



Appeal Decision

Site visit made on 29 January 2019

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 February 2019

Appeal Ref: APP/Z4718/W/18/3210215

Ballantrae, 322 Cowcliffe Hill Road, Fixby, Huddersfield HD2 2HN

- 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 Hall against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/94157/W, dated 5 December 2017, was refused by notice dated 15 March 2018.
 - The development proposed is the erection of detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The site forms part of the side garden of 322 Cowcliffe Hill Road which is a large detached two storey dwelling which is set back from the road. The existing dwelling is set within a spacious landscaped plot, with ground levels rising from the road to the rear. This broadly accords with the handful of other dwellings found along this part of the road. Due to the golf course opposite together with mature landscaping and the low density form of development, the area has a verdant and open character. Lightridge Road, to the rear, has dwellings on both sides of the road, which gives it a more built up character.
4. Changes made by the appellants to their scheme following an earlier appeal decision¹ on the site include a reduction in the proposed dwelling's width and height. The proposal also includes the demolition of No 322's garage, changes to the plot size, and a split level design in response to the site's ground levels.
5. The loss of the garage in tandem with the proposed dwelling's width would leave a good-sized space between No 322 and the proposal. Even so, the proposed dwelling would result in a substantial reduction in the size of the existing plot. While the existing plot maybe one of the largest in the area, the proposed plot would be narrower than nearby neighbouring plots. Despite design changes, the proposed dwelling would occupy most of plot, be near to the side boundaries, and of a scale, especially at the front, that would be large

¹ Appeal Decision Ref: APP/Z4718/W/16/3156441

in comparison to the dwelling at No 322 and others on the road. While there is no overriding architectural style locally, the three storey design would accentuate the width of the proposed dwelling in relation to its plot. The proposed split level internal design would respond to the site's ground levels, and as a result the scale of the proposal is more in keeping with the area to the rear. That said, this would not overcome my concerns about the dwelling's scale at the front even though the dwelling would be set back. Despite the site's position, the proposed use of local materials and the changes made, the proposed dwelling would appear cramped and would be out of keeping with the spacious and verdant character of the surrounding area.

6. The appeal scheme has been designed with its own garden, but I conclude that the proposal would result in significant harm to the character and appearance of the area. Hence, the proposal would be contrary to Policies D2 (ii and vi), BE1 (i and ii) and BE2 (i) of the Kirklees Unitary Development Plan, paragraph 127 of the National Planning Policy Framework (the Framework), and emerging Policy PLP24 (a) of the Kirklees Publication Draft Local Plan, which broadly accords with the Framework. This policy, however, carries little weight currently due to its stage of preparation and as I do not know the extent of any unresolved objections. Jointly these policies, among other things, seek visually attractive development that does not prejudice visual amenity, and which creates or retains a sense of local identity having regard to surrounding development's design, scale, layout, building height or mass.

Planning Balance

7. The Council accept that they are currently unable to demonstrate a five year supply of deliverable housing sites as required by Framework paragraph 73. As such, the tilted balance set out in Framework paragraph 11 d) is engaged. The policies most important for determining the application are thus out-of-date, albeit they broadly accord with the Framework's aim to create high quality buildings and places.
8. A modest contribution would be made to the supply and mix of dwellings in an accessible location in Kirklees as a result of the proposal. There would be modest economic benefits from the dwelling's construction and due to future occupants spending in the local economy. The dwelling could be constructed to be a highly energy efficient development. Some existing landscaping would be retained, while the appeal scheme does not present any highway safety or wildlife issues. The proposal would also not affect neighbours living conditions. These matters are limited social, economic and environmental benefits.

Conclusion

9. I consider that the adverse impacts of granting planning permission due to the harm that would result to the character and appearance of the area would significantly and demonstrably outweigh these limited benefits, when assessed against the policies in this Framework taken as a whole.
10. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR



Appeal Decision

Site visit made on 5 February 2019

by **D Guiver LLB (Hons) Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 15 February 2019

Appeal Ref: APP/Z4718/W/18/3215402

Land off Round Ings Road, Outlane

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Barber against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/60/91854/W, dated 6 June 2018, was refused by notice dated 27 July 2018.
 - The development proposed is described as outline application for single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made for outline planning permission with all matters reserved and I have considered this appeal accordingly.
3. The Council relies in part on a Policy from the emerging Kirklees Local Plan (the Emerging Plan). Paragraph 48 of the National Planning Policy Framework 2018 (the Framework) advises that weight may be given to relevant policies in emerging plans according to the stage of preparation, the extent of unresolved objections and consistency with the Framework. The Emerging Plan has been examined in public and found to be sound and is due to be adopted in February 2019. The Emerging Plan is therefore a material consideration to which I have attached significant weight.

Main Issues

4. The main issues are:
 - a) whether the proposal would be inappropriate development within the Green Belt for the purposes of the Framework and Development Plan Policy;
 - b) the effect of the proposal on the openness of the Green Belt;
 - c) the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings; and
 - d) 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

5. Paragraph 143 of the Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There are exceptions to this general restriction and paragraph 145(e) advises that the construction of new buildings comprising limited infilling in villages should not be considered inappropriate development.
6. The proposal is made in outline for the erection of a single detached dwelling with all matters reserved. The appeal site comprises a small parcel of unimproved and overgrown land fronting Round Ings Lane and bounded by a low stone wall to the front. The site is located in a small cluster of buildings outside the built form of any village and sits between a building containing a pair of dwellings at 12 and 12A Round Ings Road and a small plot of land containing a shed set back some distance from the frontage. To the rear the land is open and to the front is a dense belt of trees and the main carriageway of Round Ings Road that crosses the M62 by a road bridge.
7. The small stretch of road in front of the site serves as access to a short terrace of six or so cottages, a recent new build and the neighbouring dwellings at Nos. 12 and 12A, all of which front the street and give the area its character. To the south of the neighbouring plot there are a few larger buildings containing dwellings. Other than the terrace, dwellings are widely separated and few in number without any continuous built frontage. The main built form of the nearest village at Outlane is some distance away on the far side of the motorway. The site is outside the village and is clearly part of the open countryside.
8. Given the location and the wide separation of buildings, I conclude that the appeal site cannot be classed as limited infilling in villages for the purposes of paragraph 145(e) of the Framework. Accordingly, the proposed scheme would be inappropriate development and thus harmful to the Green Belt. Pursuant to paragraph 144 of the Framework, I attach substantial weight to this harm.

Openness

9. Openness and permanence are the essential characteristics of the Green Belt. While the proposal itself is for a relatively small plot of land, the scheme would permanently enclose part of the site and result in a significant loss of openness within the land surrounding the neighbouring building at Nos. 12 and 12A. While the scheme is at outline stage, with no details of the location or scale and design of the dwelling, any built development here and associated domestic paraphernalia would reduce openness.
10. Therefore, the proposed development would not be consistent with the fundamental aim in paragraph 133 of the Framework of keeping land permanently open and would not accord with Saved Policy D13 of the Kirklees Unitary Development Plan (the UDP) which seeks to ensure that development in the Green Belt is limited to infill within existing settlements in a continuously built-up frontage or where the site is largely surrounded by development.

Living Conditions of the Occupiers of Neighbouring Dwellings

11. The neighbouring building at Nos. 12 and 12A appears to be a converted Sunday School and is a gable-ended structure with a simple dual-pitch roof. The gables

face the street and the rear of the plot and the building is parallel with and close to the site boundary. The whole structure is slightly downhill from the appeal site. The south-facing flank elevation has one door and three ground-floor windows overlooking the site and a single roof-light in the roof pitch. The properties have small gardens to the front and rear of the building.

12. While the final scale, design and site layout of the proposed dwelling are reserved matters, the relative narrowness of the appeal site and the slope of the road mean that any building is likely to overshadow either the flank elevation or the gardens at Nos. 12 and 12A. As I looked towards Nos. 12 and 12A from the road in front of the appeal site at the time of my site visit the sun was shining directly onto the flank elevation and any overshadowing would be likely to cut natural light into the flank elevation windows, especially during months with shorter days when the sun is lower in the sky.
13. If the proposed dwelling was built further back in the appeal site the overshadowing would be of the rear garden to the neighbouring property and the garden at the appeal site would be hard up against the windows to habitable rooms at Nos. 12 and 12A. In the absence of any site layout proposal I take a precautionary approach and cannot be satisfied that any development would not have a significant detrimental impact on the living conditions of the occupiers of Nos. 12 and 12A.
14. Therefore, while scale and site layout are reserved matters the proposal would not accord with Saved Policies BE12 and D13 of the UDP or Policy PLP24 of the Emerging Plan which seek to ensure that developments do not cause a detriment to adjoining occupiers, and ensure physical separation from adjacent property and land.

Other Considerations

15. The appellant has referred me to planning permission¹ for a dwelling approximately 15 metres from the appeal site on Round Ings Lane. In granting that permission the Council determined that the earlier site was within the village of Outlane and that the site met the requirements of Policy D13 of the UDP in relation to size and built-up frontage. The Council accept that the appeal site is within the village and can be considered small scale, but that it is not part of a continuous built-up frontage or surrounded by development. I have reached a different conclusion on whether the appeal site is within the village but, notwithstanding, the site does not meet the remaining Policy criteria and therefore the earlier grant and the appeal before me are not directly comparable.
16. The appellant's evidence is limited to addressing the Council's reasons for refusal but does not offer any other supporting evidence to support the proposal. I therefore conclude that there are no other considerations to be considered in the overall planning balance.

Conclusion

17. I have found that the proposal would be inappropriate development in the Green Belt and that it would lead to a significant loss of openness. This harm to the Green Belt attracts substantial weight. In addition, the proposal would be likely to have a harmful impact on the living conditions of the occupiers of neighbouring dwellings. The other considerations do not clearly outweigh the identified harm,

¹ 2015/92205 and 2016/92830 (reserved matters)

and the very special circumstances necessary to justify the development do not therefore exist.

18. For the reasons given above, and taking account all material considerations, I therefore conclude that the appeal should be dismissed.

D. Guiver

INSPECTOR