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# Appeal Decision

Site visit made on 23 May 2017

**by Darren Hendley BA(Hons) MA MRTPI**

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

**Decision date: 26<sup>th</sup> June 2017**

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**Appeal Ref: APP/Z4718/W/16/3161720**

**Woodland Fisheries, 72 Springwood Road, Thongsbridge, Holmfirth HD9 7SN**

- 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 Gurmit Singh against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/92236/W, dated 22 June 2016, was refused by notice dated 6 September 2016.
  - The development proposed is a side extension with extended roof and basement.
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## Decision

1. The appeal is allowed and planning permission is granted for a side extension with extended roof and basement at Woodland Fisheries, 72 Springwood Road, Thongsbridge, Holmfirth HD9 7SN in accordance with the terms of the application, Ref 2016/62/92236/W, dated 22 June 2016, subject to the attached schedule of conditions.

## Main Issue

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

## Reasons

3. The appeal site comprises a modest sized area of land which contains a small single storey pitched roof building that is used as a hot food takeaway. The building is positioned to the left side of the site, when viewed from Springwood Road, with the remaining area used for informal car parking. This area abuts a recently constructed housing site which is located in a former railway cutting. The houses are three storeys, although they are set approximately one storey lower in the land levels than the appeal site. The boundary between the appeal site and the housing site is defined by a close boarded fence. To the rear of the appeal site are the grounds of an adjoining school.
  4. The proposed side extension and the veranda contained within the front roof slope would be set well back from the front elevation of the existing building. The front roof slope would further angle back to form a roof pitch that would be slightly set down from the main roof pitch of the existing building. This arrangement would also take the massing of the extension back from the front elevation that would face the streetscene and result in a scale, on its own that
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- would be subordinate to the existing building and, when taken with the existing building, would not appear excessive.
5. The side extension and the veranda, when combined with the existing building, would also not give the appearance of a building extending across the full width of the site or that substantially extends across the depth of the site, because of the clear break that would be formed in the front elevation, resulting from the set back from the existing building.
  6. The area of the site in front of the veranda, directly adjacent and most visible from the streetscene, would remain free from built development above ground level. The side extension would extend up to the rear boundary of the site, although this would only be visible from the school grounds, and not from the streetscene. It would also extend close to the boundary with the housing site, although well set back from the site frontage. With the siting and the area in front of the proposal remaining free from built development, it would not represent a cramped over development of the site.
  7. The side extension and veranda would also not have an unacceptable visual impact on the area because it would not be prominent with the set back from the existing building and its scale. The existing building and the boundary fence with the housing site would also provide screening and limit visibility. The materials would match the existing building and thus would appear visually to be in keeping.
  8. A proposal for a smaller single storey extension has been approved on the site previously, which sought to overcome earlier Council concerns over the scale of development and the effect on the character and appearance of the area. However, I have based my decision on the proposal which is subject of this appeal.
  9. I conclude the proposal would not harm the character and appearance of the building and the area, and would comply with 'Saved' Policies D2 (vi, vii), BE1 (iv), BE2 (i) and B5 of the Kirklees Unitary Development Plan (1999) which require development to not prejudice visual amenity and the character of the surroundings; promote a healthy environment, including space around buildings; is in keeping with any surrounding development; and safeguards visual amenity.
  10. I also conclude the proposal would comply with Section 7 of the National Planning Policy Framework (Framework) because it would constitute good design, in particular paragraph 61, as the proposal would integrate development into the built environment.

### **Other Matters**

11. Customers can congregate on the site at the present time and whilst the veranda would provide shelter for customers during inclement weather, the area that would be covered is modest in size and is thus unlikely to attract a significant number of customers. It would not therefore require a solid side elevation to the veranda to prevent undue noise and disturbance. This would also be limited by the close boarded fence on the boundary with the housing site. When the takeaway is closed, the veranda would not be able to be accessed. I consider the use of the veranda would not unduly affect the living conditions of the occupiers of the housing site.

12. The proposal would not result in an unacceptable effect on car parking because the sales area of the takeaway would not be increased and informal car parking could still occur in front of the veranda with access via the existing low kerb. Stability matters in relation to the basement can be controlled through condition. I consider the proposal would be acceptable with regard to parking and access issues.
13. A presumption in favour of sustainable development is at the heart of the Framework. I consider that as the proposal would accord with the development plan, under paragraph 14 of the Framework, it would constitute sustainable development.

### **Conditions**

14. I have imposed conditions necessary in the interests of certainty (1 and 2); to ensure the proposal remains ancillary to the hot food takeaway use for reasons of highways safety (3); to safeguard the character and appearance of the area through use of matching materials to the existing building (4); so that the construction of the proposal is carried out to in a manner which is acceptable with regard to highways safety (5); and that the basement is constructed to ensure structural stability of the highway and can accommodate off street car parking (6).
15. I also require details to be submitted pre-commencement where these matters need to be addressed at the start of the implementation of the permission (5 and 6).
16. Where I have altered the wording of conditions put forward by the Council, I have done so in the interests of preciseness, without changing their overall intention.

### **Conclusion**

17. For the above reasons and having regard to all other matters raised, I conclude that the appeal is allowed.

*Darren Hendley*

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: Drawing nos. 100 to 110 (inclusive).
- 3) The development hereby permitted shall not be used at any time other than for purposes ancillary to the existing A5 use at Woodland Fisheries, 72 Springwood Road, Thongsbridge, Holmfirth, HD9 7SN.
- 4) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 5) No development shall take place, including any works of demolition or excavation, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) vehicle routeing, signage and access arrangements;
  - v) measures to control the emission of dust and dirt during construction; and
  - vi) a timetable programme for deliveries.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) No development shall take place until details of the design of the basement, including structural calculations, construction methods, support methods for car parking, structural stability and any remediation required, has been submitted to, and approved in writing by the local planning authority. The development shall be implemented in accordance with these details and thereafter retained.

## Appeal Decision

Site visit made on 13 June 2017

by **Helen Hockenhull BA(Hons) B.PI MRTPI**

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

Decision date: 30 June 2017

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**Appeal Ref: APP/Z4718/D/17/3174608**

**10 Meal Hill, Surat Road, Slaithwaite, Huddersfield HD7 5UR**

- 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 J Atkinson against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/92805/W, dated 18 August 2016, was refused by notice dated 13 April 2017.
  - The development proposed is a replacement garage.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The original application form did not make reference to a house number on Meal Hill in order to locate the appeal site. However on the Appeal Form the address is stated as 10 Meal Hill. I have therefore used this in the banner heading above.

### Main Issues

3. The main issues in this case are:
  - whether the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
  - the effect of the development on the openness and purposes of the Green Belt;
  - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### Reasons

4. The appeal relates to a proposal for a replacement garage on land opposite 10 Meal Hill, Slaithwaite. Meal Hill forms a small cluster of stone built cottages and dwellings. The site is located within the Green Belt.
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*Inappropriate development*

5. Paragraph 89 of the Framework regards the construction of new buildings in the Green Belt as inappropriate development. One exception to this is the replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces.
6. The existing garage on the site has a footprint of around 6.5 metres by 6.5 metres with a monopitch roof of overall height around 3 metres to the ridge. There is an attached store to the side which measures approximately 3.1 metres by 3.6 metres with an overall height of around 2.6 metres. The proposed new garage would be located in the same position as the existing building but would be of dimensions 6.5 metres x 8 metres. The main difference would be the provision of a pitched roof with an eaves height of approximately 2.5 metres and ridge height of around 4.7 metres.
7. It appears to me that the proposed garage would be around the same overall floor area as the existing building but in terms of volume it would be significantly greater. The Council advises the volume of the proposed garage would be approximately 244 cubic metres, around 56% greater than the existing building.
8. On this basis I conclude that the proposed garage, whilst being in the same use as the existing building, would be materially larger than the one it replaces. The development would not therefore comply with any of the exceptions in paragraph 89 of the Framework and would form inappropriate development in the Green Belt.

*Openness and Green Belt purposes*

9. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework is to keep land permanently open; the essential characteristic of Green Belts is their openness and permanence.
10. I have been made aware of a previous appeal decision<sup>1</sup> on the site for a slightly larger replacement garage. The Inspector in this case concluded that overall, the proposal would have a broadly neutral effect on the openness of the Green Belt due to its location in close proximity to the cluster of dwellings at Meal Hill. With regard to this appeal the Council have come to a similar conclusion.
11. Each case must be considered on its individual merits. However, in relation to this proposal, taking account of the location of the building and the fact that the proposed garage is slightly smaller than the one in the previous appeal, I too consider that the development would have a neutral effect on the openness of the Green Belt and the purpose of including land within it.

*Other considerations*

12. The appellant argues that the new garage is single storey and occupies roughly the same footprint as the existing building. In Green Belt terms it is not disproportionate and is therefore appropriate. I have acknowledged the similar footprint of the proposed garage above. However the proposal is of a much greater volume and height than the existing garage. It is therefore materially larger and forms inappropriate development in the Green Belt.

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<sup>1</sup> APP/Z4718/W/16/3156424

13. The appellant also draws my attention to the previous appeal decision for a larger garage on the site. Whilst I have had regard to this, the appellant does not highlight any particular parts of this decision to support his case. I accept that the appeal proposal is smaller and therefore has less impact on the Green Belt. However it is still materially larger than the existing garage. Whilst the previous appeal decision forms a material consideration, I consider that for the above reasons, it attracts limited weight.
14. I acknowledge that the proposal would be of an appropriate design and use materials in keeping with the surrounding buildings. It would therefore cause no harm to visual amenity or the character and appearance of the area. Whilst this weighs in favour of the scheme, I attach limited weight to this consideration as it does not address the size of the proposed garage.

### **Conclusion**

15. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except, in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. I consider that despite the neutral harm to the openness of the Green Belt, the harm by reason of inappropriateness is clearly not outweighed by the other considerations outlined above. Very special circumstances necessary to justify the development do not therefore exist.
16. For the reasons given above and having regard to all other matters raised, I dismiss this appeal.

*Helen Hockenhull*

INSPECTOR

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# Appeal Decision

Site visit made on 27 June 2017

**by Andrew McGlone BSc MCD MRTPI**

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

**Decision date: 6 July 2017**

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**Appeal Ref: APP/Z4718/W/17/3172214**

**Law Head Farm, Law Slack Road, Hade Edge, Holmfirth HD9 2RY**

- 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 Robert Deakin against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/91842/W, dated 2 June 2016, was refused by notice dated 30 January 2017.
  - The development proposed is for a single storey dwelling.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. I consider the main issues to be: (i) whether the proposal would be inappropriate development in the Green Belt and its effect on the openness and purposes of the Green Belt having regard to the National Planning Policy Framework (the Framework); (ii) the effect of the proposed access arrangement on highway safety in Law Slack Road, with regards to refuse and emergency service vehicles; and (iii) if the development is inappropriate, 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 required to justify the proposal.

## Reasons

*Whether inappropriate development and its effect on openness and purposes*

3. The Framework establishes that new buildings in the Green Belt are inappropriate unless they are one of the exceptions listed in paragraph 89. The Framework also sets out the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
4. I share the parties' view that the site is previously developed<sup>1</sup> given that the site is used as a HGV operating centre for a number of years. The site is generally well contained by embankments on three sides, with a good landscape screen facing Law Slack Road. The proposal would see the HGV use stop. As a result, large vehicles would no longer populate or travel to or from the site. Thus, the scheme would not result in further encroachment into the countryside. As such, no conflict would arise with the purposes set out in paragraph 80 of the Framework.

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<sup>1</sup> Annex 2, the National Planning Policy Framework

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5. The existing ground levels would be altered and raised once the hard-core surface is removed. Much of this would be well screened by an existing bank of trees and by the site's varying ground levels. However, the proposal would introduce a permanent building of a substantial size into the landscape. Even though the existing hard standing would be reduced, the dwelling is a new building, despite its external appearance. While its bulk would blend into the site's existing topography, the dwelling's volume would fill the lower part of the site and peer above adjacent ground levels. This would be a permanent feature in the landscape, rather than the HGV's which would come and go. So, even though the garden would not be enclosed and the dwelling has been designed to restore the site to create a better environment, the proposal would result in a loss of openness compared to the hard-core.
6. Given that the appeal scheme would have a greater impact on the openness of the Green belt, the proposed development would not meet the exceptions of paragraph 89 of the Framework. As such, the proposal would be inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would be contrary to paragraph 89 of the Framework; which seeks to prevent inappropriate development which does not maintain the openness of the land.

#### *Highway Safety*

7. The Council accept that there is a fallback position and that traffic generated from the proposal would not detrimentally affect the safe operation or capacity on the highway. Law Slack Road is a narrow road which serves a handful of residential properties and provides access to the adjoining fields. It is not busy and despite the visibility splays at the site's egress onto Law Slack Road, the site appears to have been run safely as a HGV operating centre. Thus, I agree with the Council's findings in this regard. I also consider that adequate off-street car parking provision would be provided.
8. The Council's Highway Development Management section outlined their stance on the need to enable access for emergency service vehicles and for waste collection vehicles. However, no such amendments were received by the Council before they reached their decision. Yet, the appellant has provided a plan which would address the Council's concerns by providing a refuse collection point and a wider access, allowing vehicles to manoeuvre off the highway. A fresh planning application should normally be made when proposals are amended, but I am aware of the suggested planning conditions. Having regard to paragraph 206 of the Framework, I conclude, subject to the imposition of these conditions that the proposal would accord with saved Policy T10 of the Kirklees Unitary Development Plan (UDP). This seeks development not to create or materially add to highway safety or environmental problems.

#### *Other considerations*

9. The Council accept that they are currently unable to demonstrate a five year supply of deliverable housing sites<sup>2</sup>. In such situations, bullet point 4 of paragraph 14 sets out *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.*

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<sup>2</sup> Paragraph 47, the National Planning Policy Framework

10. While the Council consider UDP policies relating to the supply of housing not to be up-to-date, footnote 9 of the second indent of bullet point 4 in paragraph 14, identifies that Green Belt can be such a policy. Thus, even if the UDP is out-of-date, it would not alter my approach in the event of a conclusion that Green Belt policies indicate that the development should be restricted. Nevertheless, I concur with the Council that the provision of an extra dwelling attracts positive weight, albeit one which I give very limited weight, even with the associated benefits that would stem from its construction.
11. I understand the design of the proposal has been reviewed and revised prior to my consideration of this appeal. As a result, I consider the dwelling would respond to its setting, especially through the use of the local topography and the sustainable local materials. These would help integrate the dwelling into the largely open landscape. A wildflower meadow would also provide a modest net biodiversity gain. Also, the dwelling would include sustainable technologies which would help meet the challenge of climate change. However, technologies and approaches, such as a ground source heat pump, underfloor heating, triple glazing and mechanical ventilation with heat recovery along with earth sheltering and shading, are not, despite their contribution in redressing climate change and improving the environmental impact of new buildings, new or innovative. These benefits do, together with the overall design approach, nonetheless traverse the social and environmental roles and attract a moderate positive weight in favour of the appeal scheme.

### **Conclusion**

12. The proposal would be inappropriate development in the Green Belt and by definition this is harmful. I attach this harm substantial weight as required by paragraph 88 of the Framework and as such there is a clear conflict with the environmental role of sustainable development. Harm would also arise to the openness of the Green Belt. On the other hand, I have concluded that the appeal scheme would, subject to conditions, not adversely affect highway safety. This attracts a neutral weight in the planning balance.
13. I have considered matters put before me in favour of the scheme by the appellant, including the parties' comments on the suggested planning conditions. However, I conclude that these other considerations taken together do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal does not represent sustainable development.
14. For the reasons given above I conclude that the appeal should be dismissed.

*Andrew McGlone*

INSPECTOR