



Appeal Decision

Site visit made on 26 June 2018

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2018

Appeal Ref: APP/Z4718/D/18/3201942

5 Reinwood Avenue, Quarmby, Huddersfield HD3 4DP

- 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 K Singh against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/90274/W, dated 25 January 2018, was refused by notice dated 21 March 2018.
 - The development proposed is described as: 'Erection of single and two storey rear extension (modified proposal)'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At the time of my site visit, a part two storey, part single storey rear extension was under construction. However, the works which I observed on site appeared to differ from those shown on the appeal drawings in a number of respects. Notwithstanding any works that have taken place on site, I consider the appeal proposal on the basis of the details before me.

Main Issue

3. The main issues are the effects of the proposed development on:
 - the character and appearance of the appeal site and its surroundings; and
 - the living conditions of neighbouring occupants, in particular those of 3 Reinwood Avenue and 7 Reinwood Avenue, with regard to privacy, noise and disturbance.

Reasons

Character and appearance

4. It is not clear from the drawings before me whether the panels to either side of the proposed balcony, on top of the two storey part of the extension, would be constructed in masonry, opaque glazing, or a combination of the two. However, in any event, it is nonetheless evident that these vertical panels would project some way above the eaves line of the host property and its adjoining neighbour, and would have an overall height greater than the ridge level of the

appeal property's existing two storey rear extension. Designed in this way, the proposed extension would therefore appear as an unduly prominent and discordant addition, which would add a significant degree of additional massing at roof level, would not respect the scale and detailing of the host property, and would sit uncomfortably alongside the original building and existing, subservient, rear extension.

5. Although the extension would be to the rear of the property, I observed that it would nonetheless clearly visible from public vantage points around the site, including through the wide gaps between buildings further along Reinwood Avenue and on Reinwood Road. From these viewpoints, the significant scale of the proposed development would be clearly evident and would sit in stark contrast to the lower eaves and hipped roofs of the adjoining property and other similar semi-detached houses to either side of the appeal site.
6. The proposal would therefore have a significant adverse effect on the character and appearance of the appeal site and its surroundings, in conflict with Policies D2 (vi and vii), BE1 (i and ii) and BE2 (i) of the Kirklees Unitary Development Plan (the UDP). Amongst other things, these require that new development is visually attractive, and does not prejudice visual amenity or the character of the surroundings. The proposal would also conflict with core planning principles and policies in the National Planning Policy Framework (the Framework), which require high quality design and that developments respond to local character and reflect the identity of local surroundings.
7. In reaching my conclusion I have also had regard to emerging Policy PLP24 (a and c) of the Kirklees Publication Draft Local Plan (the PDL), the aims of which are similar to those of the UDP policies referred to above, in requiring developments to respect the character of the townscape and be in keeping with existing buildings.

Living conditions

8. Whilst the intended materials of the panels to either side of the balcony are unclear, I am satisfied that, subject to their further details, and to any glazing being of a high degree of opaqueness, the principle of such screens would be sufficient to prevent direct overlooking to either side of the proposed balcony. Therefore, and as a result of their height and their position in relation to the neighbouring houses to either side, these panels would prevent direct overlooking of the rear windows of No 3 and No 7, and of the patio areas immediately to the rear of both of these neighbouring properties.
9. Some views of the rear garden of No 3 would be possible from the proposed balcony. However, due to the high panels to the sides of the balcony, any such views would be limited to the rear part of this neighbouring garden, and would be oblique, rather than direct. Therefore, the proposed balcony would not overlook this neighbouring garden to a significantly greater degree than the first floor windows of the existing property do at present.
10. The rear garden of No 7 is further away, and would be screened by a large outbuilding to the rear of No 7, which extends for some distance alongside the boundary with the appeal site. Therefore, the proposal would not result in a significant increase in the degree of overlooking No 7 or its rear garden.

11. Given the degree of separation between the balcony and other nearby properties, and as there are no houses directly to the rear of the site, the proposed development would not result in a significant increase in overlooking of other nearby houses or their gardens.
12. Whilst it appears that the proposed balcony could accommodate some external seating, its capacity in this respect would be restricted by its limited size. The balcony would not be appreciably closer to the rear windows of No 3 than the appeal site's rear garden, which could be used for outdoor seating close to the boundary with No 3 at present, and which could accommodate larger numbers of people than the balcony. I have no substantive evidence to suggest that the elevated position of the balcony would necessarily lead to greater noise levels arising from the use of this area compared to the existing rear garden area. On the basis of the information before me, I therefore consider that the proposal would not result in a significant increase in the levels of noise and disturbance experienced by the occupants of No 3.
13. For similar reasons, and given the greater separation distance between the proposed balcony and other neighbouring properties, including No 7, the proposal would not result in a significant increase in the levels of noise and disturbance experienced by other neighbouring residents.
14. For the reasons above, the proposed development would not have a significant adverse effect on the living conditions of neighbouring occupants, in particular those of 3 Reinwood Avenue and 7 Reinwood Avenue, with regard to privacy, noise and disturbance. The proposal would therefore not conflict with Policy D2 (v) of the UDP, which requires that development proposals do not prejudice residential amenity, nor would it conflict with the policies and core planning principles of the Framework, which seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
15. In reaching my decision I have also had regard to emerging Policy PLP24 (b) of the PDLP, which has similar aims to those in the UDP policies referred to above, in requiring a high standard of amenity for future and neighbouring occupiers.

Other matters

16. I note that permission has been recently granted for a single and two storey rear extension to the appeal property. However, from the details before me, it appears that the two storey part of the approved extension would maintain a consistent eaves line with the original dwelling, and would have a shallow, hipped roof. Having had due regard to the previously-approved proposal, I am therefore satisfied that the current proposal, which incorporates a flat-roof and balcony above the two storey part of the extension, is materially different. I have considered the specific proposal before me on its planning merits.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR



Appeal Decision

Site visit made on 20 June 2018

by W Johnson BA (Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2018

Appeal Ref: APP/Z4718/D/18/3198893

4 Springwood Hall Gardens, Springwood, Huddersfield HD1 4HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J S Randhawa against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/93944/W, dated 17 November 2017, was refused by notice dated 4 January 2018.
 - The development proposed is formation of new boundary wall.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is described as 'retrospective', but that is not a term recognised for the purposes of the definition of development. At the time of my site visit, I saw that erection of the boundary wall as proposed in the application was substantially complete, and I also had the benefit of seeing the scheme in place. I have dealt with the appeal on that basis.

Main Issue

3. The main issue in this appeal is the effect on the character and appearance of the appeal dwelling and its surrounding area.

Reasons

4. Springwood Hall Gardens is a residential cul-de-sac. Most of the front boundaries to the dwellings are marked by relatively low brick walls with planting behind them. These are generally incidental in scale and form to their host dwellings, and this gives the street a pleasant, soft-landscaped and open character.
5. The appeal property is located on a prominent corner plot and the appeal scheme runs for a considerable length and at a significant height along both the front and side boundaries of the property. Notwithstanding the consistent height of the wall, ground levels generally fall away from Greenhead Road, and this means that the wall on the return elevation, in the direction of 89 Springwood Hall Gardens, appears even more prominent within the street-scene than comparable sections of the front elevation.

6. In the context of this immediate setting the height, length and prominence of the wall, in particular to the side of the host dwelling, mean the scheme forms a large, obtrusive and incongruous feature in the street scene which is at odds with the prevailing character. Whilst the wall displays similar brickwork to the host property this does not offset the wider visual harm otherwise arising in terms of its scale and prominence.
7. The appellant has made reference to the variety of boundary treatments in the locality, including the close boarded timber fencing present at 83 Springwood Hall Gardens, but those works, by reason of their scale and form, are materially different in their visual impact and do not justify the further contrasting scheme now proposed.
8. In his representations the appellant has also made reference to installing hedging 3m in height. No additional details have been provided regarding this alternative scheme, but I consider that hedging would result in a softer visual effect on the street scene, than the brick wall in the case before me. Additionally, as there is little to indicate a reasonable prospect of such planting taking place, little weight can be given to this matter. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
9. The Council has referred to policies contained within the emerging Kirklees Local Plan which although is in the process of examination, it has yet to be adopted by the Council. Furthermore, I have no knowledge of the extent of any unresolved objections relating to the policies identified. Consequently, the weight that I can attach to the policies contained within the emerging plan is limited and the statutory development plan for the purposes of the determination of this appeal remains as the Kirklees Unitary Development Plan (2007).
10. For all of these reasons the scheme has a significant harmful effect upon the character and appearance of the appeal dwelling and the surrounding area, and therefore conflicts with Policy D2 (vi & vii) of the Kirklees Unitary Development Plan (Revised) 2007, which, amongst other things, requires proposals not to prejudice visual amenity, and the character of the surroundings, and with Policy BE1(i & ii), which requires development to create or retain a sense of local identity and is visually attractive, and with Policy BE2 (i), which requires development to be in keeping with surrounding development.
11. The scheme also fails to accord with a core planning principle of the National Planning Policy Framework, which seeks to secure high quality design (Chapter 7 – Requiring good design).

Conclusion

12. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

Wayne Johnson

INSPECTOR



Appeal Decision

Site visit made on 26 June 2018

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2018

Appeal Ref: APP/Z4718/Z/18/3200849

476/480 Manchester Road, Huddersfield HD4 5BP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Insite Poster Properties Ltd against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/64/94267/W, dated 7 December 2017, was refused by notice dated 22 February 2018.
 - The advertisement proposed is described as: 'Replacement of 3no. existing advertising displays (1x96-sheet and 2x48-sheet) with 2no. digital LED advertising displays'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The site address in the banner heading is taken from the application form. Whilst this differs from the address on the Council's decision notice, there does not appear to be any disagreement between the parties as to the land to which the proposal relates, which is clearly evident from the drawings before me.

Main Issue

3. The main issue is the effect of the advertisements on the amenity of the appeal site and its surroundings.

Reasons

4. The proposed signs would occupy a prominent position on the Manchester Road frontage. The site is just outside the town of Milnsbridge, and development along this stretch of Manchester Road is somewhat sporadic and dispersed, in contrast to the more continuously built-up frontages within this nearby settlement.
5. The presence of advertisements on the site is well-established, and large, non-illuminated poster displays expand for some width along the site frontage at present. Although the proposed LED display panels themselves would be similar in height to the existing poster panels, they would be set in thicker frames, and would be mounted at a higher level than the existing panels, to minimise the risk of vandalism. Therefore, whilst the proposed LED panels would be less wide than the existing poster displays, they would be significantly

- higher than these existing advertisements, and than the low buildings which sit adjacent to and behind the site.
6. Whilst there are some industrial and commercial buildings in the vicinity, these are relatively small in scale, dispersed in nature, and interspersed with residential buildings and wide expanses of tree planting along Manchester Road. Where signage exists to nearby premises, it is limited in size, proportionate in scale to the buildings it relates to and, in the main, is not illuminated.
 7. In this context, as a result of their size, their elevated position, and their fully illuminated design, the proposed signs would appear as discordant, disproportionate and unduly dominant features, which would have a significant exposure in the wider street scene when approaching the site along Manchester Road. This would be evident during the day, but particularly in the evening and at night, when the levels of illumination emanating from the small, sporadic groups of buildings, and intermittent street lights, along this stretch of Manchester Road are likely to be limited.
 8. The appellant has suggested that the signs could be switched off between the hours of midnight and 6am. However, the signs would still be illuminated for considerable periods when ambient light levels are lower, particularly in the winter. Although conditions could be attached to limit the degree of illumination, and the frequency and length of transitions between advertisements, these would not address the harm I have identified, which arises as a result of their height and illuminated design.
 9. The site is quite close to the boundary of Milnsbridge Conservation Area (MCA), which encompasses numerous mills and groups of residential buildings which grew up alongside the nearby river. The proposed signs would be evident from an identified 'gateway' to the MCA, at the junction of Manchester Road and Park Road West. However, they would be situated some way from the Conservation Area boundary and would only be visible in a very limited range of views from within the MCA itself. Therefore, the proposed signs would not harm the character and significance of the wider MCA as a whole.
 10. However, for the reasons given above, the signs would have an appreciably detrimental effect on the amenity of the appeal site and its wider surroundings, in conflict with paragraph 67 of the National Planning Policy Framework. The advertisements would also conflict with Policy BE2 (i) of the Kirklees Unitary Development Plan (the UDP), which requires that new development should be designed so that it is in keeping with any surrounding development in respect of design and scale. I have regard to this policy, as a further material consideration.
 11. In reaching my conclusion I have also had regard to emerging Policy PLP 25 (1.b.) of the Publication Draft Local Plan, which refers specifically to proposals for advertisements, and which has similar aims to those of the UDP policy referred to above, in requiring such developments to respect the character of the locality.
 12. The proposed signs would represent an investment in the site as part of a wider shift towards digital media, would allow greater flexibility in the use of the displays and would require fewer maintenance visits than the existing poster signs. I note the energy saving and sustainability benefits cited by the

appellant with regard to the use of LED display panels, and that no concerns have been raised by the Council with regard to the effects of the signs on the amenity of nearby residents, on biodiversity, or on public safety. However, these matters do not outweigh the significant harm to amenity that I have identified.

Conclusion

13. For the reasons above, and having regard to all other matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR



Appeal Decisions

Site visit made on 2 July 2018

by **Sarah Colebourne MA, MRTPI**

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

Decision date: 18 July 2018

Appeal A Ref: APP/Z4718/Y/18/3192901

New Closes Farm Cottage, Wickens Lane, Uppershong, Holmfirth, HD9 3RB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Lincoln Properties against Kirklees Metropolitan Council.
 - The application Ref 2017/93297, is dated 13 October 2017.
 - The works proposed are described as 'construction of a single storey rear extension on footprint of masonry dog pens previously demolished'.
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Appeal B Ref: APP/Z4718/W/18/3192899

New Closes Farm Cottage, Wickens Lane, Uppershong, Holmfirth, HD9 3RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Lincoln Properties against Kirklees Metropolitan Council.
 - The application Ref 2017/93293, is dated 13 October 2017.
 - The development proposed is described as 'construction of a single storey rear extension on footprint of masonry dog pens previously demolished'.
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Appeal C Ref: APP/Z4718/W/18/3192915

New Closes Farm Cottage, Wickens Lane, Uppershong, Holmfirth, HD9 3RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Lincoln Properties Limited against Kirklees Metropolitan Council.
 - The application Ref 2017/93721, is dated 11 October 2017.
 - The development proposed is described as a 'retrospect application for the careful sectional hand demolition of existing stone barn and reconstruction with existing materials'.
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Decisions

1. Appeal A: The appeal is dismissed and listed building consent is refused for the construction of a single storey rear extension on the footprint of masonry dog pens previously demolished and the demolition and reconstruction of a stone barn.
2. Appeal B: The appeal is dismissed and planning permission is refused for the construction of a single storey rear extension on the footprint of masonry dog pens previously demolished.

3. Appeal C: The appeal is dismissed and planning permission is refused for the demolition of an existing stone barn and reconstruction with existing materials.

Preliminary matters

4. I have noted that the Council in its statement for Appeal A accepts that the demolition of the dog pens already has consent. However, it is clear from the submitted plans and documents that the proposals in Appeal A in addition to the proposed extension also include the demolition of a stone barn and the erection of a new barn. To avoid confusion with the converted barns at the site, I have referred to this in my reasoning below as a replacement outbuilding. I saw at my visit that all works except the extension have already been carried out. I have therefore determined the appeals on this basis.
5. I have noted that the Council's emerging Local Plan has been examined and reached an advanced stage but it has not yet been formally adopted by the Council. Whilst I have had regard to the policies referred to, as far as these appeals are concerned, the emerging policies do not advance a significant change from the adopted policies and I have therefore dealt with the appeal on the basis of the latter where relevant.

Main Issues

6. The main issues in these linked cases are:-
 - the effect of the proposals on the special architectural and historic interest and the setting of the listed building at New Close Farmhouse;
 - whether the replacement outbuilding would amount to inappropriate development in the Green Belt; its effect on the openness of the Green Belt and its purposes; and if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, including the effect on the listed building, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development;
 - the effect of the replacement outbuilding on the living conditions of neighbouring occupiers in terms of noise and odour.

Reasons

Listed building

7. In considering proposals for planning permission, the duty imposed by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 132 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. The paragraph goes on to say that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. In the case of substantial harm or total loss of a heritage asset, paragraph 133 says that consent should be refused unless substantial public benefits outweigh the loss or other criteria apply, including the absence of a viable use or grant funding. Paragraph 134 requires that

where the harm is less than substantial, it should be weighed against the public benefits of the proposal.

Extension

8. The proposed extension in Appeals A & B would be sited at the rear of one end of a recently renovated barn conversion. It forms part of a small complex of three properties and outbuildings associated with New Close Farmhouse, a grade II listed building from the early to mid C19th with earlier origins. The buildings are surrounded by open countryside and accessed via long track. The converted barn retains its linear form and simple agricultural character with a limited number of openings. Its form and character contribute strongly to its significance and to that of the principal listed building.
9. The proposed extension, at some 5.9m wide and some 5.4m long, would severely disrupt the linear plan form of the building and its size would be disproportionate. It would have a dual pitch roof whose form and shallow pitch would result in an uncompromisingly modern, domestic appearance. Although the proposed mullioned windows are traditional in design and similar to those in the adjacent cottages, their width and uniformity would contrast with the narrow, irregularly spaced windows in the barn's existing rear elevation. Despite the use of traditional materials, it would therefore fail to preserve or enhance the significance of the building and the setting of the adjacent building. The lack of visibility from surrounding areas does not diminish the harm that would be caused to the character of the building.
10. I have noted that the proposal would sit on the footprint of the demolished dog kennels and was discussed with the Council's previous Conservation Officer but that does not provide justification for the harm that would be caused and no public benefits have been suggested that would outweigh the identified harm as required in paragraph 134 of the Framework. It would therefore conflict with national policy in the Framework.

Outbuilding

11. The demolition and rebuilding of the outbuilding in Appeals A and C has already been carried out. Whilst it is difficult to fully assess its significance due to its demolition, the Council's photograph shows a traditional stone outbuilding with openings in its rear and side elevations. On this basis, its significance appears to lie in its former ancillary use and relationship to the principal listed building and the farm group as a whole, in addition to its utilitarian, agricultural character. Demolition has clearly resulted in substantial harm to its significance because the historical integrity has been weakened and the architectural and historic character lost.
12. The appellant has said that demolition was required due to its failing structural integrity and that liaison with the Council's Conservation and Design team took place. However, I have no evidence before me to substantiate the claim of structural failure and the Council has said that it was informed by the agent that no structural survey had been undertaken.
13. No further evidence has been submitted to demonstrate that there would be any substantial public benefits arising from the demolition of the outbuilding, that demolition was necessary for the continued viability of the property or that

alternative solutions or grant funding were sought as required in paragraph 133 of the Framework.

14. Whilst there are some differences between the previous and the new outbuilding, the Council has raised no objection to the size, scale and external materials of the new building and I would agree that its external appearance is acceptable. I disagree however with the Council that the modern materials used internally to form its structure of a concrete blockwork inner skin, a concrete floor and rolled steel joists have caused harm as these are internal and are commonly accepted in the construction of modern outbuildings in the setting of other listed buildings.
15. Nonetheless, for the reasons given earlier, I conclude that by reason of the demolition of the original outbuilding the works have resulted in substantial harm to the significance of the outbuilding and to the setting of the principal listed building. There are no public benefits or other justification that would outweigh the identified harm as required in paragraph 133 of the Framework. The proposal therefore conflicts with national policy in the Framework.

Green Belt

Outbuilding

16. The appeal site lies 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 which include buildings for agriculture and forestry and the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
17. The Council accepts that the original building was used as a piggery associated with New Close Farm and the surrounding fields. The application form states that the replacement building is for agricultural use. It would be used as an occasional livestock shelter at ground floor level and for continued storage of agricultural machinery and animal feed at first floor level. However, the appeal form shows that none of the land to which the appeal relates is, or is part of, an agricultural holding and the site plan does not include the surrounding fields. There is insufficient evidence therefore that the building is connected to demonstrable agricultural activity.
18. On this basis, the proposal does not represent any of the exceptions to Green Belt policy and would therefore amount to inappropriate development contrary 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.
19. 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. I agree with the Council that given the similarities between the size and location of the new building and the original building, it has a neutral effect on the openness of the Green Belt and its purposes.
20. The government attaches great importance to the Green Belt and it is important that decisions are made with consistency. As I have already found that there is insufficient evidence of structural failure in this case, I am not

persuaded that there are any considerations that when taken together would amount to the very special circumstances necessary to justify the harm that has been caused to the Green Belt and to the listed building. The proposal would conflict with the Framework.

Living conditions

Outbuilding

21. The Council's concerns relate to noise and odour from the keeping of livestock in the replacement outbuilding and the storage of animal waste externally. The building is sited in close proximity to the former farmhouse and has window and door openings in the nearest elevations. However, given the small size of the building, the previous building's use as a piggery and the proximity of the surrounding countryside I am not persuaded that the impacts would be unacceptable in this context. The proposal therefore accords with UDP policy BE1 which seeks to promote a healthy environment and in this respect accords with the Framework.

Conclusion

22. I conclude that for the reasons given earlier, the proposed extension would fail to preserve or enhance the significance and setting of the listed building. Notwithstanding my findings in regard to living conditions, I conclude that the demolition of the original outbuilding has also failed to preserve or enhance the significance of the listed building and the new outbuilding has caused significant harm in terms of the Green Belt. The proposals would conflict with national policy in the Framework as a whole and there are no other material considerations that warrant determining the appeals otherwise. All the appeals should be dismissed.

Sarah Colebourne

Inspector



Appeal Decision

Site visit made on 19 June 2018

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2018

Appeal Ref: APP/Z4718/W/18/3199914

10 Cherry Tree Walk, Scholes, Holmfirth, West Yorkshire HD9 1XG

- 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 Simon Hough against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/93341/W, dated 22 September 2017, was refused by notice dated 8 January 2018.
 - The development proposed is re-use and adaptation of existing garage building to form dwelling with associated access and curtilage areas.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's decision was based on drawings which were revised during the course of the application. The Council has confirmed that the revised drawings were the subject of further publicity and consultation. I am therefore satisfied that all parties who may have wished to comment have had the opportunity to do so, and would not be prejudiced by my dealing with the appeal on the basis of those drawings, consistent with the Council's own consideration.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the appeal site and its surroundings.

Reasons

4. The appeal building is located within the grounds of 10 Cherry Tree Walk, a stone house which is part of the traditional development at the centre of Scholes village, but which sits at the entrance to a more modern residential estate beyond. The existing garage is a more recent addition to the site, but nonetheless sits comfortably as a subservient outbuilding within the setting of the older buildings nearby, as a result of its relatively modest size and its simple design.
5. Whilst a small increase in the height of the building is proposed, this would be relatively minor, and the proposed dwelling would remain subservient in height to the main building at No 10. Although the building is close to the road frontage, this limited increase in height would not significantly increase its

presence in the street scene compared with that of the existing garage in this position. The building would have an almost blank end elevation. However, this elevation contains no active windows or detailing other than a large, solid garage door at present. The relatively minor increase in height would not significantly increase the expanse of this blank elevation. Therefore, subject to the provision of an appropriate boundary treatment and soft landscaping to the front of this area as proposed, this element of the development would not cause harm to the character and appearance of the street scene or the wider area.

6. The roof slope where the dormers are proposed faces an area of open land which contains a number of mature trees. However, due to the layout of Cherry Tree Walk beyond the site, and the presence of an access drive between the appeal building and this open land, this elevation of the appeal building is clearly evident from views further along Cherry Tree Walk towards the older, more traditional buildings on the appeal site and Paris Road beyond.
7. The new ground floor windows which would be inserted into the elevation facing this open land, whilst relatively small, would reflect the detailing of other existing windows on the appeal building and others nearby. However, whilst the proposed dormers would have pitched roofs and would be separated from one another to some degree, they would nonetheless dominate the roof of this relatively small building, and would appear incongruous in the context of its simple, understated design.
8. Notwithstanding the presence of more modern properties opposite the site, dormer windows are not a characteristic feature of the houses along this initial stretch of Cherry Tree Walk, which leads from the historic village centre into the newer housing estate beyond. In this context, against the backdrop of the more historic development within the site and beyond, the proposed dormers would appear as discordant features which would not reflect the positive characteristics of No 10 or other nearby development, and would detract significantly from the character and appearance of the appeal building and its wider surroundings.
9. Whilst I noted the presence of other dormers in the vicinity of the site, I observed that these are within the newer estate, further beyond the site, and are viewed in the context of other more modern buildings of a similar age and character in their immediate surroundings. As such, their context and circumstances are not directly comparable to the appeal site, and the presence of such features does not dissuade me from my conclusions regarding the particular harm which would arise as a result of the proposal before me.
10. For the reasons above, and notwithstanding the proposed use of matching materials, the proposed development would have a significant adverse effect on the character and appearance of the appeal site and its surroundings. It would therefore conflict with Policies D2 (vi and vii), BE1 (i and ii) and BE2 (i) of the Kirklees Unitary Development Plan which, amongst other things, require that new development is in keeping with surrounding development, retains a sense of local identity, and does not prejudice visual amenity or the character of the surroundings.
11. The proposal would also conflict with core planning principles and policies in the National Planning Policy Framework, which requires high quality design and

that developments respond to local character and reflect the identity of local surroundings.

12. In reaching my conclusion I have also had regard to emerging policy PLP24 (a) of the Kirklees Publication Draft Local Plan, the aims of which are similar to those of the UDP policies referred to above, in requiring developments to promote good design and respect the character of the townscape.

Other Matters

13. The Council is unable to demonstrate a 5-year housing land supply and paragraph 14 of the Framework is thereby engaged. Whilst the site is in an existing residential area, close to local services, and the scheme would assist to address the current housing shortfall, the proposed contribution of one dwelling would be relatively modest. Accordingly, I find the adverse impacts of the scheme as identified would still significantly and demonstrably outweigh the benefits, and that the proposal would not therefore constitute sustainable development.
14. The appellant has referred to the possibility of additional details being added to the gable facing Cherry Tree Walk. However, no such proposal is before me and, in any event, such measures would not overcome the harm which I have identified, which arises as a result of the proposed dormers as described above.
15. I have been referred to a previous appeal decision for the re-use and adaptation of the existing garage to form a dwelling. However, the previous appeal related to a larger proposal, including a greater increase in height to create a second storey to the building. The current proposal relates to a smaller increase in height, and to the installation of dormers into the building's roof. Having had due regard to the previous appeal decision, I am therefore satisfied that the current proposal is materially different for these reasons.
16. I note the appellant's reference to matters relating to the Council's handling of the application and to the planning committee meeting, and that the application was supported by the Parish Council and a local Councillor. However, such matters do not alter my findings on the appeal, which I have considered on its planning merits.
17. I note that the Council has not raised concerns regarding the effects of the proposals on the living conditions of neighbouring residents or on parking provision. I have had regard to these issues and to other matters which have been raised by interested parties. However, as I find the development to be unacceptable for other reasons, these matters do not alter my conclusions above.

Conclusion

18. For the reasons given above, and having regard to all matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR



Appeal Decision

Site visit made on 26 June 2018

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

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

Decision date: 16 July 2018

Appeal Ref: APP/Z4718/W/18/3197747

12 Clough Head Farm, Clough Head, Slaithwaite Gate, Bolster Moor, Huddersfield HD7 4NW

- 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 M. Coates against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/91966/W, dated 5 June 2017, was refused by notice dated 7 February 2018.
 - The development proposed is alterations and extensions to agricultural building to form a dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I am advised by the Council that the Kirklees Publication Draft Local Plan (PDLP) was submitted to the Secretary of State for Examination in April 2017. In line with paragraph 216 of the National Planning Policy Framework (the Framework), as the Plan is now at an advanced stage of preparation, I attribute significant weight to its policies in the determination of this appeal.

Main Issues

3. The main issues in this case are:
 - whether the proposed development is inappropriate development in the Green Belt for the purposes of the Framework and development plan policy;
 - the effect of the development on the openness of the Green Belt and the character and appearance of the area;
 - whether the proposed development would provide satisfactory living conditions for future residents with particular regard to outlook, noise and odour;
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

4. The appeal property forms an agricultural building located off Slaithwaite Gate near Golcar. The building has two floors and is constructed with lower blockwork walls, upper timber cladding and grey roof sheeting. The site sits lower than surrounding land to the north and to the south the land slopes down to Slaithwaite Gate. Another timber agricultural barn lies immediately to the south of the appeal building and is in the same ownership. The appeal proposes the conversion of the building to form a two storey dwelling. The site is located within the Green Belt.

Inappropriate development

5. Paragraph 90 of the Framework provides that the re use of buildings in the Green Belt is not inappropriate development provided the buildings are permanent and of substantial construction, that they preserve the openness of the Green Belt and do not conflict with the purposes on including land in the Green Belt.
6. There is no dispute that the building the subject of this appeal is permanent. The concern raised by the Council is whether the building is of substantial construction and capable of conversion without rebuilding.
7. The Design and Access Statement accompanying the original planning application included a structural report assessing the buildings structural soundness and including a conversion methodology. It is proposed that the existing timber frame, timber floor beams, brickwork pillars, concrete blockwork walls, timber roof trusses and timber wall cladding would remain. The roof would be replaced and the external walls would be boarded over with new timber board. A new lining wall would be constructed to create a cavity wall.
8. I have no substantive evidence before me to demonstrate that the existing structure is sufficiently robust to take the increased loading of additional boarding to the external walls and new wall lining. Furthermore it is proposed to raise the first floor level. Again I have no evidence that the building is structurally sound to accommodate such an alteration.
9. Whilst I observed on my site visit that the building appears to be in reasonable condition, without a detailed and thorough structural report, I am not satisfied that the building is of substantial construction and capable of conversion as proposed.
10. The appeal scheme therefore fails to comply with paragraph 90 of the Framework and conflicts with draft Policy PLP60 (a) of the PDLP. It therefore forms inappropriate development in the Green Belt.

Openness

11. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework is to keep land permanently open; the essential characteristic of Green Belts is their openness and permanence. The appeal scheme proposes that the dwelling would be shorter in length than the existing building requiring the construction of a new south west gable wall. A veranda amenity space would be provided with a small overhanging roof feature.

12. As the overall footprint of the proposed dwelling would be similar to that of the existing building, I consider that the proposal would have a neutral impact on the openness of the Green Belt. The appeal scheme would therefore not undermine the Green Belt purposes in particular the safeguarding of the countryside from encroachment.

Living conditions

13. The appeal building lies approximately 10 metres from another timber agricultural building on its southern boundary. The proposed south east elevation of the dwelling would contain a number of window and patio door openings which would look onto this adjacent building.
14. Saved Policy BE12 of the Kirklees Unitary Development Plan (UDP) requires a separation distance of 12 metres between habitable room windows and a blank wall in an adjoining building in order to maintain outlook and privacy. The appeal scheme would not provide the required separation distance and would therefore result in a poor outlook for future occupiers. The policy permits a lesser distance if it can be shown that through screening, changes in level or innovative design, such impacts would not be detrimental to the amenity of neighbouring occupiers. In this case there are no such mitigating factors.
15. The neighbouring barn appears to still be in agricultural use and therefore there would also be potential issues of noise and odour nuisance. The appeal scheme as proposed would therefore not provide satisfactory living conditions for future residential occupiers. The proposal would conflict with saved Policy BE2 of the UDP and draft policy PLP24 of the PDL which seek to achieve good design and a high standard of amenity. It would also be contrary to paragraph 17 of the Framework which aims to secure a good standard of amenity for all existing and future occupiers of land and buildings.
16. I am advised that the neighbouring agricultural building is in the ownership of the appellant. I note that at the time of the original planning application, the Council had been informed that the agricultural building was to remain. However the appellant has stated in his appeal submission that this building could be removed. This would overcome any harm to the living conditions of future occupants. However the scheme before me retains this building and therefore I must determine the appeal on that basis.

Other considerations

17. In support of the proposal the appellant has argued that the proposed dwelling would be sited in an accessible location with public transport available from Golcar. Furthermore adequate car parking and turning facilities would be provided and appropriate foul and surface water drainage would be installed. The conversion scheme would require minimal alterations to the fabric of the existing building and there would be no impact on the environment of the local area. Whilst these factors lend support to the scheme, they form elements of good design which would be expected to be achieved as part of a sustainable development.
18. In the planning statement accompanying the original planning application, the appellant states that permitted development rights for the conversion of an

agricultural building to a dwelling under Class Q of the General Permitted Development Order 2015 form an 'in principle' material consideration. However the appellant also recognises that the proposed dwelling conversion would not meet all the relevant criteria. Therefore this would not form a relevant consideration in this case.

Other matters

19. The appeal building lies approximately 63 metres from a Grade II Listed building lying to the north of the site. It therefore lies within the setting of this heritage asset. I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act to have special regard to the desirability of preserving a historic asset or its setting or any features of special architectural or historic interest.
20. The neighbouring listed building lies in an elevated position further up the hill from the appeal site. I note that the design of the appeal scheme has been amended and the proposed dwelling would retain the rural character of the existing building. I am satisfied that the appeal scheme would cause no harm to the setting of the nearby listed dwelling.

Conclusion

21. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except, in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
22. I have found that the proposed development would cause no harm to the openness of the Green Belt. In terms of the other considerations I have outlined above, they form aspects of sustainable development which all developments would be expected to achieve. Whilst they form material considerations in favour of the proposal, I attribute them limited weight.
23. In conclusion, the substantial harm to the Green Belt in this case is clearly not outweighed by other considerations. Very special circumstances necessary to justify the development do not therefore exist. The scheme would therefore conflict with the development plan and the Framework.
24. For the above reasons and having considered all other matters raised, I dismiss this appeal.

Helen Hockenhull

INSPECTOR



Appeal Decision

Site visit made on 5 June 2018

by **J Whitfield BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 July 2018

Appeal Ref: APP /Z4718/C/17/3179845

37 Scholes Moor Road, Scholes, Holmfirth, West Yorkshire HD9 1SJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Peter Wallace against an enforcement notice issued by Kirklees Metropolitan Borough Council.
- The enforcement notice was issued on 12 June 2017.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of a platform with balustrade.
- The requirements of the notice are demolish the platform and the balustrade.
- The period for compliance with the requirements is 4 weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The enforcement notice is quashed.

The Notice

1. Section 176(1)(a) and (b) of the 1990 Act allows me to correct any defect, error or misdescription and vary the terms of the notice if I am satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
2. I saw on my site visit that screens had been fixed to each side of the decking. The appellant indicates that the side screens were erected in February 2017, substantially completing the development. This was prior to the notice being issued in June 2017. The side screens are physically attached to the decking and, in my view, clearly form part of the development as enforced against. That view is supported by section 1 of the Council's comments in the officer report dated 2 June 2017 which accompanied the request for authority to issue the notice. That report also considers the planning merits of the screen.
3. Nevertheless, the allegation does not refer to the side screens, only to the platform and the balustrade. Likewise, the notice does not require the removal of the side screens, only the demolition of the platform and balustrade. The side screens cannot be said to form part of the balustrade. The Oxford English Dictionary defines balustrade as 'a railing supported by balusters' with balusters being 'a short pillar forming part of a series supporting a railing'. The side screens comprise wooden trellis and artificial planting. They do not fall within the definition of balustrade as attacked by the notice.

4. The appellant's arguments on the ground (c) appeal essentially amount to whether the structure as enforced against amounts to operational development. The Council argue that it does, the appellant that it does not.
5. However, in order to properly consider the merits of ground (c), I would need to correct the allegation to reflect the entire breach, including not just the platform and the balustrade but the side screens which form part of the development as enforced against.
6. Moreover, the appellant's argument on the ground (f) appeal states that the requirements of the notice are excessive because the side screens mean the structure does not in itself result in any injury to amenity.
7. Such planning merit arguments amount essentially to an appeal on ground (a), which is not before me. Nevertheless, in such circumstances, were the side screens contained within the allegation, and subsequently the requirements of the notice, the appellant may have appealed on ground (a) so that a decision could be reached on whether or not the development in its completed form results in injury to amenity.
8. As a consequence, I consider the notice to be defective, but that it cannot be corrected without causing injustice to the appellant. I therefore have no option but to quash the notice and the appeal on grounds (c) and (f) do not fall to be considered.

Decision

9. The enforcement notice is quashed.

Jason Whitfield

INSPECTOR