design and layout of surrounding development. It would also conflict with Paragraph 64 of the National Planning Policy Framework which has similar objectives.

### **Other Matters**

7. I appreciate that the proposal would provide a dwelling in a sustainable location and that the Council cannot demonstrate an up to date five year housing land supply. However, the tiny contribution of one dwelling to the supply of housing would not outweigh the demonstrable harm to the character and appearance of the area, and the consequent conflict with development plan policies.
8. I have had regard to all other matters raised, including the representations from interested parties, but none outweigh the conclusions I have reached.

### **Conclusion**

9. Due to the environmental harm that would arise as a result of the development, the proposal would not represent sustainable development and the appeal is dismissed.

*Siobhan Watson*

INSPECTOR