

Name of meeting: **PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**  
 Date: **3 SEPTEMBER 2015**

Title of report: **LOCAL PLANNING AUTHORITY APPEALS**

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <a href="#">Council's Forward Plan</a> ?	No
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	No
Date signed off by <u>Assistant Director</u> & name  Is it signed off by the Director of Resources?  Is it signed off by the Acting Assistant Director - Legal & Governance?	24 August 2015 Paul Kemp  No financial implications  No legal implications
Cabinet member <a href="#">portfolio</a>	Cllr. S. Hall

Electoral [wards](#) affected: **Holme Valley South;**  
 Ward councillors consulted: **No**

Public or private: **Public**

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1. **Purpose of report**  
For information
  2. **Key points**
    - 2.1 2014/60/90380/W - Outline application for erection of one dwelling at Land Between 48-52, Greenhill Bank Road, New Mill, Holmfirth, HD9 1ER. (Sub-Committee in accordance with officer recommendation)  
(Dismissed)
    - 2.2 2014/60/92102/W - Outline application for erection of detached dwelling adj Lyngham, Cliff Road, Holmfirth, HD9 1UY. (Officer)  
(Dismissed)
  3. **Implications for the Council**  
Not applicable

- 4. Consultees and their opinions**  
**Not applicable**
- 5. Next steps**  
**Not applicable**
- 6. Officer recommendations and reasons**  
**To note**
- 7. Cabinet portfolio holder recommendation**  
**Not applicable**
- 8. Contact officer and relevant papers**  
**Simon Taylor – Head of Development Management**
- 9. Director responsible**  
**Jacqui Gedman**

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# Appeal Decision

Site visit made on 20 May 2015

by **Ian McHugh Dip TP MRTPI**

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

Decision date: 22 July 2015

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**Appeal Ref: APP/Z4718/W/15/3005427**

**Land Between 48 and 52 Greenhill Bank Road, New Mill, Holmfirth, HD9 1ER**

- 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 M Hayes and P Taylor against the decision of Kirklees Council.
  - The application Ref 2014/60/90380/W, dated 3 February 2014, was refused by notice dated 1 August 2014.
  - The development proposed is the erection of one dwelling.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The site is situated within the Green Belt, and therefore the main issues are:
  - Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and Development Plan Policy.
  - The effect of the proposal on the openness of the Green Belt, and on the character and appearance of the area.
  - If found to be 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*

3. The appeal site is an area of steeply sloping land, which is situated between numbers 48 and 52 Greenhill Bank Road. The road links New Mill with the village of Totties. The site is bounded on two sides by existing dwellings and their gardens, with open countryside to the rear and on the opposite side of the road. The western side of Greenhill Bank Road (on which the appeal site is located) is characterised by a ribbon of housing development that generally fronts the road, interspersed with open areas of land. These open areas vary in
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terms of their width and overall size. The opposite side of Greenhill Bank Road is largely open countryside.

4. The site is situated in the Green Belt, where new built development is strictly controlled. In that regard, the Council refers to Policy D13 of the Revised Kirklees Unitary Development Plan (UDP), which permits infill development within existing settlements in the Green Belt, subject to three criteria relating to: the size of the site; the presence of surrounding development; and the effect of any new development on adjoining occupiers, or on the character of the surrounding area.
5. In my opinion, the above policy generally accords with paragraph 89 of the Framework, which states that the construction of new buildings should be regarded as inappropriate within the Green Belt, with the exception of (amongst other things) limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan. The Framework does not define limited infilling and, whilst it refers solely to villages, I see no reason why the principle cannot be applied to other types of settlement within Green Belts.
6. The development proposed is for the erection of one dwelling. All matters, apart from the means of access, are reserved for further approval. I note that the Council has no objection to the proposed access and, whilst some concerns have been raised by local residents in respect of highway safety, I have no reason to disagree with the Council's conclusion.
7. The Council contends that the site does not lie within a settlement or a village and therefore, it conflicts with Policy D13 of the UDP, and with the provisions of the Framework. Consequently, the Council concludes that the proposal is inappropriate development in the Green Belt. The appellants argue that the appeal site either forms part of the settlements of New Mill or Totties, on the grounds that there are no significant breaks in the line of residential development along Greenhill Bank Road, and the proposed dwelling would be viewed as an integral part of the existing ribbon development. I note that the Green Belt boundary is drawn around the main built up area of New Mill, whilst Totties is 'washed over' by the Green Belt.
8. In response to my request for clarification on settlement boundaries, the Council states that for the purposes of the UDP, settlement boundaries are considered to be the Green Belt boundary around them and locations that are washed over by Green Belt are not considered to be settlements. The appellants dispute this approach and argue that the UDP does not specifically define settlement boundaries and they are not shown on the proposals map. Furthermore, the appellants assert that it is illogical for the Council not to regard 'washed over' areas as being settlements, when Policy D13 of the UDP specifically refers to "existing settlements in the Green Belt".
9. Whilst I have considered the argument put forward by the Council, I am not persuaded (based on the evidence provided) that the Green Belt boundary and a settlement boundary can be regarded as the same thing. Even if that were the case, a settlement boundary is not necessarily determinative of the issue. I agree with the appellants that there may be locations where settlements are either wholly or partly washed over within the Green Belt and, in such locations,

development may be acceptable. Furthermore, there may be areas of built development outside defined boundaries that appear as part of a village or settlement and where infill development could be acceptable. In my opinion, it is a matter of planning judgement for the decision maker.

10. The terms 'settlements' or 'villages' are not defined in the UDP or in the Framework and therefore whether or not land or buildings are within a settlement is a subjective decision. Whilst the appellants point to the close physical relationship of the appeal site to both New Mill and Totties, there are distinct open breaks between the start of the ribbon development (of which the appeal site forms part) and the main built up area of New Mill to the north. Likewise, there is also a gap (albeit smaller) of open land between numbers 62 and 80 Greenhill Bank Road which, in my view, marks the northern edge of Totties. These gaps, together with the open countryside to the rear and on the opposite side of the road, provide visual and physical links to the countryside and lead me to conclude that the appeal site is not located within a settlement.
11. For the above reasons, I therefore find that the proposed dwelling would amount to inappropriate development within the Green Belt. Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Openness and Character and Appearance*

12. The appeal site is an area of land that is generally free from any built development. It is relatively wide and makes a positive contribution to the rural character and appearance of the area. Whilst no details of the proposed dwelling have been submitted, I am in no doubt that the erection of a new dwelling, plus the significant engineering works that would be associated with it, would result in a significant reduction in the openness to this part of the Green Belt.
13. The proposal would also have an urbanising impact on the site and would unacceptably consolidate built development in the area as a result of the significant reduction in the gap between the existing buildings. I consider that this would be harmful to the character and appearance of the area. Furthermore, the proposal would be contrary to one of the five purposes of green belts, which is to safeguard the countryside from encroachment. These adverse effects would add to the harm that I have already identified above.

#### *Very Special Circumstances*

14. The appellants' case is founded mainly on their assertions that the site is located within a settlement, and that the proposal would not have an adverse effect on the openness or the character and appearance of the area. I have already dealt with these points above.
15. My attention has also been drawn to the shortage of housing land within the Council's area. However, I have not been provided with any substantive evidence on housing land supply to enable me to assess this matter further. I accept that the development would provide an additional dwelling, but this would not be significant within the context of the Council's strategic housing requirements and, in my opinion, it does not therefore amount to the very

special circumstances that are required to enable me to grant planning permission. In addition, whilst there may be limited social and economic benefits arising from the proposal, it would not accord with the third dimension (environmental role) of sustainable development, as contained in paragraph 7 of the Framework, because of the harm to the Green Belt and to the character and appearance of the area.

### **Other Matters**

16. Concern has been expressed by a neighbouring resident regarding the effect of the proposal on his privacy. Whilst no details of the type or position of the proposed dwelling have been submitted to enable me to make a definitive assessment, I consider that adequate separation distances could be achieved, thereby ensuring that there would be no significant overlooking into neighbouring property.
17. The appellants have drawn my attention to other decisions by the Council and at appeal, where matters relating to the Green Belt; settlement boundaries; and the interpretation of Policy D13 of the UDP have been raised. These include an earlier Council decision to grant outline planning permission for a detached dwelling on land between numbers 961 and 963 New Hey Road, Outlane (reference: 2013/90304), which is located in a different part of the district. I have considered these in reaching my decision. However, it is also a requirement that each proposal should be considered on its own merits.

### **Conclusion**

18. For the reasons given above, it is concluded that the appeal be dismissed.

*Ian McHugh*

INSPECTOR

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## Appeal Decision

Site visit made on 22 May 2015

**by Mrs A Fairclough MA BSc(Hons) LLB(Hons) PGDipLP(Bar) IHBC MRTPI**

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

Decision date: 22 July 2015

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**Appeal Ref: APP/Z4718/W/15/3005384**

**Plot adjacent to Lyngham, Cliff Road, Wooldale, Holmfirth, West Yorkshire HD9 1UY**

- 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 Paul Hollingworth against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref: 2014/60/92192/W, dated 30 June 2014, was refused by notice dated 26 August 2014.
  - The development proposed is described as a single detached dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal was submitted in outline. The planning application form indicates that the matter of access is to be considered with appearance, layout, scale and landscaping reserved for later consideration. I will deal with the appeal on this basis.

### Main Issues

3. The main issues are whether the development would be inappropriate development in the Green Belt having regard to local and national policy and, if it does, whether any 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 proposed.

### Reasons

*Whether the development would be inappropriate development*

4. The appeal site is located within the Green Belt. It comprises a sloping grassed area of land, which rises steeply to the south west. It lies to the side of Lyngham, a modern detached dwelling. That dwelling is positioned to the north east of the appeal site. A row of 3 terraced dwellings, Nos 78a, 78b and 78c are located to the south west. The proposed development is for the erection of a single dwelling. The indicative plans suggest that the proposed dwelling would be positioned between Lyngham and No 78c. It would be set back into the site so that it would approximately align with them and it would be on 2 levels with an integral garage on the lower level

5. The appellant states that the appeal site is located within the settlement of Cliff within a continuous developed frontage. He contends that it is surrounded by development. On that basis Saved Policy D13 of the *Kirklees Unitary Development Plan*<sup>1</sup> (UDP) should apply. UDP Policy D13 allows for infilling within settlements in the Green Belt, provided such development is small scale (not more than two dwellings) and is located within a previously built-up frontage, or largely surrounded by development. In providing criteria for infilling, UDP Policy D13 fulfils the requirement in the Framework to set out policies in a Local Plan and as such it has a significant degree of consistency with the *National Planning Policy Framework* (the Framework).
6. The appeal site is associated with the dwelling known as Lyngham. The Green Belt boundary follows the wall between the appeal site and No 78c Cliff Road and runs along the road frontage of the appeal site. This means that the appeal site and the dwellings to the north east, Lyngham and Old Stones, are within the Green Belt and No 78c and the ribbon of development fronting part of Cliff Road to the south west are situated within the settlement boundary of Holmfirth. Therefore, irrespective of the relationship of the appeal site with nearby residential development/land uses or the fact it would be for a single dwelling, the provisions of UDP Policy D13 cannot apply as the appeal site is outside the settlement boundary of Holmfirth.
7. Paragraph 89 of the Framework states that, with certain exceptions, the erection of new buildings in the Green Belt is inappropriate. One of the specified exceptions relates to the limited infilling in villages.
8. The appellant indicates that the appeal site falls within the original Cliff settlement. Cliff is located on the hillside on the edge of the settlement of Holmfirth. The Council considers that Cliff is a suburb of Holmfirth and is not a village in its own right. This is based on the Council's interpretation of old maps of the area, from the 1950's, which show that the area of Cliff exists. The Council considers that this area appears to be a continuation of development along the roads out of the town of Holmfirth and up the sides of the valley. Furthermore, the Council states that the neighbourhood of Cliff does not possess any services or facilities that are typical of a village. In my view the continuous built form and the lack of general facilities and services, associated with an individual village, support the position that Cliff is part of the bigger settlement of Holmfirth and is a locality/suburb rather than a village in its own right.
9. Consequently, I do not consider that the proposed development is consistent with paragraph 89 of the Framework. Therefore, I conclude the proposed development would be inappropriate development in the Green Belt. This would harm the Green Belt.

*Any other Green Belt harm*

10. I acknowledge that the proposed development would be built into a sloping site and would not interrupt views across/down the valley. However, I consider that the proposed development would have an effect on the openness of the Green Belt, i.e. land not covered by structures, which vertically project and have a mass and form. Thus, it would reduce the openness of the Green Belt,

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<sup>1</sup> Kirklees Unitary Development Plan Written Statement – Revised With Effect From September 2007.



a concept that is not dependant on public visibility but which is an essential characteristic of such designated land<sup>2</sup>. This would harm the Green Belt.

11. I note the appellant refers to residential development of 188 houses which he states is planned for the land opposite the appeal site and he considers such development would create more harm to openness than the appeal scheme. This land is defined as Provisional Open Land (POL) in the UDP. However, although the POL is identified within the Strategic Housing Land Allocation Assessment dated 2013, planning permission for residential development has not been sought for this site (Ref site 480) and in any case the land is not within the Green Belt. Therefore, it cannot be compared to the appeal scheme.

*Other considerations*

12. The appellant accepts that the appeal site is in the Green Belt but has referred to "discrepancies in the drawing up of the Green Belt in 1980" and he has alluded to other sites that are located further from key buildings in the locality when compared to the appeal site but are within the settlement boundary in contrast to the appeal site. He contends that the Green Belt boundary was drawn using aerial maps and that the land contours and topography were not taken into account. He suggests that the boundary should have been drawn along the Old Wooldale Cliff Road to allow for further development on Cliff Road. However, the Council have not referred to any discrepancies. To my mind the Green Belt boundary clearly follows 2 sides of a defined boundary, a stone wall, which surrounds the appeal site. I believe the Green Belt boundary, is not a discrepancy. Such boundaries are established and have been drawn with a view to their long-term permanence and are to prevent the further encroachment of built up areas into the open countryside.
13. The appellant refers to other development proposals in the Cliff locality including No 2 Cliff Road (2014/60/93621/W). However, I am not aware of the full background of this scheme. From the information provided this scheme is undetermined. It is located within the settlement boundary and as such can be distinguished from the appeal before me. The other developments relate to proposals along Cliff Road (Refs: 2014/62/91955/W and 2014/60/93816/W). The appellant refers to these schemes as indicative of demand for new housing in the locality and these developments could provide housing on land unusable for agricultural purposes. Although I understand one of these schemes is located within the Green Belt and has been refused, I am unaware of the background of the other case. In any case, I am required to determine each appeal on its merits in the light of current policy. I have done so in this case.
14. The appellant states that the Highway Authority has not objected to the means of access with regard to the proposed scheme. I acknowledge that there is adequate visibility and entering and exiting in the forward gear would be possible. I also note that proposed development is not considered detrimental in terms of ecology. However, these are general planning considerations and absence of harm would be neutral.
15. I note the references that the dwelling would be constructed in complementary materials, typical of the locality, and it would not be dominant or overbearing.

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<sup>2</sup> Paragraph 78 of the Framework indicates that the fundamental aim of Green Belt policy is to prevent sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence

However, the appeal is in outline and the matters referred to above will be determined at the reserved matters stage.

16. I also note that the appellant states that it would provide employment for local builder/tradesmen. However, although the construction of the dwelling would bring economic benefits in terms of investment in the local economy as well as employment, no detailed assessment of the extent of these benefits is before me. However, to my mind the construction of a single dwelling would only generate limited benefits over a relatively short period of time.
17. The appellant maintains that the Council cannot demonstrate a five-year supply of deliverable housing and refers to a newspaper article<sup>3</sup> and the SHLAA. There is no dispute amongst the parties that the Council cannot demonstrate a sufficient supply of deliverable housing land. The appellant considers that this significant shortfall should weigh heavily in the planning balance. However, Planning Practice Guidance states that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt. I also note in this respect, that whilst the provision of some houses would clearly assist towards the supply in the Council area, the provision of a single dwelling would have a limited positive effect on this housing supply. In coming to this conclusion, I note the appellant's reference to other proposed residential developments<sup>4</sup> that if taken together could make a positive contribution to housing supply. However, I am not aware of the background of these schemes and I am only required to deal with the appeal before me. Therefore, the argument that the proposed scheme would provide one additional dwelling carries limited weight.
18. Concerns have been raised by interested parties. The occupier of No 78c has referred to the detrimental effect of the proposed development on his living conditions due to proximity, outlook, privacy and overshadowing. I note the neighbour's concerns but the points raised are not for consideration at this stage. The plans are indicative only and fuller details in terms of scale and layout would be determined at the reserved matters stage. The submission by Mr Garner includes references to UDP Policy D13 and the Framework which is relevant to the appeal. However, it raises no new points in that respect. The reference to a 2 or 3 storey houses with a pitched roof is something that would be considered at the reserved matters stage if I was minded to allow the appeal. Therefore, I consider these arguments carry limited weight.

## Conclusions

19. According to Government advice, given in the Framework, very special circumstances to justify inappropriate development in the Green Belt will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
20. The proposal would amount to inappropriate development and it would encroach on the openness of the Green Belt, one of its essential characteristics. The Framework makes it clear that any harm to the openness of the Green Belt should be given substantial weight. For the appeal to succeed, the combined weight of other considerations must clearly outweigh the totality of the harm

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<sup>3</sup> Huddersfield Examiner dated Tuesday 11 November 2014.

<sup>4</sup> 2014/60/92102/W, 2014/62/91955/W and 2014/60/93816/W.

arising. Although there are economic benefits associated with the construction of the proposed development and it would contribute to meeting housing need, those considerations do not clearly outweigh the harm that I have identified. As such the very special circumstances, as required by paragraph 88 of the Framework, necessary to justify inappropriate development in the Green Belt do not exist in this case. For the reasons given above the appeal should be dismissed.

*Mrs A Fairclough*

INSPECTOR