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## Appeal Decision

Site visit made on 1 August 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: 16 August 2017**

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**Appeal Ref: APP/Z4718/W/17/3174505**

**Site at rear of 95 Shillbank Lane, Mirfield WF14 0QP**

- 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 A Cliffe against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/60/90154/E, dated 9 February 2017, was refused by notice dated 5 April 2017.
  - The development proposed is described as the demolition of garage and sheds and the construction of a detached chalet bungalow.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was made in outline with all matters apart from access and layout reserved for future determination. Plans submitted with the application show an indicative height of the proposed bungalow. I have had regard to these in the determination of this appeal.

### Main Issues

3. The main issues in the appeal are:
  - Whether the proposal is inappropriate development in the Green Belt.
  - The effect on the openness 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

#### *Inappropriate development*

4. The appeal site is located within the Green Belt and comprises a rectangular area of land that is located to the north of properties on Shillbank Lane with access proposed off Eastfield Road. Undeveloped and generally open land in the form of an area of scrub woodland is located to the north east. The site is

currently used as part of the garden serving No 95 Shillbank Lane and is partly occupied by a garage and sheds. The proposed development would involve the removal of the garage and sheds and the construction of a chalet style bungalow.

5. Eastfield Road is an unmade road that has properties in the form of ribbon development on its western side with the area of open land on the eastern side. Shillbank Lane in the vicinity of the appeal site has ribbon development along the road with the area of open land to the north. The appeal site forms part of this area of open land and contributes to its open character and generally undeveloped appearance leading into the scrub woodland.
6. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling in villages.
7. Although the Council has not referred to a conflict with any policies contained within a relevant development plan in the reason for the refusal of planning permission, the Officer's report identifies that Saved Policy D3 of the Kirklees Unitary Development Plan (2007) (UDP) allows for infill development within small settlements where the site is surrounded by development or in an otherwise built-up frontage. The supporting text defines infill as development of vacant plots in an otherwise built up area or frontage.
8. The appeal proposal would constitute a form of backland tandem development. Its location with largely open and undeveloped land to the north east cannot be considered to comprise part of a built up area or frontage. The proposal would represent an encroachment of development into this open area. Although the appellant has described the proposed development to comprise the rounding off of an existing settlement, given these locational factors I am not persuaded that this can be construed as representing infilling within the context of the guidance provided in the Framework or Saved Policy D3 of the UDP.
9. Consequently, the proposal would not represent limited infilling in a village and in not comprising any of the listed categories of development that may be considered not inappropriate I therefore find that the proposed dwelling would amount to inappropriate development within the Green Belt. Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

### *Openness*

10. A fundamental characteristic of Green Belts, as set out in paragraph 79 of the Framework, is their openness and their permanence. The construction of a dwelling on this site would result in the provision of a substantial built development that considerably exceeds the scale and mass of the garage and sheds. The effect of the appeal scheme would be to introduce built development on land abutting the eastern side of Eastfield Road where there is currently none.
11. Although forming part of a garden, the sheds and garage are relatively small low height structures and it is clear that the character of the site, leading into

the area of open land, has a more open appearance that is visibly different to that of the built development on Shillbank Lane and Eastfield Road. As such, the appeal site makes a contribution to the generally open character of this part of the Green Belt.

12. The proposal would have a more profound urbanising impact on the site currently than exists with the sheds and garage. A greater area of the garden would be occupied by built development than is currently the case. Due to the scale, mass and height of the proposed dwelling it would inevitably and significantly reduce the openness of this part of the Green Belt
13. I conclude that the development would lead to a significant loss of openness and would lead to the sprawl of built up area of this part of Mirfield into open area. It would therefore be contrary to the guidance provided in paragraphs 79 and 80 of the Framework.

#### *Other considerations*

14. The appellant's case is founded mainly on the assertion that the proposed development constitutes the rounding off of an existing settlement. For the reasons outlined above, I am not persuaded that this is the case and I attach little weight to this matter. No other considerations have been cited to suggest that there are any very special circumstances that would outweigh the substantial weight to be given to Green Belt harm as identified in the Framework.

#### **Conclusion**

15. The proposed dwelling would be inappropriate development, which the Framework states is harmful to the Green Belt and should not be approved except in very special circumstances. It would also cause harm to the openness of the Green Belt. The Framework indicates that substantial weight should be given to harm to the Green Belt and very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
16. As explained, I have given only limited weight to the material consideration cited in support of the proposal and conclude that this does not outweigh the substantial weight to be given to Green Belt harm sufficient to demonstrate very special circumstances.
17. For the reasons given above and taking all matters into account, I conclude that the development would not accord with the Green Belt protection aims of the Framework. There are no material considerations of such weight as to warrant a decision other than in accordance with the aforementioned Framework. Consequently, the appeal should be dismissed.

*Stephen Normington*

INSPECTOR

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## Appeal Decision

Site visit made on 1 August 2017

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

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

**Decision date: 17<sup>th</sup> August 2017**

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**Appeal Ref: APP/Z4718/W/17/3174742**

**20 Manor Road, Farnley Tyas, Huddersfield HD4 6UL**

- 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 Wood against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/93787/E, dated 8 November 2016, was refused by notice dated 29 March 2017.
  - The development proposed is a new dwelling on land adjacent to Farnley Manor.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the Farnley Tyas Conservation Area.

### Reasons

3. The appeal site fronts onto Manor Road and comprises part of the substantial garden of Farnley Manor. The front of the site, beyond the boundary wall, also includes a secondary access area, which is separated by a further wall and hedge arrangement from the garden. Trees are found around the site frontage, on the boundary with 20A Manor Road, as well as in a small area within the site itself. The boundary with the remaining rear garden area with the main dwelling is undefined.
4. Manor Road contains a mixture of residential properties and farm buildings that are interspersed with fields, side garden areas and paddocks. These spaces, including the site, contribute towards a pleasing semi-rural character. This is an important and unifying constituent of the significance of this part of the Conservation Area. It also differentiates the character and appearance from the centre of Farnley Tyas, where there is a clustered and a higher density form of development. The absence of an adopted appraisal by the Council does not lessen the importance of preserving or enhancing Manor Road's role in the character and appearance of the Conservation Area.
5. The proposal would erode the pattern of development along Manor Road with the proposed dwelling resulting in the loss of the spacing between Farnley Manor and No 20A, resulting in a more continual pattern of built up form. This consolidation of development would also be evident with the loss of trees

around the site frontage, the projection of the garage towards the road, and the creation of the new access and drive area, which is substantially greater in size than the existing access. The siting of the main part of the proposed dwelling back from the site frontage to reduce visibility would therefore not serve to adequately address the effects on the prevailing character.

6. There is no clearly defined building line on Manor Road, and this is in part due to the contribution of spaces between buildings that would be disrupted by this proposal. There is also more development on the south side of Manor Road, where the site is found, but this only serves to emphasise the importance of the site as a gap between existing development to ensure that the character is maintained.
7. My attention has been drawn to a number of other developments along Manor Road and in Farnley Tyas. The two dwellings which have been constructed adjacent to Manor Farm do not result in the same loss of the contribution to the character as they are clustered and sited around the access with the farm buildings. The house extensions are much more modest in scale and do not unduly increase the extent of built development along Manor Road. The housing site off Field Lane is close to the village centre, with its markedly different character.
8. The design of the proposal itself does not alter my views because the issue is the loss of the contribution of the garden area as a space between Farnley Manor and No 20A. Likewise, the imposition of conditions would not overcome this detrimental effect on the significance of this part of the Conservation Area as they could not address the loss of this character.
9. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is of considerable weight and importance. I conclude the proposal would fail to preserve or enhance the character or appearance of the Conservation Area. Similarly, I also conclude it would not comply with 'Saved' Policy BE5 of the Kirklees Council Kirklees Unitary Development Plan (1999) which states that development within Conservation Areas should contribute to the preservation or enhancement of the character or appearance of the area.
10. The proposal would also not comply with paragraph 131 of the National Planning Policy Framework (Framework) as it would not make a positive contribution to local character and distinctiveness. Paragraph 132 is also clear that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The assessment of the harm I have identified therefore has to be assessed in this context.
11. For the purposes of paragraphs 132 to 134 of the Framework, the proposal would lead to less than substantial harm. Whilst a dwelling would be added to the housing stock, I consider this would be a modest contribution and although it is intended the proposal would be low maintenance and energy efficient, details have not been provided for me to consider. It would be expected that a dwelling would be provided where there are services and with access to public transport, so I only attach limited weight to this factor in favour of the proposal. The public benefits are therefore limited and would not outweigh the harm.

## **Conclusion**

12. The proposal would fail to preserve or enhance the character or appearance of the Conservation Area, and would cause less than substantial harm to the significance of the designated asset that is not outweighed by the public benefits. Accordingly, I conclude the appeal should be dismissed.

*Darren Hendley*

INSPECTOR



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## Appeal Decision

Site visit made on 15 August 2017

**by John Dowsett MA DipURP DipUD MRTPI**

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

**Decision date: 25<sup>th</sup> August 2017**

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**Appeal Ref: APP/Z4718/W/17/3175159**

**493 Penistone Road, Shelley, Huddersfield HD8 8HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Pete Richardson against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref: 2016/62/93750/E, dated 24 October 2016, was approved on 10 April 2017 and planning permission was granted subject to conditions.
  - The development permitted is demolition of existing single storey rear extension and out building, and erection of single storey rear extension.
  - The condition in dispute is No. 2 which states that: The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
  - The reason given for the condition is: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies D2, BE1, BE2, BE13 and BE14 of the Kirklees Unitary Development Plan and guidance given in the National Planning Policy Framework.
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### Decision

1. The appeal is allowed and the planning permission Ref: 2016/62/93750/E for demolition of existing single storey rear extension and out building, and erection of single storey rear extension at 493 Penistone Road, Shelley, Huddersfield HD8 8HY granted on 1 April 2017 by Kirklees Metropolitan Borough Council, is varied by deleting condition 2 and substituting for it the following condition:

The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg no. 1592-D-20-001 - Location plan; Dwg no. 1592-D-20-002 - Existing site plan and ground floor plan; Dwg no. 1592-D-20-003 Revision B - Proposed site plan and ground floor plan; and Dwg no. 1592-D-20-004 Revision B - Existing and proposed elevations.

### Procedural matter

2. During the determination of the planning application the Council altered the description of the proposal from that used on the planning application form. The revised description accurately sets out the development proposed and I note that the appellant has adopted this on the appeal form. I have therefore



also used the description from the decision notice for the purposes of the appeal.

3. The appeal, in effect, seeks to substitute an earlier drawing for that which has been approved. The grounds of appeal conclude that the appeal is to “revise the wording of condition 2 to allow the drawings showing the fully timber clad extension to be approved”. Drawings showing several iterations of the proposal were submitted with the appeal, however, the appellant subsequently confirmed that it was sought to substitute the version of the scheme shown on Drawing no. 1592-D-20-004, Revision B in place of the approved drawing. I have therefore considered the appeal on this basis.

### **Main Issue**

4. The main issue in this appeal is whether the condition should be varied having regard to the effect on the appearance of the development on completion.

### **Reasons**

5. Planning permission has been granted for a single storey flat roofed extension to the rear of the appeal building. The details that have been approved are shown on Drawing no. 1592-D-20-004, Revision D which is listed in the schedule of approved drawings on the decision notice. As permitted, the walls of the extension would be predominantly finished in vertically boarded timber cladding although the end elevation of the extension would also incorporate a stone plinth approximately 650mm high. This would not continue onto the side elevations of the extension.
6. The appeal building is a two storey, stone built, terraced property. The surrounding area consists of similar houses, mainly terraced in format with some detached and semi-detached properties. In the vicinity of the appeal site there are also a small number of larger former industrial buildings. Although there is some diversity in the architectural style of the houses, most of those in the immediately surrounding area are of a similar age to the appeal building and share features such as dressed stone window heads and sills, stone door surrounds, masonry corbel gutter supports, similarly proportioned window openings and low stone boundary walls, which give the street frontages of the area a very homogenous appearance.
7. To the rear of Penistone Road, on the same side as the appeal building, are a short street and a number of small courts giving access to garages and outbuildings. These are in a range of materials including pre-fabricated pebble dashed panels and timber boarding. A number of the dwellings have also been extended to the rear with single storey additions in a variety of forms.
8. When read together Saved Policies D2 and BE1 of the Kirklees Unitary Development Plan 1999 seek to ensure that all new development is of a high standard of design. Whilst Policy BE13 and BE14 expect that extensions to dwellings should respect existing design features and the character and appearance of the area, it is common ground between the parties that the contemporary design approach adopted for the proposed extension is acceptable. This is in line with the guidance in the National Planning policy Framework which seeks a high standard of design without stifling innovation or originality.



9. The area that is in dispute is with regard to the stone plinth on the end elevation of the building. The appellant's statement suggests that this was requested in order that the materials used on the extension reflect those of the main house.
10. Whilst this may have been the intention, the fact that the stonework is limited to the end elevation and would not continue along the base of the side elevations, in my opinion, undermines this aim as there would be a lack of continuity in the stonework. Whilst the small area of stone plinth would reference the main house, it would not form a visual link between the extension and the original building.
11. I consider that the appellant's suggested approach of facing all of the walls of the extension in vertical timber cladding would, in addition to providing greater integrity to the design of the extension, also clearly differentiate the extension as a new addition to the original fabric of the house when it is viewed as a whole.
12. The proposed extension is located at the rear of the house and, whilst there are some glimpses into the rear garden from Glen View Road, the extension would not be a prominent feature in the street scene. I also saw when I visited the site that the garden of the appeal building is separated from those to each side by a high fence which would prevent any views of the lower part of the extension from the gardens of the neighbouring properties.
13. From what I have read and from what I saw on my site visit, I am satisfied that the design approach shown on Drawing no. 1592-D-20-004, Revision B would not conflict with the requirements of Policies D2, BE1, BE2, BE13 and BE14 of the Kirklees Unitary Development Plan or the guidance in the Framework.
14. I therefore conclude that Condition 2 could be varied as proposed.

### **Conclusion**

15. For the above reasons, and having regard to all other matters raised I conclude that the appeal should be allowed and the planning permission varied as set out above.

*John Dowsett*

INSPECTOR

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# Appeal Decision

Site visit made on 8 August 2017

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

**Decision date: 7<sup>th</sup> September 2017**

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**Appeal Ref: APP/Z4718/D/17/3175899**

**5 Thorncliffe Estate, Batley, WF17 7BG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr G Rasul against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/91234, dated 7 April 2017, was refused by notice dated 24 April 2017.
  - The development proposed is a single storey rear extension.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is whether the proposal would be permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

## Reasons

3. The GPDO enables the enlargement, improvement or other alteration of a dwellinghouse, provided certain criteria are met. Until 30th May 2019, provisions exist under Schedule 2, Part 1, Paragraph A.1 (g) of the GPDO for the construction of a larger single storey rear extension of up to 6 metres in depth for a semi-detached or terraced property.
4. Paragraph A.1.(j) states that development is not permitted by Class A if *"the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would ... (iii) have a width greater than half the width of the original dwellinghouse"*.
5. In this case, the proposed extension would extend across the full width of the property. In addition, the Council has provided evidence indicating that the original dwelling had a small single storey rear projection that was set in from the main side elevation. Some of the neighbouring properties retain this feature, which appears to be original. This is not disputed by the appellant. Whilst the original single storey rear projection to No 5 has since been replaced, it comprised part of the original dwelling. The proposed extension

would therefore clearly "*extend beyond a wall forming a side elevation of the original dwellinghouse*", for the purposes of Paragraph A.1.(j).

6. Accordingly, I conclude that the development would not meet the requirements of the 2015 GPDO for it to be considered as permitted development under Schedule 2, Part 1, Class A of the Order.

### **Conclusion**

7. For the reasons given above I conclude that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR

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## Appeal Decision

Site visit made on 30 August 2017

**by Debbie Moore BSc (HONS) MCD MRTPI PGDip**

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

**Decision date: 7 September 2017**

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**Appeal Ref: APP/Z4718/W/17/3172053**

**Land between 117-135 Latham Lane, Gomersal, West Yorkshire BD19 4AP**

- 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 John Valente against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/60/90203/E, dated 21 December 2015, was refused by notice dated 5 December 2016.
  - The development proposed is erection of one detached dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was made in outline with all matters reserved for subsequent approval. I have treated the position of the access, as shown on the site location plan, as indicative only.

### Main Issues

3. The main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and development plan policy;
  - The effect of the proposal on the openness of the Green Belt;
  - The effect of the proposal on the character and appearance of the area;
  - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

### Reasons

*Whether the proposal would be inappropriate development*

4. The appeal site lies within the Green Belt, and is currently in agricultural use. The Framework establishes that new buildings within the Green Belt are inappropriate development. Exceptions to this include limited infilling within villages.

5. Saved Policy D13 of the Unitary Development Plan<sup>1</sup> (UDP) states that within existing settlements in the Green Belt infill development will normally be permitted where: (i) the site is small, normally sufficient for not more than two dwellings, and within an otherwise continuously built-up frontage, or (ii) the site is small and is largely surrounded by development, and (iii) no detriment will be caused to adjoining occupiers of land or to the character and appearance of the surrounding area. Infill development should be in harmony with existing development in terms of design and density and capable of safe access from the highway. The appellant states that the proposal would comply with local plan policy as there is development either side and immediately opposite, and the site has a frontage width and overall size that would be comparable with other properties in the vicinity. However, the Council contends that the site is not within an existing settlement and, as such, the proposal would not constitute infill development under Policy D13.
6. Whilst the UDP pre-dates the Framework, Policy D13 is consistent with its policies in relation to protecting Green Belt land, as it permits limited infill development in existing settlements. Consequently, I attach significant weight to Policy D13. Nonetheless, the Framework is a material consideration of substantial weight and it is necessary to consider the proposal against its policies. The first matter to address is whether or not the site lies within a village, and a useful starting point is the settlement boundary.
7. The settlement boundary of Gomersal is defined in the UDP, and the site is outside the boundary for development plan purposes. However, the settlement boundary was drawn up some time ago and I have considered whether it remains logical. The centre of the village lies to the south of the site, where the majority of development is focussed. There are a number of roads extending from the village core and linear development along these roads is evident in several areas. Latham Lane extends northwards from the village centre and comprises development either side. North of the junction with Drub Lane, the development becomes less dense and there is a clear distinction between the development closer to the village core and that further north, which forms a transition between the settlement and the countryside.
8. The settlement boundary includes a row of houses on the western side of Latham Lane, which backs onto development on the northern side of Drub Lane. The boundary excludes the houses further north, including the appeal site, which have open fields to the rear. The settlement boundary on the eastern side of Latham Lane extends further north. It includes the houses that adjoin other development to the rear but excludes those that adjoin open countryside. On the south side of Drub Lane, the settlement boundary closely follows the built development, and open land is excluded. Overall, I consider that the settlement boundary in this location has been drawn up in a consistent manner and is logical.
9. There is no definition of village in the Framework. Therefore, I have considered the character of the site and its immediate surroundings, and whether it relates more to the village or the countryside. There is no doubt that Gomersal itself is a village. However, as explained above, the site is located on one of the roads leading from the village core which comprises linear development. It is a matter of judgement at what point the "village" ends.

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<sup>1</sup> Kirklees Unitary Development Plan (Adopted 1999, revised with effect from 2007)

10. Although development extends along Latham Lane, north of its junction with Drub Lane it does not have the appearance of a continuously built-up frontage. This is because there are gaps in development formed by open fields, such as the appeal site, or by the relatively large gardens or grounds which include mature trees and shrubs. The development has a lower density than that further south and the lack of pavement contributes to the semi-rural character of the area. In front of the appeal site, the road narrows slightly and there are extensive views across the site to the open countryside beyond. Despite the residential development opposite the site, this part of Latham Lane is more akin to the countryside further north than the village core to the south.
11. Therefore, taking into account the established and logical settlement boundary, the semi-rural character and appearance of the area and the open appearance of the appeal site itself, I find that the site is not within a village for the purposes of the exception set out in the Framework. Although the development may be considered limited infill development, it would be inappropriate due its location outside the village. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Effect on openness*

12. The site forms a gap in the development along Latham Lane. The proposal would result in built development and, consequently, it would inevitably affect the openness of the Green Belt. The adverse effect would be moderate as the existing field is relatively large in terms of its frontage with Latham Lane, and it enables views to the open countryside beyond, which would be interrupted by the development.

#### *Character and Appearance*

13. Latham Lane comprises relatively large properties set within plots of varying size, some of which are substantial houses. I accept that there is development either side of the site and the plot size would be comparable with the low density development in the vicinity. However, as set out above, this part of Latham Lane has a distinctly semi-rural character and appearance, which becomes more pronounced at the appeal site. This is, in part, due to the narrowing of the road but is equally due to the appeal site itself and its contribution to the appearance of the area. The open nature of the site, combined with the hedgerow along its frontage, has a positive impact on the street scene. Therefore, the proposal would have a moderate adverse effect on the character and appearance of the area.

#### *Other considerations*

14. The parties are satisfied that a dwelling could be accommodated on the site and designed so as to protect the living conditions of adjoining occupiers. However, the lack of harm is a neutral factor that does not weigh for or against the proposal.
15. The appellant cites a case in Shepley (Ref 2011/93043) where the Council apparently considered the site to be within the settlement, despite it being outside the boundary. From the limited information before me, I am unable to assess whether the site-specific circumstances in that case were comparable to the appeal before me. In any event, I have found that the settlement boundary

in relation to the appeal proposal is logical, and therefore, I give this consideration limited weight.

16. I am referred to a High Court Judgement,<sup>2</sup> which considered, amongst other things, the meanings of “village” and “limited infilling” in the context of national policy. On reading the Judgement it is clear that whether a settlement is, or is not, a village is inevitably a matter of planning judgement. Consequently, this does not change my assessment, as set out above.
17. I appreciate that the development would make a very small contribution to the local housing supply, but this benefit would be very limited and carries limited weight.
18. I note that the Council appears to have given positive pre-application advice in relation to the proposal. Nonetheless, this was quickly retracted and, moreover, such advice is not binding to the Council.

## **Conclusion**

19. Policy D13 of the UDP permits development within existing settlements in the Green Belt. Although the site is within the environs of Gomersal village, it is outside of the settlement boundary and the development would be detrimental to the character of the surrounding area. Consequently, the proposal would be in conflict with Policy D13.
20. Also, I have found that the site is not within a village for the purposes of the exception set out in the Framework. Therefore, it would be inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there would be a moderate loss of openness and a moderate adverse effect on the character and appearance of the area.
21. On balance, I find that the other considerations identified do not clearly outweigh the totality of harm. Consequently, the very special circumstances necessary to justify the development do not exist.
22. For these reasons given above, the appeal is dismissed.

*Debbie Moore*

Inspector

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<sup>2</sup> [2017] EWHC 664 (Admin)