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# Appeal Decision

Site visit made on 1 August 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 21<sup>st</sup> August 2017

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**Appeal Ref: APP/Z4718/W/17/3173857**

**Land to the rear of 191 Huddersfield Road, Thongsbridge, Holmfirth HD9 3TT**

- 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 Martin Jebson against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/60/91954/W, dated 9 June 2016, was refused by notice dated 19 January 2017.
  - The development proposed is the erection of 2 no dwellings.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no dwellings at Land to the rear of 191 Huddersfield Road, Thongsbridge, Holmfirth HD9 3TT in accordance with the terms of the application, Ref 2016/60/91954/W, dated 9 June 2016, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The application was made in outline with all matters reserved except for access. I have considered the appeal on this basis and have treated any drawings other than those identifying the means of access, and any works to the highway, as indicative only.

## Main Issue

3. The main issue in this case is the effect of the development on highway and pedestrian safety in the vicinity of the site.

## Reasons

4. The appeal relates to an open field which is identified as 'Provisional Open Land' (POL) in the UDP. In light of the five year supply situation, the Council raises no objection on the basis of this policy. The site would be accessed from a single track lane from Huddersfield Road which terminates at a large relatively modern dwelling further along from the site. The lane is located between two blocks of terraced dwellings fronting the main road and also serves No 191, which is a detached Grade II Listed Building located toward the top of the lane. A public right of way (PROW) runs down one side of the site and links into the lane.

5. The lane therefore already serves two dwellings. While I do not have the details of the development of the dwelling at the end of the lane, its presence suggests that a satisfactory form of access for residents and service vehicles is capable of being achieved. The lane is mainly single track, but there are points along it where two vehicles can pass by each other. Nonetheless, it is steep, narrow and has limited visibility at its junction with Huddersfield Road, particularly if cars are parked near to the access as they were at the time of my visit. There is also a sharp right hand turn at the top of the incline from Huddersfield Road where visibility is also limited. The two main areas of concern relate therefore to the nature of the access with Huddersfield Road and the risk to users of the lane.
6. There is no dispute between the main parties that the development would result in an additional 2 trips at morning and evening peaks and between 12 and 16 trips over the course of a day. There would therefore be some intensification of the use of the lane and the existing constrained access. To address this, the appellant has put forward a number of improvements to the access which include alterations to the boundary of 195 Huddersfield Road and modification of levels to allow widening of the access. This would allow two cars to pass each other at the junction safely. The alterations would also include the provision of a junction build out to provide formal parking bays which would in turn help to improve visibility, and other measures to ensure the access is clear from obstruction. The plans also indicate that the centre line of the road would be altered to allow greater levels of visibility in both directions.
7. While the alterations appear significant for a small development, they would be necessary to address the increase in risk that the intensified use of the junction would create. The highway authority raises no objection to the development subject to these improvements being implemented and there is nothing before me that would lead me to a different conclusion. The appellant invited me to allow the appeal without these improvements being made. However, while the junction is already in use it is here where there is likely to be most conflict between vehicles wishing to use the lane and faster moving passing traffic along Huddersfield Road. As such, it is here where the increase in risk to safety from the intensification of the lane's use would be at its highest. I therefore consider that the alterations would be necessary in this case. I have seen some criticism of the proposed scheme in terms of making the situation less safe for cyclists, would create a pinch point for existing road users and that parking at No 195 would not be safe. I see nothing in these proposals that suggests they would result in any additional harm or risk from these perspectives over and above what currently exists.
8. While I saw that not all dwellings on Huddersfield Road have opportunities for off-street parking, there was still a significant amount of space on the road to park. I recognise that my site visit can only represent a snapshot of normal highway conditions, and the demand for parking is likely increase in the evenings and at weekends. The proposed build-outs would reduce the available space to an extent, but there is nothing substantive before me to suggest the resulting number of spaces would be in any way insufficient or harmful either in terms of safety or the living conditions of existing residents. Again, no objections were raised by the highway authority in relation to parking provision and I consider this to be a significant material consideration.

9. The evidence also indicates that emergency and service vehicles would be able to access the site safely and no objections have been raised by the fire authority. The development would increase the risk of vehicles meeting at the sharp bend at the brow of the hill. Nonetheless, as a result of the number of trips likely to be generated, the chances of vehicles meeting at this point would still be relatively low. There is also space on the bend to allow two cars to pass by each other safely. The nature of the lane itself also means that vehicle speeds would be low at this point. The lane does not provide a through route to any other destination and thus any drivers here are likely to be fully aware of the potential for vehicles coming in the other direction and would drive accordingly.
10. There is no pavement along the lane but this is not an uncommon situation in locations such as this. There is sufficient space to allow vehicles to pass by pedestrians with no undue risk to safety. The same conditions would apply as described above, with both drivers and pedestrians being aware of the need for due care and attention when using the lane. This is no more than would be required already. While the number of vehicles using the lane would increase, the relative level of risk to pedestrians would not be substantially greater than it is at present. In coming to this conclusion, I have had regard to comments that the lane is used by school children and that there is no lighting. Nonetheless, such conditions already exist and though there is likely to be more vehicular movements along the lane, they are unlikely to be sufficient to lead to an unacceptable level of risk.
11. There would also be no practical change in the situation for residents already living on the lane in terms of access to their properties. The development would not lead to any physical restrictions and there is already the potential for vehicles to be passing by the dwellings. As above, a need for due care and attention when entering or leaving a property is already a requirement and the projected increase in vehicle numbers would not be sufficient to make access to existing properties inherently unsafe.
12. Taking all of the above factors into account, I find that subject to the necessary improvements to the access with Huddersfield Road being implemented, there is insufficient evidence before me to conclude that the development would lead to an unacceptable risk to highway or pedestrian safety. Accordingly, there would be no conflict with UDP policies D2 and T10 which seek to ensure development does not prejudice highway safety or materially add to existing problems. There would also be no undue conflict with paragraph 35 of the Framework which seeks to ensure development is located and designed to create safe layouts which minimise conflict with traffic, cyclists and pedestrians.

### **Other Matters**

13. Any development of an open and undeveloped site such as this would inevitably lead to some change to the character and appearance of the area. While the Framework advises that the intrinsic beauty of the countryside should be recognised, there is nothing before me to suggest that the site is of particular importance in terms of local landscape sensitivity or quality. The site holds an elevated position above the main road but is well screened by existing dwellings. There are also dwellings at this level above Huddersfield Road in sight of the site and thus dwellings in this location would not be completely

incongruous. The outlook from some residents, and users of the footpath, would change, but not to the extent that it would necessarily cause harm. The encroachment of the built form into the open countryside would not be significant and there would be opportunities to provide additional screening through appropriate landscaping at reserved matters stage. There is also no reason why dwellings of an appropriate scale and design could not be accommodated on this site, which again can be addressed through reserved matters.

14. The development would have the potential to affect the setting of the Grade II Listed building at No 191. The main area of risk would be the view of this building from the PROW when walking down the hill. The setting may change in this regard, but subject to an appropriate layout and design, need not result in any harm in principle. The building would still be able to be appreciated on the lane itself and from below the site. The layout of the dwellings would be subject to further consideration at reserved matters stage and the site is of a scale where it should be possible to accommodate two dwellings without resulting in any particular harm to the heritage asset. Clearly, the appearance and materials used would be of particular importance here, but again there is no reason why an appropriate form of development could not be achieved. I therefore find that at this stage, the impact of development on the heritage asset would be neutral.
15. The Council raises no objection in relation to drainage or biodiversity that could not be addressed by condition. From the written evidence before me, and my observations of the site, I have seen nothing that would lead me to a different conclusion.
16. Some comments have been received which suggest the increase in traffic using the lane would have an unacceptable effect on living conditions. However, this road already serves existing dwellings and will generate some noise. The frequency of movements would increase, but the resulting levels of noise or disturbance are unlikely to result in a situation where living conditions would be unduly harmed. There is nothing to suggest that damage to existing dwellings would be an inevitable consequence of the development taking place, either as a result of construction traffic or the occupation of the dwellings. The risk of this would not be sufficient to justify withholding permission.

### **Conditions**

17. I have considered the suggested conditions and comments from the Council and appellant, in accordance with the Planning Practice Guidance (PPG). In addition to the standard conditions requiring the submission of reserved matters, I have imposed a condition specifying the relevant drawings for the access and highway improvements as this provides certainty. For the same reason, I have also included a limitation to ensure a maximum of two dwellings are built.
18. Conditions 5, 6, 7 and 8 are necessary in the interests of highway safety and the living conditions of future and existing residents. I have used the appellant's suggested wording for conditions 5 and 8. Other amendments have been made in the interests of clarity and precision. These are by necessity pre-commencement conditions to ensure development is carried out in accordance with the approved details.

19. Condition 9 is necessary in the interests of the character and appearance of the area, highway safety and the operation of the PROW. As many of the matters highlighted in the suggested conditions addressing these issues are reserved matters, I have amended the wording to ensure they are adequately dealt with in any future application. Condition 10 is necessary to ensure the site can be adequately drained and that foul water can be disposed of appropriately. I have amended this to consider foul and surface water together to avoid any unnecessary repetition. In light of the appellant's comments, and having considered the drainage report, I have removed unnecessary wording stipulating the measures that will be taken as these would form part of any agreed scheme.
20. Condition 11 is necessary to ensure the protection of biodiversity features in and around the site and provide enhancement. While I recognise that neither the appellant's mining nor contamination reports identify significant risks, the latter does recommend further investigations are required in the form of trial pits and the sampling of soils. Notwithstanding the appellant's comments, in light of this I consider the Council's suggested conditions on site investigations are necessary and reasonable. Conditions 12 to 15 address this and by necessity the investigations must be completed prior to development starting.
21. Owing to the proximity of a Grade II listed building, I consider that a condition restricting permitted development rights is justifiable in this instance (condition 16). I have amended the suggested wording such that should future alterations be required, they would be subject to proper consultation through a planning application
22. I have not imposed the Council's suggested condition on the emergency access as this is addressed in my condition 5 and would form part of the details to be approved. I have not imposed the appellant's suggested condition on materials, as this is something that can be addressed at reserved matters stage as part of the consideration of appearance. I have not imposed the suggested condition requiring the provision of an electric vehicle recharging point. The Council has not referred to any policy in its development plan requiring such measures and insufficient justification has been provided to demonstrate this is necessary in this case.

### **Conclusion**

23. For the reasons given above I conclude that the appeal should be allowed.

*S J Lee*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted is for no more than 2 dwellings. The development shall be carried out in accordance with the following plans, unless otherwise varied by the conditions set out: Site Location Plan; 1402801D, 1402801E.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 5) Development shall not commence until full details of the improvement works along Huddersfield Road and the access road serving the site as shown on drawing 1402801D, along with works to ensure safe accessibility of 195 Huddersfield Road and vehicle swept paths as shown on drawing 1402801E have been submitted to and approved in writing by the local planning authority. The dwellings shall not be occupied until the works have been implemented in accordance with the local planning authority's approval and have been certified as complete by or on behalf of the local planning authority and such works shall be retained thereafter.
- 6) The development shall not be brought into use until the any approved vehicle parking areas and driveways shall have been surfaced and drained in accordance with the Communities and Local Government; and Environmental Agency's 'Guidance on permeable surfacing of front gardens (parking areas)' published 13 May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained throughout the lifetime of the development.
- 7) Development shall not commence until a scheme detailing provision for access and on-site parking for construction workers' vehicles for the duration of the construction period has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented throughout the construction period.
- 8) Development shall not commence until details of the storage and access for collection of waste from the premises shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the works have been implemented in accordance with the approved details and shall be retained thereafter.
- 9) The Reserved Matters submission in relation to the appearance, layout or landscaping shall include details of:
  - Full design of any retaining structures to be installed on the site, including detailed drawings, sections and engineering calculations.
  - Details of any soft landscaping to be planted above the retaining structure.

- Details of the materials to be used to face the retaining structure.
- Details regarding the maintenance of the structure and soft landscaping.
- Details of how the structures will be created to prevent any detrimental impact on the adjacent public footpath and details of how the public footpath will be protected throughout construction.

The development shall thereafter only be carried in accordance with the approved details.

- 10) Development shall not commence until a scheme demonstrating an adequately designed means of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. No parts of the development shall be brought into use or occupied until the works comprising the approved scheme have been completed and retained thereafter.
- 11) The development shall not be brought into use until a scheme of ecological enhancements for the site outlined in red on the approved location plan as recommended in the Ecological Appraisal reference R192401 dated May 2014 shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to occupation of the dwellings and shall be retained thereafter.
- 12) Development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the local planning authority.
- 13) Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 12, development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.
- 14) Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 13. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
- 15) In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall

be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development included within Classes A-G inclusive of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining a specific planning permission from the local planning authority.





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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: 31<sup>st</sup> August 2017**

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**Appeal Ref: APP/Z4718/W/17/3174399**

**90 Far Banks, Honley, Huddersfield, West Yorkshire, HD9 6NW**

- 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 R Roberts against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/60/91032/W, dated 1 April 2016, was refused by notice dated 15 November 2016.
  - The development proposed is a dwelling and detached garage.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application is in outline with all matters reserved for future consideration. A drawing showing an indicative layout has been submitted, and I have had regard to this in determining the appeal.
3. The site has been subject to a previous dismissed appeal decision<sup>1</sup> for a similar development. Whilst that decision is dated 19 August 1999, and was therefore made in an earlier policy context, it covers matters that are directly relevant to the current proposal. I therefore attach significant weight to the previous Inspector's findings that are unaffected by subsequent changes in policy.

## Main Issues

4. The main issues are:
  - (a) 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;
  - (b) The effect of the proposal on the openness of the Green Belt; and
  - (c) 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.

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<sup>1</sup> T/APP/Z4718/A/99/1022384/P2

## **Reasons**

### *Inappropriate development in Green Belt*

5. The appeal site comprises part of the garden to No 90. The development would introduce a new dwelling in the gap between Nos 90 and 96.
6. Paragraph 89 of the National Planning Policy Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is limited infilling in villages. In addition, Policy D13 of the Kirklees Unitary Development Plan (UDP) (1999) states that within existing settlements in the Green Belt, infill development will normally be permitted subject to certain criteria. The Framework does not provide a definition of what constitutes a "village", and the UDP does not provide a definition of what constitutes a "settlement". Accordingly, this is a matter of planning judgement.
7. The appeal site is located within a group of around 50 houses fronting Banks Road, Upper Hagg Road, and Oldfield Road. This group is located outside of the settlement boundary of Honley, as defined on the UDP. Whilst it is linked to Honley by a ribbon of development along Far End Lane / Banks Road, this provides only a tenuous connection to the settlement in my view. In this regard, the majority of the properties within the connecting ribbon are positioned along only one side of Far End Lane / Banks Road. In addition, these properties become significantly more dispersed towards the appeal site, with generous spacing between them. Despite the presence of a continuous kerbed footway and street lighting, Banks Road has a predominantly rural character. Accordingly, I do not consider that the appeal site is within the settlement of Honley. In coming to that view, I have not relied on the Technical Paper the Council produced to inform its emerging Local Plan.
8. Moreover, I do not regard the group of properties in which the appeal site sits as constituting a "village". The majority of these properties are positioned along only one side of the road, and there are no services or facilities to support them other than a bus stop. These properties therefore constitute a ribbon of development rather than a village/settlement in my view. In this regard, I note that my colleague who determined the 1999 appeal came to a similar view on this matter. Accordingly, the development is not within a village/settlement, and would therefore not comply with the relevant exception at paragraph 89 of the Framework. This would be the case regardless of whether the development is deemed to constitute "limited infilling".
9. For the above reasons, I conclude that the proposal would be inappropriate development in the Green Belt, which Paragraph 87 of the Framework states is harmful by definition and should not be approved except in very special circumstances. The proposal would also be contrary to saved Policy D13 of the Kirklees UDP, which relates to infill development in the Green Belt.

### *Openness*

10. The proposed dwelling would introduce additional built footprint and volume onto land that is currently open. The development would therefore result in a reduction in openness to this part of the Green Belt. The Framework advises at Paragraph 79 that openness is an essential characteristic of Green Belts, and the appeal proposal would therefore cause harm in this regard.

11. I conclude that the appeal proposal would fail to preserve the openness of the Green Belt. This would further harm the objectives of the Green Belt to which the Government attaches significant importance.

*Other considerations*

12. The development would include the widening of the existing private access drive at the rear to 6m, for a distance of approximately 16m. The Highway Authority has commented that this would allow 2 vehicles to pass one another, which would benefit the current users of the drive. However, there is no evidence before me that the existing arrangement is dangerous or has led to significant highways safety issues. This limits the weight I can attach to this consideration.
13. The development would also have some modest economic benefits including the creation of employment, and the purchasing of materials and furnishings.
14. The provision of an additional dwelling would make a small contribution to the Borough's deficient 5 year supply position. I return to this matter in my conclusion, below.

**Conclusion**

15. Whilst the Council is unable to demonstrate a 5 year supply of housing sites, in this case, specific policies in the Framework (relating to Green Belt) indicate that development should be restricted. The proposal would constitute inappropriate development in Green Belt and would reduce openness in this location. Even when taken together, the other considerations in this case do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The development would also be contrary to Policy D13 of the Kirklees UDP.
16. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
17. 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 22 August 2017

**by Louise Nurser BA (Hons) Dip UP MRTPI**

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

**Decision date: 4 September 2017**

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**Appeal Ref: APP/Z4718/D/17/3179529**

**56 Lumb Lane, Almondbury, Huddersfield HD4 6SZ**

- 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 A Ellis against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/90289/W, dated 23 January 2017, was refused by notice dated 5 June 2017.
  - The development proposed is WC/Store extension to ex garage.
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### Decision

1. The appeal is allowed and planning permission is granted for WC/store extension to existing garage at 56 Lumb Lane, Almondbury, Huddersfield HD4 6SZ in accordance with the terms of the application, Ref 2017/62/90289/W, dated 23 January 2017, and the plans submitted with it, subject to the following conditions:
  - 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: HD4.
  - 3) No development shall commence until samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.

### Main Issues

2. The main issues in this case are; 1) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies; 2) the effect of the proposed development on the setting of the host property and no. 54 both of which are Grade 2 listed buildings; and 3) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Whether inappropriate development*

3. The Government attaches great importance to the Green Belt. The Framework establishes within paragraph 89 that the construction of a new building as inappropriate unless, amongst other things, it involves the extension of a building. However, any such extension should not result in disproportionate additions over and above the size of the original building.
4. This is reflected in saved Policy D11 of the Kirklees Unitary Development Plan (UDP) 2007 which remains broadly consistent with the Framework.
5. The proposed extension to the garage would measure around 2.1 m, by 2.3 m and would be around 2.9 m high. Its ridge line would be lower, the rear elevation would be substantially narrower, and its width would be such that taken as a whole, the extension would appear subservient to the garage building and would therefore not be disproportionate.
6. I note the Council's concerns relating to the cumulative impact of the proposed extension, together with the garage and extensions which have already been built on the appeal site. Nonetheless, I conclude that the small scale of the extension is such that it would not result in disproportionate development. In coming to this conclusion, I am aware of the circumstances of the previous appeal on the site ( APP/Z4782/W/15/3028112) where the Inspector concluded that even if he were to judge the appeal in the context of an extension to the host dwelling rather than as a new building, that the significant scale of development proposed would result in a disproportionate addition over and above the size of the original dwelling.
7. However, the proposed development, the subject of that appeal, was significantly larger than the permitted scheme<sup>1</sup>, including the garage which has since been built. I note that the appeal proposal, albeit it is substantially smaller than that which has been permitted, and would not project out to the side, is to be built of stone and therefore would appear more solid. Nonetheless, the smaller extension would have considerably less impact than that permitted.
8. Consequently, as I have concluded that the appeal proposal would not be disproportionate development, it would be not inappropriate within the Green Belt. It would therefore accord with saved Policy D11 (UDP) and the policies of the Framework in this regard. As such, there is no need for me to consider its impact on openness.

### *Setting of the listed buildings*

9. The appeal site is within the setting of numbers 56 and 54 Lumb Lane which are both Grade 2 listed buildings. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects the a listed building or it setting, to have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.

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<sup>1</sup> 2002/90073

10. No 56 Lumb Lane is a two storey hammer dressed stone property with a pitched stone roof. The main elevation facing Lumb Lane is defined by a strong horizontal emphasis derived from the stone mullioned windows at ground and first floor level. The two properties together with the stone garage which has been built in materials to match no 56 Lumb Lane appear as an isolated development within the open countryside.
11. From what I observed from my site visit, at which I took the opportunity to view the site from a number of viewpoints, including from public footpath HUD/166/10, the impact of the small extension to the garage would be to have no harm to the visual setting of the listed building and due to its subservient nature not result in cumulative harm.
12. I have come to this conclusion as the appeal proposal would be minor in scale, is of a simple form consistent with the garage and listed buildings, and would extend no farther back than the line of the rear of the two storey extension. In addition, the garage and two listed buildings are set behind a stone wall which due to the difference in levels between the fields which slope up behind the property and the small area of amenity space behind the properties, would partially screen the small extension to the garage which is to be built of matching materials. Therefore, whilst clearly the extension will be visible from some viewpoints, it will not adversely visually affect the setting of the listed buildings.
13. Consideration of impact on setting should not be restricted to whether the proposed development can be viewed from a public vantage point or has a visual impact. However, there is nothing before me to suggest that the minor extension would detract from the historic significance of the listed buildings.
14. Consequently, I conclude that the proposed extension, which would be minor in scale, would cause no harm. As such it would be consistent with the Planning Practice Guidance<sup>2</sup> and would not be contrary to the objectives of saved Policies BE1 and BE2 of the UDP, which require development to be of good quality and be respectful of its surroundings, and paragraph 132 of the Framework.

### **Conditions**

15. For the avoidance of doubt and in the interests of proper planning I attach a condition clarifying the plans approved. As the proposed development is within the setting of two listed buildings it is vital that all external facing materials used match the existing garage and neighbouring properties. Therefore, I have imposed a condition requiring the approval of samples prior to construction.

### **Conclusion**

16. For the reasons given above the appeal is allowed.

*L. Nurser*

INSPECTOR

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<sup>2</sup> Planning Practice Guidance ID: 18a-017-20140306

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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: 11 September 2017

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**Appeal Ref: APP/Z4718/W/17/3170589**

**Elysium Barn, Cophurst Road, Cartworth Moor, Holmfirth HD9 2TS**

- 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 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Tim Kirk against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/93550, dated 21 October 2016, was refused by notice dated 5 January 2017.
  - The development proposed is conversion of an existing agricultural barn to form a single dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) enables certain types of development to take place without the need for specific planning permission, provided certain criteria are met. Provisions exist under Schedule 2, Part 3, Class Q.(a) for the change of use of an agricultural building to a dwellinghouse, and (b) the associated building operations, subject to limitations and conditions.
  3. Paragraph Q.1. of the GPDO sets out the circumstances where development is not permitted. The Council has not raised any concerns in relation to these matters and there is no evidence that leads me to a different conclusion.
  4. The Council states in its Officer Report that for the purpose of Q(a) the associated use and operations of the proposals cannot be accommodated within the limitations under Class Q, and Section X of Part 3 defining curtilage. The Council is of the opinion that the associated use and operations of the proposal would extend beyond the area shown. In the decision notice, it is not alleged that the proposal would not be permitted development, but it is still necessary for me to consider this matter.
  5. Development consisting of a change of use of a building and any land within its curtilage is permitted under Q.(a). The definition of "curtilage" for the purposes of Part 3, Class Q is (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with
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- and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
6. The application site, as identified by the red line of the application, includes land immediately beside the building, no larger than the area occupied by the building. This equates to the piece of land closely associated with and serving the purposes of the building. There is a car parking space that would be on the adjoining road, but with minor amendments this could be accommodated within the site. Overall, there is limited evidence that the associated use of the proposed house would extend beyond the area shown.
  7. Therefore, taking account of all that I have seen and read, I am satisfied that the proposal meets the requirements of the GPDO with regard to being permitted development under Schedule 2, Part 3, Class Q.
  8. Paragraph Q.2.(1) of the GPDO states that where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required. This includes, amongst others, matters relating to (a) transport and highways impacts of the development, (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.
  9. In refusing the application, the Council states that: (i) the development would have an adverse effect on highway safety and; (ii) the nature of the access road, parking provision and amenity space would make the change of use impractical and undesirable.

### **Main Issues**

10. Therefore, the main issues are:

- The transport and highways impacts of the development; and
- Whether the location and siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a dwellinghouse.

### **Reasons**

#### *Transport and Highways*

11. The appeal building is a modest sized barn, constructed from stone with a pitched roof. It accessed via the single track Copthurst Road, which is unadopted and unsurfaced, and Cartworth Moor Road, which is also unsurfaced. There is a public right of way running along Copthurst Road, which forms part of the 'Kirklees Way' footpath route. I understand that the roads are well-used by walkers and cyclists, in addition to providing access to the appellant's land and forestry operations, and a neighbouring farm.
12. The house would be located in a relatively remote location and occupants would be highly likely to be reliant on a private vehicle to access any services or facilities. The Council accepts that the likely increase in traffic would not be



significant. However, it remains concerned about the potential conflict with other users of the public right of way, the site access, parking arrangements and access for emergency vehicles.

13. I have not been provided with any up-to-date and detailed information of existing traffic movements on Copthurst Road, but I accept that vehicular movements are likely to be low given the rural location. The Appellant's Highway Statement<sup>1</sup> concludes that traffic speeds on the road are likely to be slower than 10mph. Also, both Copthurst Road and Cartworth Moor Road have straight alignments which allow clear visibility, enabling users to give way when necessary. Therefore, I do not consider that there is sufficient evidence to demonstrate that there would be conflict between road users to the detriment of highway safety.
14. The plans show that one off-road car parking space would be provided, and a further space would be provided on the verge south of the barn. Sight lines for vehicles exiting the car parking space would be restricted by the barn and the stone wall, and the use of both spaces would require vehicles to manoeuvre on the road. However, as explained above, the road is lightly trafficked and vehicle speeds are likely to be low. Whilst the road is used by walkers and cyclists, the activity is likely to be very low. Consequently, access and egress to the off-road parking space would not be detrimental to highway safety. Whilst parking on the verge is undesirable, there is very limited evidence that it would be a risk to highway safety.
15. I agree that the average attendance time for emergency vehicles is likely to be considerable, but this in itself is not sufficient justification to find against the proposal, particularly as the emergency services do not appear to have been consulted.
16. To conclude on this matter, I find that the transport and highways impacts of the development would be acceptable.

#### *Location and Siting*

17. The Planning Practice Guidance (PPG) advises that, because impractical or undesirable are not defined in the regulations, the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgement. Impractical reflects that the location and siting would "not be sensible or realistic" and undesirable reflects that it would be "harmful or objectionable". The PPG goes on to advise that the fact that the agricultural building is in a location where the local planning authority would not normally grant permission for a new dwelling is not sufficient reason for refusing prior approval. There may, however, be circumstances where impact cannot be mitigated.
18. The site area has been restricted in order to comply with the Part X Interpretation of "curtilage." The result of this is the proposed amenity space would be restricted to two separate areas, either side of the building. One of these areas would be partly used for parking. The main entrance to the building would be from the parking area and there would be another door on the opposite side of the building, opening onto the other area of amenity space. Whilst the space is less useable as it is split into two areas, in total it is

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<sup>1</sup> Ref: 9425/MD/001/01 dated 21 July 2016

- of an adequate size to serve the proposed 2/3 bedroom dwelling and would provide an acceptable standard of amenity space for future occupiers.
19. The Council is concerned that the door shown on the north elevation would enable access to the land in front of the building, which would encourage encroachment into the Green Belt. However, any material change in the use of the land to the north of the building would require a separate application for planning permission, over which the Council would have control.
20. The site is on a remote hillside and the house would be accessed via a substantial length of unsurfaced road. Moreover, it is at a relatively high altitude, on a north facing slope, and susceptible to periods of inclement weather. I accept that it is possible to reach the building by car for the majority of the year, but I have concerns about how the dwelling would be accessed during periods of ice and snow. Future occupants would be likely to require access daily in order to obtain basic goods and services, or to reach employment or education facilities. I have also taken into account the comments of a nearby resident, who explains the measures necessary to ensure access during bad weather. This includes using a snow plough to keep the road clear. However, this measure cannot be relied upon as it appears to be carried out by the neighbouring resident. Given the location, and the nature of the access, I do not consider the proposal to be sensible or realistic. The issue cannot be mitigated, except by upgrading the road, and there is no evidence that this would be likely as the road is privately maintained.
21. I have considered the satellite image provided by the appellant, which indicates a number of scattered dwellings in apparently remote areas. It is unclear how these are accessed. During my site visit I saw that some of these are accessible from surfaced roads, or via a short stretches of unsurfaced tracks, and were not comparable to the appeal proposal in terms the length of the access and its surface treatment.
22. To conclude on this issue, I find the location and siting of the building would make it impractical for the building to change from agricultural use to a dwellinghouse.

### **Conclusion**

23. For the reasons given above, the appeal is dismissed.

*Debbie Moore*

Inspector



## Appeal Decision

Site visit made on 5 September 2017

by **Katie McDonald MSc MRTPI**

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

Decision date: 12 September 2017

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**Appeal Ref: APP/Z4718/D/17/3177166**

**16 Northfield Avenue, Lockwood, Huddersfield HD1 3SH**

- 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 Mohammad Shakeel against the decision of Kirklees Council.
  - The application Ref 2017/62/90217/W, dated 17 January 2017, was refused by notice dated 24 March 2017.
  - The development proposed is two storey side and rear extensions.
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### Decision

1. The appeal is dismissed.

### Main Issue

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

### Reasons

3. The site is located in an elevated position on the corner of Northfield Avenue and Northfield Grove. It features an end of terrace two storey house, constructed from stone, brick and render with a hipped tiled roof. The dwelling has front, rear and side gardens, and is sited on a suburban residential road. The area is characterised by two storey semi-detached and terraced dwellings of similar materials, with some older stone built dwellings to the north.
4. The scheme proposes two storey side and rear extensions. Northfield Avenue is on a slight slope running west to east, however, Northfield Grove slopes steeply southwards with the rear boundary of the dwelling being significantly lower than the front. The side elevation of the dwelling is in line with the front elevations of the houses on Northfield Grove, and I agree with the Council that there is a certain degree of uniformity to the street pattern.
5. The projection of the extension to the side would be wider than the front elevation of the host building. This, coupled with its siting in line with the front elevation, extension of the existing roof form and occupation of the entire side elevation would result in a considerably dominant and overbearing addition to the host dwelling.
6. Despite the separation between the rear of the property and Northfield Grove, due to its elevated position and degree of projection, the proposal would substantially break the build line on Northfield Grove, harmfully affecting the

character and consistency of the street scene. Moreover due to the steeply sloping nature of the site, the resultant height, bulk and massing of the proposal would also be overly prominent, incongruous and dominant within the street scene, particularly when viewed from the south.

7. Consequently, I find that the proposal would adversely affect the character and appearance of the existing building with consequent harm to the character and appearance of the surrounding area. Therefore, the proposal would be in conflict with Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan (March 1999) which aim to ensure that development is of a good quality design that does not prejudice visual amenity and the character of the surroundings. I also find conflict with the National Planning Policy Framework, which always seeks to secure high quality design.

### **Other Matters**

8. My attention has been drawn to discussions and meetings between the appellant and the Council regarding amendments to the scheme; but they do not affect my assessment of this appeal.
9. I noted that there were a number of other extensions in the area, and in particular the extension at 2 Northfield Avenue. I find that the extension at No 2 is of a different design to this proposal, being set back from the front elevation with a reduced roof height and a narrower width; which allows it to be subordinate when viewed from Northfield Avenue. However, I also find that this addition serves to confirm that the proposal before me would be a tall, prominent and dominant addition to the street scene when viewed from the rear and side. In any event, each proposal falls to be considered on its own particular merits and that is what I have done here.
10. The introduction of terracing and planting to reduce the effect of the proposal is not before me and I give this limited weight.
11. The requirement for additional accommodation, the acceptable effect of the development upon neighbouring living conditions and the absence of objection from nearby residents would not outweigh the significant harm I have found in relation to character and appearance.

### **Conclusion**

12. Having had regard to all other matters raised, and for the reasons above, I conclude that the appeal should be dismissed.

*Katie McDonald*

INSPECTOR



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## Appeal Decision

Site visit made on 5 September 2017

by **Sarah Colebourne MA, MRTPI**

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

Decision date: 13<sup>th</sup> September 2017

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**Appeal Ref: APP/Z4718/W/17/3172996**

**Westroyd Farm, White Ley Bank, Fulstone, New Mill, Holmfirth, HD9 7DL**

- 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 Damian Hosker against the decision of Kirklees Metropolitan Council.
  - The application Ref 2016/62/93923/W, dated 22 November 2016, was refused by notice dated 15 March 2017.
  - The development proposed is described as a revised, reduced side extension, resubmission of 2016/62/92821/W & 2016/63/92822/W.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The Council's decision describes the proposal as '*change of use of land to domestic for erection of two storey and link extension (listed building within a Conservation Area)*'. As this reflects the proposal more accurately than described in the application I have determined the appeal on this basis.

### Main Issues

3. The main issues in this case are: a) whether the proposed development would amount to inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt and its purposes; c) its effect on the visual amenity of the Green Belt; and d) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### Reasons

#### *Inappropriate development in the Green Belt?*

4. The appeal site and the whole of Fulstone lie within the Green Belt. Paragraph 89 of the National Planning Policy Framework ('the Framework') says that the construction of new buildings in the Green Belt is inappropriate other than for a number of exceptions. These include the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building. The development plan includes policy D11 of the Kirklees Unitary Development Plan (UDP) (2007) which says that in

addition to considerations of openness and character, the size of the extension should be considered in relation to the existing building which should remain the dominant element and as such accords with the Framework. In the Framework, neither paragraph 89 or paragraph 90 (which lists forms of development which are not inappropriate in the Green Belt) refer to the change of use of land to residential as appropriate development.

5. I shall firstly consider the proposed change of use of land. A previous application (2016/92821) was approved which included the formation of a parking area. I saw at my visit that this has been laid out on part of the site in front of the proposed extension. The remainder of the land to which the proposed change of use relates is overgrown and is not separated by any boundary from the land to the south.
6. The appellant maintains that the land has been used as a garden since 1974 and has referred to evidence, including an affidavit from the son of the previous owner, anecdotal evidence from other residents and various maps and photographs, that has also been provided to the Council as part of an application for a Certificate of Lawfulness. I have not seen the affidavit and have no further information regarding the outcome of that application.
7. The maps of 1907 and 1955 appear to show the land as separate from the dwelling with an outbuilding in the later photo. In an aerial photo from the mid 1970's the land appears to be under informal horticultural use. An aerial photo from 2002 shows the land clearly separated by a hedge from the farmhouse and possibly grassed over. A 2009 photo indicates an area to the south of the appeal site in use for horticulture. Whilst it shows that the appeal site has a derelict outbuilding at its edge and a different grass covering from the remainder of the field to the south, it is not separated from that land by any boundary and has a different appearance to the lawned garden to the front of the dwelling.
8. It seems to me then that in the last 40 years or so the land has been used intermittently for horticulture. However, the evidence before me is inconclusive regarding its use as garden land and in any case it seems that the land has now reverted back to the state of an overgrown field.
9. The listed building consent already granted for this scheme is a separate matter from planning permission and does not amount to a legal transfer of land use as the appellant alleges. Despite the wording of the decision notice for that consent including 'change of use of land to domestic', listed building consent can only be granted for works to a listed building and not for a change of use.
10. I conclude then that the change of use of the land on which the proposed extension would be sited would, therefore, amount to inappropriate development in the Green Belt.
11. I shall now consider the proposed side extension. The Council considers that cumulatively with the previously approved extensions would amount to a volume increase of some 60% to the original building.
12. The appellant has suggested that certain parts of the previously approved works could have been erected under permitted development but those are still considered as extensions and not as part of the original building. Furthermore,

the appellant disputes the Council's figure and argues that the volume of the extension to the structure post-development should be used, to establish a ratio between the original building and the extensions which would amount to 38%. As the Council's percentage-based calculation is well-established and supported by the Framework which refers to the scale of the original building rather than the extended building, I have based my findings on the Council's figure. The Framework does not define what percentage would be unacceptable and I have noted the efforts made by the appellant to negotiate and amend his plans. Nonetheless, a 60% increase is a large increase that would undoubtedly amount to disproportionate additions over and above the size of the original building. Although the appellant has referred to another appeal decision (APP/Y3615/D/13/2190816) in which a larger percentage was allowed, I have no evidence that the circumstances were directly comparable to these and have determined this case on its merits.

13. I conclude then that the proposed extension would also amount to inappropriate development in the Green Belt, contrary to UDP policy D11 and to the Framework. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. I must attach substantial weight to this harm.

*Effect on the openness of the Green Belt and its purposes*

14. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and advises that one of the essential characteristics of the Green Belt is its openness. This is a matter of its physical presence rather than its visual qualities. In this respect, I have therefore given little weight to the appellant's interpretation of the other appeal referred to above or his argument that the building does not stand alone and is tightly packed into a small hamlet (although I accept that the latter is relevant to the matter of visual harm). Paragraph 80 of the Framework sets out the five purposes of including land in the Green Belt. One of these is to assist in safeguarding the countryside from encroachment. Although it would be in line with the existing parking area, by reason of its additional bulk and its siting on land which is currently free from development, the proposed extension would inevitably increase the built-up area of the appeal site. I conclude, therefore that this would reduce the openness of the Green Belt to a small degree and would be detrimental to one of its purposes, contrary to UDP policy D11 and to the Framework.

*Effect on the visual amenity of the Green Belt*

15. Westroyd Farm is located on the southern edge of the small hamlet of Fulstone which sits on a scarp edge. Whilst it sits adjacent to other dwellings to the north, the proposed extension would be sited to the south side of the dwelling on the edge of the settlement. At my visit I saw that it would be clearly seen in short range views from the south along White Ley Bank but would be viewed against the backdrop of the existing house. From the west on Fulstone Hall Lane, I saw that it is likely that the roof of the extension would be seen alongside the main roof of the house, albeit at some distance. The appellant's landscape and visual impact assessment indicates a number of other viewpoints from nearby roads or footpaths to the south east or west although I accept that most of these would be from a distance or partially obscured by vegetation.

16. The listed building consent already approved for the scheme reflects the Council's lack of objection to the design of the proposal. I agree that in terms of its appearance it would not harm the visual amenity of the Green Belt but this is a neutral factor that does not weigh in favour of the proposal either.

*Other considerations*

17. The appeal dwelling is a grade II listed former farmhouse within a mainly stone built, rural Conservation Area. I have had special regard to the desirability of preserving the building and its setting or any features of special architectural or historic interest which it possesses in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and of preserving or enhancing the character or appearance of the Conservation Area in accordance with Section 72 of the same Act. The proposed extension would preserve and enhance the significance of the heritage assets and would result in the re-use of the building which has been unused for at least seven years. These objectives are reflected in the extant listed building consent but as I have found earlier, that is a separate matter from planning permission and it does not take into account or, in this case outweigh, Green Belt policy.
18. The appellant maintains that the restoration of the building and its re-use is unviable without the proposed extension. I saw during my visit that the main house and a small attached barn are in poor condition and in need of some re-building, a new roof, foundations underpinning and provision of all services/utilities. It is clear that restoration will be costly but I have not been provided with figures for the cost of works or any viability appraisal. I understand the appellant's wish to provide a fifth bedroom for his family which includes five children but given that the two extant permissions (2016/92821 and 2015/92006) have already allowed generous additional living accommodation at ground floor level, see no reason why that accommodation could not be internally re-arranged to provide a fifth bedroom. I am therefore unable to conclude that a fifth bedroom is essential for the viability of the restoration and re-use of the building. I sympathise that the appellant has purchased a building above market value but personal financial arrangements are not a material consideration in this regard.
19. The proposal would provide an energy efficient home which would contribute to the Council's housing shortfall and the lack of a five year housing land supply alleged by the appellant. It would also contribute to the vitality of this small rural community and the provision of an acre of woodland planting would provide some environmental benefit. The appellant has also said that the derelict outbuildings and foundations on the land to the south would be removed. However, these are small benefits that do not constitute very special considerations or outweigh the Green Belt harm that would be caused.
20. As I have found that the change of use of land would be unacceptable in the Green Belt and as the site is within a Conservation Area, a side extension could not be erected under permitted development and that argument does not alter my findings.
21. I have had regard to other developments in the local area and the SHLAA highlighted by the appellant. Those developments and any application for a potential housing site would have been or would be assessed on their own merits against the relevant policies and in the light of any very special circumstances and do not provide justification for this proposal.



## **Conclusion**

22. The government attaches great importance to the Green Belt and it is important that decisions are made with consistency. In this case, I am not persuaded that there are sufficiently compelling personal circumstances or other considerations that when taken together would amount to the very special circumstances necessary to justify the development in Green Belt terms, despite some local support for the scheme. The proposal would conflict with policy D11 in the development plan and the Framework as a whole and there are no other material considerations that warrant determining the appeal otherwise. The appeal should be dismissed.

*Sarah Colebourne*

Inspector



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## Appeal Decision

Site visit made on 22 August 2017

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

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

**Decision date: 14<sup>th</sup> September 2017**

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**Appeal Ref: APP/Z4718/W/17/3175577**

**Land opposite 14 Grand Stand, Scapegoat Hill, Huddersfield, HD7 4NQ**

- 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 Matt Houston against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/90565/W, dated 18 February 2017, was refused by notice dated 24 April 2017.
  - The development proposed is to erect a detached dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The site has been subject to a recent appeal decision<sup>1</sup>, which was dismissed, for a similar development to that currently proposed. The previous scheme proposed a single dwelling, albeit on a larger plot than the current proposal. Given the similarities between the current and previous appeal proposals, I attach significant weight to the previous Inspector's findings.

### Main Issues

3. The main issues are:
  - (a) 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;
  - (b) The effect of the proposal on the openness of the Green Belt; and
  - (c) 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 in Green Belt*

4. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such

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<sup>1</sup> APP/Z4718/W/15/3012823

exception is limited infilling in villages. In addition, Policy D13 of the Kirklees Unitary Development Plan (UDP) (1999) states that within existing settlements in the Green Belt, infill development will normally be permitted subject to certain criteria.

5. The Council contends that the appeal site is outside of the village of Scapegoat Hill and that the proposal would therefore not constitute "*limited infilling in villages*" (my emphasis). In this regard, such an assessment must be based on the characteristics of the site and its surroundings, rather than simply relying on the location of the adopted Green Belt boundary.
6. The previous appeal decision related to a larger site area that stretched down to Taylor Street. That Inspector found that "*the development boundary clearly distinguishes the site from the adjoining settlement and this is evident when viewed on the ground*". This observation applies equally to the current appeal site, despite its reduced size. The appeal site comprises part of an undeveloped grassy bank that is prominent in views from the south. It is within a large gap of undeveloped land between the sporadic development fronting both Taylor Street and Grand Stand. It faces onto open fields to the south, and has a separate character from the adjoining settlement. In my view, it is not within the village of Scapegoat Hill, and accordingly the development would not constitute "*limited infilling in villages*".
7. Whilst the appellant states that the Green Belt boundary is out of date and no longer reflects the edge of the settlement, I do not agree with that assessment. I further note that paragraph 83 of the Framework states that "*once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan*".
8. I conclude that the proposal would be inappropriate development in the Green Belt, which Paragraph 87 of the Framework states is harmful by definition and should not be approved except in very special circumstances. The proposal would also be contrary to saved Policy D13 of the Kirklees UDP, which relates to infilling within existing settlements.
9. In coming to that view I have had regard to the appellant's contention that Policy D13 is out of date. However, I note that the previous Inspector commented that "*In providing criteria for appropriate infilling, Policy D13 fulfils the requirement in the Framework to set out policies in a Local Plan and has a significant degree of consistency with the Framework*". I concur with this view.

#### *Openness*

10. The proposed dwelling would introduce additional built footprint and volume onto land that is currently open. The development would therefore result in a reduction in openness to this part of the Green Belt. The Framework advises at Paragraph 79 that openness is an essential characteristic of Green Belts, and the appeal proposal would therefore cause harm in this regard.
11. I conclude that the appeal proposal would fail to preserve the openness of the Green Belt. This would further harm the objectives of the Green Belt to which the Government attaches significant importance.

### *Other considerations*

12. The development would have some modest economic benefits including the creation of employment, and the generation of economic activity through the purchasing of materials and furnishings.
13. The provision of an additional dwelling would also make a small contribution to the Borough's deficient 5 year supply position. I return to this matter in my conclusion, below.

### **Other Matter**

14. The development would generate only a limited amount of traffic and the proposed access would have adequate visibility along Grand Stand. In this regard, I note that the Highway Authority did not object to the development on these grounds. Accordingly, I do not consider that the proposed access arrangements would prejudice highway safety.

### **Conclusion**

15. Whilst the Council is unable to demonstrate a 5 year supply of housing sites, in this case, specific policies in the Framework (relating to Green Belt) indicate that development should be restricted. The proposal would constitute inappropriate development in Green Belt and would reduce openness in this location. Even when taken together, the other considerations in this case do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The development would also be contrary to Policy D13 of the Kirklees UDP.
16. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
17. 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 29 August 2017

**by Susan Ashworth BA (Hons) BPL MRTPI**

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

**Decision date: 18<sup>th</sup> September 2017**

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**Appeal Ref: APP/Z4718/W/17/3175888**

**Land off Rowley Hill, Fenay Bridge, Huddersfield**

- 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 & Mrs M Shaw against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/93743/W, dated 11 July 2016, was refused by notice dated 22 March 2017.
  - The development proposed is the erection of detached garage.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached garage on land off Rowley Hill, Fenay Bridge, Huddersfield in accordance with the terms of application Ref 2016/62/93743/W, dated 11 July 2016 and subject to the conditions set out in the attached schedule.

### Main Issues

2. The main issues in this case are:
  1. The effect of the development on the character and appearance of the area.
  2. The effect of the development on the living conditions of the occupiers of 19 Rowley Hill with particular regard to outlook.

### Reasons

#### *Character and appearance*

3. The appeal site is an open area of ground, currently used for car parking. I understand a row of cottages previously occupied the site and was demolished some time ago, since when the site has been used for the parking of commercial and private vehicles, including an HGV. The site is a relatively flat area although to the sides and rear the land rises such that the site is contained by retaining walls on three sides.
4. The proposal is for a detached double garage on the site to be positioned side on to the road. The garage would have a regular form with a pitched roof and would be constructed in stone to the front and side elevations, and render to the rear. The garage is required to accommodate a van used in connection the appellant's business and another vehicle.
5. The site lies within an area that is primarily residential in character although a beer garden associated with a nearby social club lies immediately adjacent to

- it. Rowley Hill is a narrow and winding road, with a footpath on only one side in some parts. Buildings, which are generally traditional in terms of their form and appearance, are irregularly sited close to the road, some positioned immediately at the back of the footpath or road itself. There are no clearly defined building lines although boundary walls and planting contribute to the sense of enclosure. As such, the area has an attractive tight knit appearance.
6. The appeal site, which is open, does not reflect or contribute positively to the prevailing character or appearance of the area and it seems to me that the construction of a building on site would assist in restoring the sense of enclosure at this point. I acknowledge the Council's concerns that the building would not be related to any neighbouring property. However, given the informal layout and pattern of development along the road, the garage would not appear incongruous. I noted the presence of a detached garage further along the road, which although it related to a dwelling, stood alone. The size of the garage would not be excessive and it would be constructed in materials to reflect those of surrounding buildings. Although the garage would be clearly visible, the level of the site relative to the immediately adjoining land, would mean that the building would not be unduly dominant.
  7. Consequently for these reasons I conclude on this issue that the proposal would not cause any undue harm to the character and appearance of the area. As such the proposal is in accordance with Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan Saved Policies 2007 (the UDP) which seek amongst other things to protect the character of the surroundings and retain a sense of local identity.

#### *Living conditions*

8. The garage would be sited opposite 19 Rowley Hill which has a number of windows directly facing the site. The Council advise that the side wall of the garage would be some 8.25m from the front elevation of the house.
9. It is clear that the garage would change the visual appearance of the site itself and would alter the outlook from No 19. However, the garage would be single storey in height and not therefore unduly overbearing. There would be no overlooking windows and, as it would be sited to the north of No 19, would not result in any direct loss of sunlight.
10. I acknowledge that the distance between the two buildings would fall short of the Council's recommended distance of 12m between a wall containing habitable room windows and a blank wall of a neighbouring building. However, the context of this site, as set out above, is of tightly knit development where more limited distances between properties is not unusual. In addition, in reaching my conclusion I have taken into consideration the history of the site and that the site could be used for the parking of a commercial vehicle.
11. Consequently for the reasons set out, the proposal would not have an unduly harmful effect on the living conditions of the occupiers of No 19 in terms of outlook. As such the proposal is in accordance with Policy D2 (v) of the UDP which requires that proposals do not prejudice residential amenity.

#### *Other matters*

12. I acknowledge that on such a narrow road and with a dense pattern of development, parking is at a premium. However, the land is privately owned

and its use controlled by the landowners. As such I am unconvinced that the proposal would result in any significant increase in demand for on-street parking. There is no technical evidence before me to demonstrate that the proposal would cause a danger to highway safety and the Highway Authority has confirmed that the development meets acceptable standards with regard to vehicle manoeuvring. I am unconvinced that the proposal would compromise accessibility by emergency vehicles.

13. I understand that a culvert runs close by the site but there is no evidence before me that the proposal would increase the risk of flooding as a result of damage to the culvert. Moreover matters relating to drainage can be dealt with by way of a planning condition and I will turn to this below.

### **Conditions and Conclusion**

14. The Council has suggested conditions to be taken into account were I minded to allow the appeal. I have considered these conditions in the light of advice in the Planning Practice Guidance.
15. In the interests of proper planning and to provide certainty the standard time limit condition and a condition specifying the approved plans are necessary. In order to preserve the character and appearance of the area it is necessary that samples of materials to be used in the development are agreed by the Local Planning Authority.
16. In the interests of highway safety and to ensure that the site is satisfactorily drained, a condition requiring the submission and approval of drainage details is necessary. The site may have been subject in the past to coal mining and it is therefore necessary for investigations to be carried out to understand the ground conditions of the site. Conditions requiring such investigation and details and implementation of any remedial measures are therefore reasonable and necessary.
17. For the reasons set out above, taking into account all other matters raised, and on the basis of these conditions, the appeal is allowed and planning permission granted.

*S Ashworth*

INSPECTOR

## SCHEDULE

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with approved plans: Location Plan No. 3097/1 dated July 2016; Layout No. 3097/5/a dated October 2016.
3. Before works to construct the garage's superstructure are commenced, details of all the external facing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed using the approved materials prior to the building being brought into use.
4. Prior to the commencement of development, details of the proposed surfacing of the site, including details of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
5. Site investigation works shall be carried out in accordance with section 7 of the Coal Mining Risk Assessment prepared by Ashton Bennett, ref MMMS 3265, before development commences. A report of findings arising from the intrusive site investigation works shall be submitted to and approved in writing before development commences. The report shall include a scheme of remedial works for the shallow coal workings together with a timetable for the implementation and completion of the approved remediation measures.
6. Prior to the development being brought into use remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 5. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered (in either the Coal Mining Risk Assessment or the Phase II Intrusive Site Investigation Report) is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy prior to the development being brought into use.





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## Appeal Decision

Site visit made on 12 September 2017

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

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

**Decision date: 28<sup>th</sup> September 2017**

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**Appeal Ref: APP/Z4718/D/17/3177447**

**Drop Down, Horn Lane, New Mill, Holmfirth, HD9 7HG**

- 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 N Higgs against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/90907/W, dated 15 March 2017, was refused by notice dated 10 May 2017.
  - The development is a proposed outbuilding.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr N Higgs against Kirklees Metropolitan Borough Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are:
  - (a) 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;
  - (b) The effect of the proposal on the openness of the Green Belt;
  - (c) The effect of the development on the character and appearance of the area, and
  - (d) 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 in Green Belt*

4. The appeal site comprises part of the rear garden to Drop Down. The proposed outbuilding would be some distance from the host property and would be visible from both Horn Lane and Horn Cote Lane. The outbuilding would be

- positioned between 2 dry stone retaining walls, on land that does not currently contain a building.
5. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. In this case, the appellant has provided photographs to show that a building was once located on the site. However, this was demolished some time ago and there is therefore no existing building to be replaced. This is the case regardless of whether the previous outbuildings were removed in order to offset the impact of the replacement dwelling under application 2012/62/91471/W.
  6. Another exception allows for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. However in this case, the proposed outbuilding would be located at the bottom of the garden some distance from the host property. Accordingly, I do not consider that it would constitute an extension.
  7. Whilst the appellant states that the development would normally qualify as permitted development, in this case permitted rights have been removed by a condition attached to the previous permission. There is therefore no opportunity to fall back on permitted development rights.
  8. Accordingly, I conclude that the proposal would be inappropriate development in the Green Belt, which Paragraph 87 of the Framework states is harmful by definition and should not be approved except in very special circumstances.

#### *Openness*

9. The proposed outbuilding would introduce additional built footprint and volume onto land that is currently open, and in a relatively prominent position. The development would therefore result in a reduction in openness to this part of the Green Belt, despite its limited size. The Framework advises at Paragraph 79 that openness is an essential characteristic of Green Belts, and the appeal proposal would therefore cause harm in this regard.
10. I conclude that the appeal proposal would fail to preserve the openness of the Green Belt. This would further harm the objectives of the Green Belt to which the Government attaches significant importance.

#### *Character and appearance*

11. The existing property, outbuilding and boundary walls are constructed in stone. In this regard, there is a consistent use of materials throughout. In contrast, the appeal building would be constructed using olive green plastisol coated sheet walls, with translucent sheet roofing. These materials would fail to harmonise with those of the host property, and would appear incongruous when viewed from the west and south west. However, the appellant has suggested that alternative materials could be secured by condition. Such a condition would overcome my concerns in this regard, and would ensure that the development would not significantly harm the character and appearance of the area. It would therefore accord with Policies BE2 and BE11 of the Kirklees Unitary Development Plan (1999). These policies seek to ensure, amongst other things, that new development is in keeping with the surrounding area.

*Other considerations*

12. The appellant states that the development is necessary in order to house tools and equipment to maintain 4 acres of land adjoining the property. However, the existing dwelling at Drop Down is large and already has a double garage. This is currently used both for car parking, and for the storage of tools and equipment. However, it is unclear why additional tools and equipment cannot also be stored here. Moreover, there is only limited information before me regarding the proposed equipment that is required, and its precise storage requirements. This limits the weight I can attach to this consideration. In any case, and on balance, I do not consider that this matter would clearly outweigh the harm to the Green Belt.

**Conclusion**

13. The proposal would constitute inappropriate development in Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. The other considerations in this case do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The development would therefore be contrary to guidance contained in the Framework.

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

*Thomas Hatfield*

INSPECTOR