



## Appeal Decision

Site visit made on 29 May 2019

**by Kate Mansell BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1<sup>st</sup> July 2019

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**Appeal Ref: APP/Z4718/W/19/3224737**

**Stables, Cliff Hollins Lane, East Bierley BD4 6RQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Taylor against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2018/62/93215/E, dated 1 October 2018, was refused by notice dated 22 February 2019.
  - The development proposed is conversion of equestrian stables building to form 1 number residential dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The address given on the application form only refers to the site's location within Bradford. For clarity, I have therefore taken the address from the appeal form and decision notice as this is more precise.
3. The Kirklees Local Plan Strategy and Policies Document (Kirklees LP) was adopted on 27 February 2019 and now comprises the local development plan. The wording of Policy LP60 within this adopted Kirklees LP is consistent with Policy PLP60 of the Draft LP cited in the Council's reason for refusal. The appellants have also had the opportunity to comment on the effect of the adopted Local Plan and accordingly, no parties are prejudiced by my having regard to it.

### Main Issue

4. The main issue is the effect of the proposal on the Green Belt as follows:
  - Whether the proposal is inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy and its effect on the openness of the Green Belt and purposes of including land within it;
  - The effect of the development on the character and appearance of the area; and
  - If the development is inappropriate, whether the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

5. The appeal site lies to the south of Cliff Hollins Lane, approximately 230m to the west of East Bierley and within the Green Belt. It is a broadly rectangular plot that is part of a larger field. The site is occupied by a portal frame building that is presently utilised as an equestrian stable and has been used as such since at least 2009. The building is set back from the road by approximately 17m, accessed via a pair of metal gates. Between the building and the road, material has been laid down to create a rough hard surface for parking.
6. The proposal would introduce windows and doors into the external elevations as well as a first-floor level internally to create a three-bedroom dwelling. A boundary is shown around the building to delineate a private amenity space, as well as a parking and turning area for two vehicles and bin storage provision. Part of the existing hedgerow and vegetation to the front boundary on Cliff Hollins Lane is shown for removal.

### *Whether inappropriate development, including its effect upon openness*

7. The Framework confirms that the essential characteristics of Green Belts are their openness and their permanence. In this context, Paragraph 145 of the Framework states that other than for limited exceptions, the construction of new buildings in the Green Belt is inappropriate. However, Paragraph 146 advises that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purpose of including land within it. This includes, at paragraph 146(d), the re-use of buildings, provided that they are of permanent and substantial construction.
8. This approach is reflected in Policy LP60 of the Kirklees LP. The policy also advises that such resultant schemes should not introduce incongruous domestic or urban characteristics into the landscape. The supporting text clarifies that proposals that compromise openness will not normally be permitted. As it broadly accords with the Framework, Policy LP60 can be afforded significant weight.
9. The stable building is constructed in block work with metal cladding to the upper level and roof with an open door fronting the road. Following advice from the Council's Building Control Officer, it accepts that the building is of a permanent and substantial construction and from my observations on site, I have no reason to disagree. Therefore, its re-use for a residential purpose would not be inappropriate provided that it would preserve the openness of the Green Belt and not conflict with the purpose of including land within it.
10. Openness is, in effect, the absence of development. It has both a spatial and visual aspect to it. In relation to the building, given that it is already there, I would accept that changing its use to a residential dwelling would not, in relation to this element of the scheme, result in the loss of openness to the Green Belt, or conflict with the purposes of including land within it.
11. However, the proposal would also involve the creation of a parking area and private amenity space around the building, to be delineated from the field by a post and wire fence with native hedging. Details of the surfacing for the parking area have not been specified but it would not be unreasonable to assume a hard surface. Furthermore, the consultation response from the Council's Highways Officer, which the appellants have had the opportunity to

consider, indicates that the vehicle parking areas would need to be surfaced in a permeable material to achieve a satisfactory layout.

12. I recognise that there is already hard-surfacing around part of the building, which I observed on my site visit. There is also some parking associated with the existing equestrian use, including both vehicles and horse boxes. However, a parking area associated with a residential dwelling would, in my view, be more formalised and more frequently used than that associated with stables.
13. The proposal would also be visible in long views from the rear of houses within the settlement of East Bierley. Furthermore, the removal of the existing hedge and vegetation along the front boundary would open up the site and result in the proposal being more apparent from the road than the current building and use. As a consequence, even if the boundary treatment to the garden were deemed to be appropriate to a rural setting, the segregation of the field to create private amenity space would be visible from the surrounding area.
14. I note that the amenity space was reduced in size in the course of the application. Nevertheless, the proposal would be likely to result in domestic paraphernalia that typically accompanies a domestic use, including the bin stores cited by the Council in its reference to case law<sup>1</sup>, as well as typical objects such as washing lines and garden furniture. Such items would not be mitigated by the removal of permitted development rights in relation to extensions and outbuildings.
15. These elements, in addition to the enclosures and the intensification of use associated with a residential dwelling, would, in my view, result in a permanent change to the character of the landscape. It would consequently be visually harmful to the openness of the Green Belt.
16. Given the modest size of the amenity space and parking and turning area, the harm caused to the openness of the Green Belt would be limited but, for the reasons stated above, it would be harmful nonetheless as it would fail to preserve openness. The proposal would not, therefore, meet the exemptions set out above and it would constitute inappropriate development.
17. It would also introduce domestic characteristics into the countryside such that it would further conflict with the purposes of including land within the Green Belt, with particular regard to safeguarding the countryside from encroachment. It would therefore be contrary to both local policy with specific regard to Policy LP60 cited above and guidance within the Framework, which seeks to protect the Green Belt. This is a matter to which I attach substantial weight.

#### *Effect on the character and appearance of the area*

18. The proposal would occupy an isolated position to the extent that it would result in a building with a residential appearance that would be sited within one corner of a large grazing field. It would, however, be positioned relatively close to the road. Furthermore, the Council do not object to the design of the proposed dwelling and acknowledge that details of materials could reasonably be secured by condition.

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<sup>1</sup> Smith v Secretary of State for Communities and Local Government (2017) EWHC 2562 (Admin)

19. I consider that the hedge and vegetation that would be removed along the front of the site on Cliff Hollins Lane would cause some harm to the character of this rural road. However, given the length of the lane in relation to the site frontage, its effect could reasonably be described as limited.
20. A similar building has also been approved on the same stretch of Cliff Hollins Lane. I have not been provided with full details of this case, but I acknowledge the Council's assessment that it would not have a greater impact upon the open appearance of the area. In any event, it would result in a similar barn type building within the locality. There are also other dwellings set well apart from one another along Cliff Hollins Lane.
21. For these reasons, I am therefore not persuaded that the conversion of the building, in itself, would harm the character and appearance of the area. I therefore find no conflict with Policy LP60(c) in particular in terms of its design and the materials to be used, being appropriate to the setting. But the absence of harm is not a positive factor in the scheme's favour.

### **Other considerations**

22. I note the appellants' contention that the removal of the equestrian use would be beneficial to the appearance and openness of the area by containing outdoor activity associated with a residential use within a well-defined boundary. However, stables/equestrian uses are not uncommon within the countryside. The lack of harm arising from the existing use is therefore a neutral factor that weighs neither for nor against the development.
23. The government's desire to boost housing supply is also not a reason to set aside policy requirements elsewhere in the Framework. The site's location in the Green Belt means that footnote 6 of Paragraph 11(d)(i) applies. It is therefore a neutral factor, as there are likely to be other more suitable, non-Green Belt sites, where housing could be provided.
24. Furthermore, I recognise that the appellants sought to work proactively with the Council in providing additional information and working collaboratively with them. However, this is not a matter that affects my assessment, which is confined to a consideration of the case on its individual planning merits.

### **Green Belt Balance**

25. I have concluded that the proposal is inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Whilst I have found no harm to the character and appearance of the area, there are no other considerations in favour of the development that clearly outweigh the harm arising from inappropriateness, a matter that attracts substantial weight. The very special circumstances necessary to justify the proposal do not, therefore, exist.

### **Conclusion**

26. For this reason, I therefore conclude that the appeal should be dismissed.

*Kate Mansell*

INSPECTOR



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## Appeal Decision

Site visit made on 5 June 2019

**by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 July 2019**

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**Appeal Ref: APP/Z4718/W/19/3225265**

**203 Raikes Lane, Birstall, Batley WF17 9QF**

- 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 D Moyser against the decision of the Kirklees Council.
  - The application 2018/62/90886/E dated 13 March 2018, was refused by notice dated 30 January 2019.
  - The development proposed is described as 2 No. detached house.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Since the submission of the appeal the Council have adopted the Kirklees Local Plan (2019) (the Local Plan), which replaces the Kirklees Unitary Development Plan (1999 as revised 2007). Both parties were given the opportunity to provide additional comments, therefore no party has been prejudiced or caused any injustice by me proceeding with the appeal in light of the changes in policy.
3. An amended plan was considered by the Council with details of off street parking provision. I have therefore considered this appeal on the basis of the plans submitted including the amended plan Drawing No. 18/25/2 Rev A as this is what the Council based its assessment on.

### Main Issues

The main issues in this appeal are the effect of the development on (i) highway safety; and (ii) the protected trees on the site.

### Reasons

#### *Highway Safety*

4. The site is part of a rear/side garden of 203 Raikes Lane, the host property, which is within a predominantly residential area. The site slopes from Raikes Lane down towards the rear of the garden. The proposed development includes the improvement of a vehicular access from Raikes Lane to serve the host property and 2 detached dwellings.
5. Raikes Lane is a narrow road with usable footpath along one side. The road is blocked at one end which ensures that it is not used as a through road and whilst off-street parking in the form of driveways is a prevalent feature for

properties on-street car parking does occur. I noted that 2 cars used the road during my site visit, and both appeared to be moving at a lower speed than the 30mph speed limit.

6. The proposed development includes visibility splays which are below the standard required by the Council for the speed of the road. The Council has acknowledged that there may be opportunity to decrease the visibility splays however this would be predicated on the submission of evidence to support the reduction. The appellant has not provided substantive evidence.
7. The appellant contends that the site has been used to store various forms of plant, materials and equipment associated with a construction business ran from the host property. The existing use is described in Section 14 of the Planning Application form by the appellant as a garden. Whilst I noted some building rubble onsite during my site visit, there is no indication as to the levels of activity associated with the use of the site over and above that of a domestic use.
8. Policy LP21 requires proposals to demonstrate that they can be accessed effectively and safely by all users. Whilst the features of the road reduce the likelihood of rapid vehicle movements, I have no substantive evidence before me to confirm the reduced visibility splay would be appropriate for the existing conditions of the road. I therefore conclude that the effect of the proposed development would harm highway safety.
9. There is conflict with Policy LP21 of the Local Plan, which amongst other things seeks to ensure safe and efficient access and free flow of traffic within a development and on the surrounding highway network.

#### *Protected Trees*

10. The site contains 4 mature trees (2 x Horse Chestnut and 2 x Sycamore) protected by a Tree Preservation Order (TPO).
11. The proposed development would not require the removal of the protected trees, although development would occur within the Root Protection Area (RPA) as defined in the Arboricultural Report which accompanies the proposal. Advice contained in BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations advocates that structures should be located outside of RPAs, however technical solutions may be available which would prevent damage to the trees.
12. The Arboricultural Report recommends that the next stage for the proposed development would be the preparation of an Arboricultural Impact Assessment (AIA) which would illustrate and discuss the impact of the proposal on the trees and vice versa to help inform good design. The proposed development is a detailed planning application with a defined layout and design. I cannot be certain that there are technical solutions such as the proposed specialist pile and ground beam foundations which would not harm the protected trees.
13. The protected tree canopies would cover the majority of the rear garden space for each of the proposed dwellings. The design and layout of the proposed development would have main living areas on the ground and first floor facing out onto the rear gardens. Due to the close proximity of the proposed development to the trees I am not persuaded that there would not be pressure

to prune or fell the trees in the future due to unduly gloomy rooms and gardens which would be heavily shaded.

14. I conclude that the proposed development would threaten the protected trees on the site. There is conflict with Policies LP24 and LP33 of the Local Plan, which amongst other things seek to protect valuable or important trees.

### **Other Matters**

15. The appellant has drawn my attention to the previous approval of a planning application at the site; however, no substantive details have been provided to demonstrate that the approved scheme was directly comparable. Notwithstanding this the planning policies for the area have now changed and in any event each development needs to be considered on its individual merits and circumstances against the relevant policies and taking account of other material considerations. I have reached my conclusion based on the individual merits of the appeal proposal.

### **Conclusion**

16. The proposed development would be a modest addition to the local housing supply within an accessible location. The proposed development would also benefit the area by removing an overgrown and unkempt site, however this does not outweigh the harm I have identified in relation to effect on highway safety and protected trees.
17. For the above reasons I conclude that this appeal should be dismissed.

*C Pipe*

INSPECTOR