



## Appeal Decision

Site visit made on 8 April 2019

**by William Cooper BA (Hons) MA CMLI**

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

**Decision date: 15<sup>th</sup> August 2019**

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**Appeal Ref: APP/Z4718/W/18/3218911**

**49 Sharp Lane, Almondbury, Huddersfield HD4 6SS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
  - The appeal is made by Mr Cowen against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref: 2018/60/92969/W, dated 11 September 2018, was refused by notice dated 23 October 2018.
  - The development proposed is outline application for erection of a detached dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The new Kirklees Local Plan (2019) (LP) has been adopted since the Council issued its decision. This supersedes the Kirklees Unitary Development Plan (2007) (UDP). The main parties have had the opportunity to comment on the new LP policies in relation to the proposal.
3. The description of development in the heading above is taken from the decision notice and appeal form, as it is more accurate than that on the application form.
4. The appeal proposal relates to an outline planning application with all matters reserved. The indicative layout plan submitted as part of the application has been taken into account insofar as it is relevant to my consideration of the principle of the development on the appeal site.

### Main Issues

5. The main issues are:
  - a) whether or not the proposal would be inappropriate development in the Green Belt, having regard to the revised National Planning Policy Framework (the Framework<sup>1</sup>) and any relevant development plan policies
  - b) the effect of the proposed development on the openness of the Green Belt, and

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<sup>1</sup> Published on 19 February 2019.

- c) would any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

## **Reasons**

### *Background*

6. The appeal site is a field. It fronts onto Sharp Lane and is bounded on two sides by residential properties, with fields to the rear. The site is located in the Green Belt, within the Huddersfield sub-area, as illustrated in Policy LP2 of the LP.
7. The Council cannot demonstrate a five-year supply of deliverable housing sites in the district. As a result, Policy LP3 of the LP, which concerns the location of development including housing within the countryside, is considered to be out of date, under the terms of paragraph 11 of the Framework, which sets out the presumption in favour of sustainable development. Under paragraph 11, permission should be granted unless policies in the Framework that protect land designated as Green Belt<sup>2</sup> indicate otherwise, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

### *Whether inappropriate development*

8. Paragraph 145 of the Framework sets out a small number of exceptions to inappropriate development in the Green Belt. One such exception is 'limited infilling in villages'. The LP policies cited by the Council in relation to the appeal do not specifically include policy on infilling in villages in the Green Belt. Nonetheless, Policy LP3 of the LP requires, amongst other things, that development reflects the settlement's function. As such, LP3 is broadly consistent with the Framework.
9. Whether the appeal site is within the village of Almondbury is disputed. There is no evidence before me of definition of a village envelope within the LP, or a Village Design Statement. Accordingly, whether the appeal site is within the village is a matter of planning judgement.
10. From what I saw on my site visit and the aerial view, Almondbury's main built-up area is recognisably separated spatially from the area to the south of the 'spine' of Kaye Lane, Westgate and Fenay Lane by fields and wooded areas, much of which has a rural character. It is recognised that the southern area described above, in which the appeal site is located, includes clusters and ribbons of residential development. However, the pattern of development in this southern area is more sporadic than that in the main built-up area of the village. Moreover, the ribbon of development in which the appeal site is situated lacks facilities including shops, a village hall or church, which can be typical of a settlement.
11. The appellant considers that the appeal site is located within a continuum of development, which includes school grounds and playing fields, and links to the centre of Almondbury. However, the combination of factors described above leads me to find that the appeal site is situated outside the village.

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<sup>2</sup> As per footnote 6 of the Framework.

12. For the above reasons, the appeal site would not fall within the exceptions listed in paragraph 145e) of the Framework. Accordingly, in this respect, the proposal would be inappropriate development in the Green Belt and would conflict with the Framework.

*Openness of the Green Belt*

13. The appeal site is an open field with overgrown vegetation around its edges. Whilst details of layout, scale, appearance, landscaping and access are reserved, it is likely that a new dwelling, with domestic paraphernalia including cars, and engineering works to create access, would deplete the openness of the site. As such, it is considered that the proposal would result in harm to the openness of the Green Belt. With regard to the effects on the aim and purposes of including land within the Green Belt, the proposal would contribute to urban sprawl south of Almondbury, encroach into the countryside and undermine the recycling of urban land. As such, the proposal would conflict with Green Belt policy, as set out in paragraphs 133 and 134 of the Framework.

*Other considerations*

14. The appeal site is a field with a substantial area of fields behind, which contributes to a prominent, verdant view from the junction of Sharp Lane and Lumb Lane of fields and rising woodland beyond. Within this context, the proposed development would have an urbanising impact on the site and contribute to the consolidation of sporadic built development in the area. This would harm the character and appearance of the area. As such, the proposal would conflict with Policy LP2 of the LP which seeks to ensure that development protects and enhances the character of the area.
15. There is a need for additional housing in the borough. Within this context, the proposal would, on a small scale, make a positive contribution towards reducing the deficit of housing in the borough. This would carry some weight in favour of the scheme.
16. The appeal site is situated a short drive away from the main built up area of Almondbury, which has a range of services. As such, occupants of the proposed development would realistically make some use of and contribute to sustaining them. There would also be a minor economic benefit from construction phase activity. Given the modest scale of benefit, I attach limited weight to it.

**Conclusion**

17. The proposal would be inappropriate development in the Green Belt which is, by definition, harmful. There would also be loss of openness of the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. I conclude that the potential harm to the Green Belt by reason of inappropriateness and other harm is not clearly outweighed by other considerations. Consequently, very special circumstances do not exist. As a result, the proposal would be contrary to the Framework policy on Green Belt, and Policy LP3 of the LP in respect of the settlement's function. For the reasons given above I conclude that the appeal should be dismissed.

*William Cooper*

INSPECTOR



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## Appeal Decision

Site visit made on 15 July 2019

**by Laura Renaudon LLM LARTPI Solicitor**

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

**Decision date: 15 August 2019**

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**Appeal Ref: APP/Z4718/W/19/3224617**

**Land at Hillcrest, Whitegate Road, Honley, Huddersfield HD9 6RB**

- 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 Taylor against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2018/62/94154/W, dated 13 December 2018, was refused by notice dated 19 February 2019.
  - The development proposed is the erection of a detached dwelling (within a Conservation Area).
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. Since the Council's report on the application was written, the Kirklees Local Plan ('the LP') was adopted on 27 February 2019. This pre-dated the submission of the appellant's appeal documents and the notification to interested parties of the appeal, and so I am satisfied that there has been an adequate opportunity for those interested in the appeal to address the updated policy position.
3. The adoption of the LP has superseded the policy position as it prevailed when the Council determined the application, and in particular the reference to Policy BE5 of the former Unitary Development Plan ('the UDP') found in the Council's second reason for refusing permission. Although addressed in some of the appeal documents, I have not had regard to the policies of the UDP, given the updated position.

### Main Issues

4. The appeal proposal is a resubmission of a proposal previously dismissed on appeal under reference APP/Z4718/W/15/3132624 ('the First Decision'). As in the First Decision, the main issues arising in the appeal are:
  - Whether or not the proposed development is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework ('the Framework') and the policies in the development plan;
  - The effect of the proposed development on the openness of the Green Belt;

- The effect on the character and appearance of the area with particular regard to whether the development would preserve or enhance the character or appearance of the Honley Conservation Area; and
- If the development is inappropriate development in the Green Belt, whether the harm arising from inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Whether inappropriate development in the Green Belt*

5. As noted by the Inspector in the First Decision ('the First Inspector') the site lies on the valley side on the outskirts of Honley and not within the village itself. For the purposes of the Framework's definition of 'previously developed land', the site is a residential garden but not in a built-up area. Paragraph 145(g) of the Framework excepts the construction of new buildings as being inappropriate development in the Green Belt where the development involves the redevelopment of previously developed land, subject to the effects on the openness of the Green Belt.
6. However, having viewed the site and considered the *Calderdale* factors<sup>1</sup> I respectfully disagree with each of the main parties that the appeal site amounts to previously developed land capable of attracting the 'brownfield' exception of paragraph 145(g) of the Framework. It follows that LP Policy LP59, dealing with brownfield sites in the Green Belt, has no application to the proposal.
7. Neither party has suggested what 'permanent structure' the land is claimed to lie within the curtilage of. The site itself has 2 buildings sited upon it, a dilapidated garage and a garden shed. Neither party contends that either building attracts a curtilage in its own right, and they do not appear to me to do so.
8. The layout of the appeal site is that it can be accessed in two ways. From the adjoining road to the north there is a chain link fence in a gap in the boundary wall, leading to the garage. Boundary walls line the site on its two sides, and a retaining wall binds the site to its southern end. A small gap in the western boundary wall links to the principal garden area of 'Hillcrest'.
9. Although no 'blue line' plan was submitted with the application, which would normally indicate other land within the ownership or control of the applicant, the appeal site presently appears to lie within the ownership of the property at 'Hillcrest', which lies to its western side beyond a detached garage and large lawn. I have therefore considered whether the appeal site lies within the curtilage of that dwelling. The appeal site carries its own Land Registry Title Number, YY4266, used as the 'red line' plan for the planning application, and the supporting letter from the occupants of the neighbouring Whitegate House states that the title was transferred by their own predecessors in around 1980.
10. The site is well-wooded and the First Inspector then described the site, in early 2016, as an area of garden, although 'somewhat overgrown' and having a

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<sup>1</sup> *Attorney-General ex rel Sutcliffe v Calderdale BC* (1982) 46 P. & C.R. 399 as recently explained in *Challenge Fencing Ltd v SSHCLG and Elmsbridge BC* [2019] EWHC 553 (Admin)

'semi-natural appearance'. More recently it appears that steps have been taken to cultivate the site, although it has not obtained a particularly manicured appearance. At the time of my visit there were a number of produce and flower beds, a polytunnel, a bathtub, a rope swing and a compost heap. Whilst I have no reason to depart from the First Inspector's observation that the appeal site is a domestic garden area for the adjoining property at 'Hillcrest', it does not appear to me to form part of the curtilage of that dwelling. Rather it is a separate enclosure presently forming a secondary garden area to the property at 'Hillcrest'.

11. The *Dartford* case<sup>2</sup> referred to by the parties confirms that residential gardens lying outside built-up areas are not excluded from the Framework's definition of previously developed land, and thus they may attract the paragraph 145(g) exception to when new buildings amount to inappropriate development in the Green Belt. The prior criterion however is that the garden land must lie within the curtilage of an existing or previous permanent structure, and there is insufficient evidence to conclude that such is the case here.
12. Therefore, no other exception applying, as the proposal constitutes the construction of a new building it amounts to inappropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to harm to the Green Belt, including harm by reason of inappropriateness.

*Effect of the proposal on the openness of the Green Belt*

13. The First Inspector noted that the design of the proposed dwelling takes account of the topography of the site and would be largely underground, although with some externally visible features such as the gabion wall. With no volume or massing of the building visible, the First Inspector found there would consequently be no reduction in openness, with an overall neutral effect on this issue having regard to the removal of the small-scale garage and shed.
14. Since the First Decision, the factors to be taken into account when determining the impact of a proposal on the openness of the Green Belt have come before the Court of Appeal for analysis on several occasions<sup>3</sup>. It is clear from those judgments that the openness of the Green Belt has a spatial aspect as well as a visual aspect, and the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result of the location of a new building. As the First Inspector noted, there would seem to be little visual difference as a result of the proposal, although the section drawings (rh/120/14/7 and rh/120/14/4) do not appear to be drawn to the same scale, with the result that I am uncertain as to the extent of earthworks required. However, there would be a house where presently there is none (and in this respect the proposal differs from those other appeal decisions brought to my attention by the appellant, which relate to replacement, rather than new, buildings with subterranean elements).
15. The essential characteristics of Green Belts are their openness and their permanence, and 'openness' in this context means an absence of development.

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<sup>2</sup> *Dartford Borough Council v SSCLG* [2017] EWCA Civ 141

<sup>3</sup> Particularly in *R (Oao Lee Valley Regional Park Authority) v Epping Forest DC* [2016] EWCA Civ 404, *Turner v SSCLG* [2016] EWCA Civ 466 and *Samuel Smith Old Brewery (Tadcaster) and anor v North Yorkshire CC and anor* [2018] EWCA Civ 489

The appeal site lies close to open fields, to the north of Honley, within whose Conservation Area it lies, and to the south of Netherton. Green Belt purposes that appear to be served by the designation of the appeal site include checking unrestricted sprawl, safeguarding the countryside from encroachment and preserving the setting and special character of historic towns.

16. Given the very limited visible effects of the built development, I agree with the First Inspector that the visual openness of the Green Belt would not be harmed by the building itself. However, the introduction of a residential dwelling into the appeal site would necessarily harm the spatial openness of the Green Belt in this location, by introducing development where there is presently none (save for the small garage and shed) for a purpose that does not align with the purposes of Green Belts. As to the overall visual effect on openness, as a domestic garden the site could attract an amount of domestic paraphernalia in its present form but, as the First Inspector noted, the site would be likely to be used much more intensively in association with a new dwelling compared with its existing function. Visible manifestations of the use of the proposed building, such as parked cars or waste bins, would evidence the fact of the development and so also reduce the openness of the Green Belt in this location.
17. Therefore, on this issue I depart from the conclusions of the First Inspector and find that there would be harm to the Green Belt by reason of the loss of openness. This harm also carries substantial weight against the proposal.

*Effect on the character and appearance of the area*

18. The appeal site lies within the designated heritage asset that is Honley Conservation Area, and accordingly special regard is to be had to the desirability of preserving or enhancing the Conservation Area when considering development proposals. The Framework advises that great weight should be given to the conservation of heritage assets, and this advice is reflected in LP Policy LP35 that seeks to ensure that heritage assets are appropriately conserved to the extent warranted by their significance, having regard to wider development benefits.
19. The parties do not demur from the First Inspector's assessment of the significance of the Conservation Area as deriving from the spacious pattern of development in the area which, together with the extent of tree cover, gives the impression of the built-up area 'thinning out' when approaching along Whitegate Road from the south and contributes to the rural character of the area.
20. The appellant's case is that a material change in circumstances has arisen since the First Decision in that the appeal site has been cultivated, with a change in character from the 'semi-natural' character described by the First Inspector to a garden of domestic appearance. Although no doubt more cultivated in appearance than it was 5 years ago, as evidenced by the photographs appearing in the Architect's Statement of December 2014, the changes at the ground level to the site do not alter its contribution to the tree cover. Although the Council considers that the trees do not warrant a tree preservation order, there is no indication of any intention to remove any trees from the site save in order to implement the appeal proposals, if permission is granted. The significant reduction in tree cover required to construct the dwelling would result in harm, albeit limited, to this element of the Conservation Area's significance.

21. The appellant's Statement of Significance refers to the landscaping proposals to change the character of the land from essentially garden land to a more natural state through ecological/landscape planting. Although the landscaping proposals show the seeding of wildflower and grassed areas of meadow, and the retention of a large number of trees, I do not consider that it would be reasonable to require the occupiers of a residential dwelling to maintain permanently their garden area in the ways put forward in the appellant's Ecological Report, particularly the aspects concerning when the grass may be mown and the requirement to remove cuttings. Despite the changes over the past few years, like the First Inspector I consider that overall the appeal site would acquire a more manicured and developed appearance than it has at present, and the increased density of residential development in the area would also harm the spacious pattern of development in this part of the Conservation Area.
22. Therefore, there would be conflict with LP Policy LP35, requiring proposals within Conservation Areas to conserve those elements that contribute to their significance, as well as with Policy LP33 which seeks to avoid the loss of trees or woodlands of significant amenity value. Where 'less than substantial harm' arises to a heritage asset, as it would do here, the Framework requires that the harm should be weighed against any public benefits of the proposal. This will be addressed below in my conclusions.

*Other considerations*

23. Although not adverted to by the appellant, the Council's officer report states that there is (or was, at the time of writing) a shortage of deliverable housing land in the local area, although the quantum of this shortfall was not specified. The published Housing Delivery Test 2018 measurement states that over the relevant 3 year period prior to publication, 3,399 houses had been delivered in the area against a requirement of 4,516, suggesting that the shortfall is reasonably acute. The Government's policy objective of significantly boosting the supply of housing would be assisted by the proposed development, but by only 1 house and so the matter attracts limited weight.
24. Some of the ecological enhancements proposed by the development are rather uncertain as a long-term prospect for the reasons explained above. The Ecological Report proposes a number of measures to improve the biodiversity of the appeal site. The absence of a garage from the appeal proposals however negates the proposed planting and bat roost elements. The Report does not explain what ecological benefits the meadow seeding would bring. I do not find any conflict with LP Policy LP30, requiring biodiversity harms to be minimised and gains to be provided, or with Policy LP24 requiring development to contribute to the enhancement of the natural environment, but give limited weight to the benefits of this element of the proposal.
25. The appellant also seeks support from Paragraph 79 of the Framework in asserting that the design of the proposed dwelling, to meet Passivhaus standards, is of 'exceptional quality'. The First Inspector found that the dwelling would meet the first of the two relevant tests (in what was then Paragraph 55) but not the second. The first test relates to the architectural standard, and the second to the context.
26. Although the Council does not consider that there is anything particularly exceptional about a dwelling designed to Passivhaus standards, I see no reason

to depart from the First Inspector's conclusions on these tests for the reasons she gave. The reference to Passivhaus in the supporting text to the newly-adopted Policy LP24 concerning good design, at paragraph 11.7, reads rather as an aspiration than as an expectation.

27. Therefore, with the First Inspector, I consider that the dwelling would be of an innovative design and would reflect the highest standards in architecture, so meeting the first test, but that it would not be sensitive to the local area or enhance its immediate setting, so failing the second test.
28. In any event, Paragraph 79 applies to the development of 'isolated homes' in the countryside, and thus<sup>4</sup> does not apply to the present proposal at the appeal site, which is surrounded by dwellings on three sides and lies on the outer edges of the settlement of Honley, around half a mile from the centre. Therefore, although its design and sustainability credentials attract support from LP Policy LP24, the proposal draws no specific support from Paragraph 79 of the Framework.

### **Conclusion**

29. The appeal proposal does not amount to the redevelopment of previously developed land, and is inappropriate development in the Green Belt. I give substantial weight to the harm by reason of inappropriateness as well as to the harm to openness that would arise. The character and appearance of the Conservation Area would also be harmed by the proposal as a result of the increased residential density and the unavoidable tree loss. The benefits of the development include a high standard of design, some biodiversity gains and a small contribution to the housing supply. These benefits do not outweigh the harm to the Conservation Area, the conservation of which I accord great weight. Nor do they outweigh the overall harm caused by the proposal including that to the Green Belt.
30. Even without the additional harm to the openness of the Green Belt that I have found would arise, the inappropriateness of the development in the Green Belt produces such substantial harm, together with the harm to the Conservation Area, that it is not outweighed by the benefits of the proposal. Very special circumstances to justify the proposed development do not exist and the appeal is dismissed.

*Laura Renaudon*

INSPECTOR

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<sup>4</sup> *Braintree DC v SSCLG* [2018] EWCA Civ 610, also decided since the First Decision



## Appeal Decision

Site visit made on 18 June 2019

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

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

**Decision date: 12 August 2019**

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**Appeal Ref: APP/Z4718/W/19/3226584**

**42A Station Road, Fenay Bridge, Huddersfield HD8 0AD**

- 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 Gary Oldroyd against the decision of Kirklees Council.
  - The application Ref 2018/62/92860/W, dated 29 August 2018, was refused by notice dated 19 March 2019.
  - The development proposed is erection of single dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Kirklees Local Plan (KLP) was adopted on 27 February 2019. During the appeal process the final document was published. The KLP has superseded the Kirklees Unitary Development Plan (KUDP). There are no saved policies from the KUDP. This represents a material change in circumstances. I will therefore determine the appeal on the basis of the relevant policies contained in the final version of the adopted KLP.
3. The appeal site has been the subject of two previous outline applications for a detached house. Application ref 2017/91544 was granted in March 2018. Application ref 2016/91893 was refused in November 2016. The application was submitted with all matters other than access and layout reserved for future consideration. Indicative plans were submitted showing two alternative schemes, one for a two-storey house, and the other for a dormer bungalow. This decision was appealed, ref APP/Z4718/W/16/3164940 and dismissed in March 2017. The evidence submitted for this appeal is materially different to that considered previously, in that it includes full and detailed plans of the proposed development and I will consider the appeal on this basis.

### Main Issues

4. The main issues are:
  - The effect of the form, scale, massing and design of the proposed development on the character and appearance of the area; and
  - The effect of the proposed development on the living conditions of the occupants of No 44 Station Road and future occupants of the proposed dwelling.

## Reasons

### *Character and appearance*

5. The appeal site is located in an established residential area on the outskirts of Huddersfield. Its elevated hilltop position provides short views out over roofscapes and long views out over the town when looking north west.
6. The site is a section of hardstanding and garden beside No 42A Station Road which is a split level detached house accessed by a narrow driveway from Station Road. The hardstanding sits above the terraced garden area to the rear and side of No 42A Station Road. Due to the topography of the area, the properties to the south, Nos 44 and 46 Station Road, sit above the appeal site. Whereas the properties to the north further along Station Road and to the west on Fenay Drive sit well below the appeal site.
7. I agree with the previous Inspectors' comments in that there is no particular uniform pattern of development or layout to the buildings in the area and that there is a mix of house types, sizes, designs and use of materials. Therefore, even though a property at this location would reduce the openness of the site, it would not appear unduly at odds with the pattern of development nearby or unsympathetic to the surrounding character. On this basis, and in line with the grant of outline planning permission by the Council in 2018, I would agree that the site is appropriate for the erection of a single dwelling and the access and layout of the proposed development would not harm the character and appearance of the area.
8. The proposed development is a two-storey detached house in an 'L' shape. It would have a hipped roof to one side and gable to the other and facing materials of render and stone with concrete tiles to the roof. I accept that the building would be set back from Station Road, the footprint would provide some space around it and the materials would not be out of keeping in this context. However, I consider that the dwelling's two-storey form, its large scale and substantial massing would be unduly prominent on the townscape when viewed from Station Road. In addition, it would be very dominant on the skyline at the edge of the slope high above Fenay Drive. Combined with the uncommon gable and hipped roof design, the proposed dwelling would visually conflict with adjacent properties and would not integrate well into the townscape. In these respects, it would harm the character and appearance of the area.
9. I acknowledge that the previous Inspector found the erection of a detached house would cause no harm to the character and appearance of the surrounding area. However, that was in relation to an outline proposal and it does not follow that a dwelling of any form, scale, massing and design would necessarily be appropriate or acceptable on the site.
10. Accordingly, I conclude that the form, scale, massing and design of the proposed development would cause harm to the character and appearance of the area. As such, it conflicts with policy LP24(a) of the KLP (2019) which promotes good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape; and Section 12 Achieving well-designed places, in the National Planning Policy Framework (Framework).

*Living conditions*

11. The proposed dwelling would be located to the north west of No 44 Station Road. Its front elevation, which would have a large window to a bedroom at first floor, would be at an oblique angle to the rear elevation of No 44 Station Road, which has windows to bedrooms at first floor. I acknowledge that there would be no direct window to window views and no views would be fully blocked. However, due to the limited separation distance between the elevations and the relationship of habitable rooms, I believe that there would be an unacceptable level of overlooking and some overbearing impact to both the occupants of No 44 Station Road and future occupants of the proposed dwelling.
12. Therefore, I conclude that the proposed development would be harmful to the living conditions of the occupants of No 44 Station Road and future occupants of the proposed dwelling. As such it conflicts with policy LP24(b) of the KLP (2019) which promotes good design by ensuring that proposals provide a high standard of amenity for future users and neighbouring occupiers, including maintaining appropriate distances between buildings; and Section 12 Achieving well-designed places, in the Framework.

**Conclusion**

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

*F Cullen*

INSPECTOR



## Appeal Decision

Site visit made on 7 June 2019

**by Laura Renaudon LLM LARTPI Solicitor**

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

**Decision date: 29 August 2019**

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### **Appeal Ref: APP/Z4718/W/18/3217917**

### **Land off Butt Lane, Hepworth, Huddersfield**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Acumen against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/61/94120/W, dated 29 November 2017, sought approval of details pursuant to condition No 1 of a planning permission Ref 2015/60/92993/W, granted on 9 September 2016.
  - The application was refused by notice dated 24 September 2018.
  - The development proposed, and the subject of the outline planning permission, is the erection of residential development, particularised by the reserved matters application to mean the erection of 4 dwellings, and further particularised during the course of the reserved matters application to mean the erection of 2 dwellings.
  - The details for which approval is sought are the reserved matters of the access, appearance, layout, scale and landscaping of the site.
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### **Decision**

1. The appeal is allowed, and the reserved matters are approved, namely the access, appearance, layout, scale and landscaping details submitted in pursuance of condition 1 to planning permission Ref 2015/60/92993/W dated 9 September 2016, subject to the conditions listed in the Schedule at the end of this decision.

### **Application for costs**

2. An application for costs was made by Acumen against the Council. This application is the subject of a separate Decision.

### **Preliminary Matters**

3. The scope of the outline planning permission for the 'erection of residential development' is rather broad, and the reserved matters application as submitted was to erect 4 dwellings on the site. During the course of the application this proposal was reduced to 2 dwellings, and it is the details of these 2 dwellings that form the subject of the Council's decision notice now under appeal. A large number of documents and plans were submitted with the appeal, some of which have been superseded as a result of the amendments made during the course of the application. As a result, the main parties have agreed a more limited list of plans for my consideration.

4. The reserved matters application was the subject of a site and press notice in December 2017, at which point the application was to erect 4 dwellings. Whilst there is evidence of some reconsultation during the course of the application having taken place as the result of amendments, this may not have extended to further publicity having been given (although the Council's committee report suggests that this did take place). There were no public representations made in support of the proposal. Neighbours and interested parties have been notified of the appeal. Given the reduction in the scale of the proposal since the original publicity exercise, and the opportunity for public participation in the appeal proceedings, I am satisfied that the appeal, consisting of the proposal to erect 2 dwellings on the site, may be considered without prejudicing the interests of third parties.

### **Main Issue**

5. Although the Council's decision notice does not expressly specify any objection to any one or more of the particular reserved matters, it identifies flooding risk to future occupiers of the development as a concern, with an asserted flood having occurred in 2002 over 'large parts of the application site including the position of the proposed dwellings'. The Council in its appeal statement identifies 'the layout and its impact on flood risk' as important considerations. The Council also confirms that in its view, subject to the use of appropriate planning conditions, the reserved matters of access, scale, appearance and landscaping are acceptable. From this I conclude that the main issue in the appeal concerns the layout of the proposed development, with particular regard to flooding risks to the proposed occupiers.
6. Several other concerns have been raised by interested parties including the appearance of the proposed dwellings, their effect on neighbouring living conditions by reason of privacy impacts, highway safety risks, the effect of the proposed development on nearby trees, and future flooding risks elsewhere.

### **Reasons**

#### *Layout and flooding risks to the proposed occupiers*

7. The appeal site lies to the eastern edge of the small settlement of Hepworth, at the base of a steep hill and adjoining the Rakes Dike watercourse to the east. The site is presently open grass land, sloping eastwards toward the dike and its surrounding mature tree cover, with a public footpath beyond on the other side of the dike. To the west of the site are properties on Carr View Road, and the site is accessed from Butt Lane to the north.
8. Outline planning permission was granted in 2016 for the erection of residential development on the site. A number of planning conditions were imposed on that permission, including No 5 that precluded development in Flood Zone 3 and any changes to ground levels, as set out in section 8 of the approved Flood Risk Assessment, and required finished floor levels to be set 150mm above ground levels, flood resilience measures to be installed up to 600mm above ground levels and the provision of overland flow routes through the site.
9. The Council does not dispute that the proposed details of the development would comply with this condition. It is also common ground that the Environment Agency and the Lead Local Flood Authority have no objection to the proposal. The Environment Agency report that the development would be

located outside Flood Zone 3 and within Flood Zone 1. The Council in its case relies on photographs of a 2002 flooding event in the vicinity, and on information provided by existing and former ward councillors for the area.

10. The photographic evidence of the 2002 event shows that an area in Jackson Bridge, approximately 370m downstream of the appeal site, was subject to flooding notwithstanding that it lies within Flood Zone 1. Other photographs, appearing to be of more recent provenance, are not readily attributable to the appeal site, although some of them appear to show the Rakes Dike in spate and with areas of standing water on the appeal site. It is not apparent that this standing water is the result of fluvial flooding, or which Flood Zone it is in.
11. The information apparently given by the ward councillors is that in 2002 the footpath on the other side of the Rakes Dike was destroyed by a flood, that buildings on the appeal site were damaged or destroyed, and that animals on the appeal site had to be restrained on higher ground. It is further stated, although unsupported by any evidence from planning or building control records, that the houses to the west of the appeal site, on higher ground, were required to be constructed on raised levels, as a flood resilience measure, when built.
12. Although the Council's stated reason for refusing to approve the reserved matters refers to a history of flooding over the application site including the particular position of the proposed dwellings, the information submitted during the appeal is rather more vague. No evidence has been supplied as to the specific extent of the 2002 flooding event, and there is no express assertion, other than in the Council's reason for refusal, that the sloping site has flooded in the particular area where the dwellings are proposed to be sited.
13. The Environment Agency provides flood maps showing areas at risk of flooding, principally from rivers and the sea. These are not necessarily precise, being based, in many cases, on modelled assessments. I have not been provided with any Strategic Flood Risk Assessment by the Lead Local Flood Authority that might refine the Environment Agency's information. There is evidently considerable local concern that the Environment Agency's information is outdated. One of the neighbours making representations in the appeal has helpfully supplied drawings of the likely extent of flooding on the site if the river levels were to rise to the level of the public footpath, and if they were to rise to a level 0.5m above that. The latter drawing shows that such a flood would encroach on to 'Plot 1'. However there is no evidence, rather than assertion, before me of any unacceptable risk of such an event.
14. The principle of developing the appeal site for housing was established by the outline planning permission, at which stage the susceptibility of the site to flooding was considered and addressed. The information now supplied concerning the 2002 flood would reasonably have been available to the Council at the time of granting that outline planning permission. The current proposal meets the requirements of condition No 5 attached to the outline planning permission, and there is insufficient evidence to permit of a conclusion either that the proposed siting of the dwellings would be unacceptably exposed to the risk of flooding, or that any such risk would be avoided by a different layout.
15. Therefore on this issue I conclude that the development has been directed to an area at the lowest probability of flooding and the layout complies with the requirements of Policy PLP 27 of the Kirklees Local Plan adopted in February

2019 concerning development and flood risk, as well as with policies in Chapter 14 of the National Planning Policy Framework.

## **Other matters**

### *Appearance*

16. The proposed dwellings would be detached properties amply spaced from each other and the nearby dwellings on Carr View Road. Those dwellings on Carr View Road have the appearance of single-storey dwellings to their fronts, with 2 storeys to the rear as they overlook the appeal site. The appeal dwellings would be larger, but as the land levels fall away they would not appear out of context, with their ridge heights some 3m or more below those of the dwellings on Carr View Road. Construction materials would be in keeping with the local vernacular. Concern is expressed that the dwellings would appear unduly overbearing to users of the public footpath on the other side of the dike, as the patio areas would be raised to the ground floor levels, with the properties' eastern rear elevations on top of those giving a tall appearance overall. However, I consider the sloping land levels could accommodate these heights and the dwellings would not appear out of character in the vicinity. A condition would secure appropriate boundary treatments.

### *Living conditions*

17. The site section drawing 2397-04E shows that the house on 'Plot 2' will face on to existing houses on Carr View Road. The land slopes significantly downwards from Carr View Road towards the application site, and the section drawing suggests that there will be a difference in levels of approximately 3 metres. Although details of the boundary treatments are scant, these can be secured by condition and there is adequate separation distance between the dwellings, both from each other and from existing houses, to avoid unacceptable impacts on the occupiers' living conditions by reason of overlooking or other privacy concerns.

### *Highway Safety*

18. Proposed site plan 2397-03G shows 2.4m x 70m visibility splays in each direction at the site entrance, with a 2m footway on either side. The visibility for drivers exiting the site would not be unduly affected by the presence of the telegraph pole sited at the side of the road towards Jackson Bridge. Potential conflict with pylons and overhead power lines is a matter for other legislation, but there is no evidence to suggest that this could not be resolved.
19. Concern has also been expressed about the potential for overspill parking on Butt Lane. Although the proposed dwellings are large, I consider that the provision of double parking areas, garages, and a visitor parking area for the proposed dwellings would be adequate without undue risk to the safety of highway users on adjoining roads as a result of parking outside the site.

### *Effect on trees*

20. A 'Woodland' Tree Preservation Order was made and confirmed in early 2018, and the application was amended in order to account for concerns about the possible effects on nearby trees. The plans show a limited amount of tree removal, and it appears that the plans reducing the number of dwellings on the site to 2 were submitted after the receipt of public responses. Two silver

birches and an ash are marked for removal, as detailed in the appellant's arboricultural report, as being in poor condition. The remaining trees would be adequately protected by compliance with the arboricultural method statement, secured by condition.

*Other flooding risks*

21. Condition No 6 of the outline planning permission restricts surface water discharge from the site to a maximum of 5 litres per second, and concern is expressed that the discharge opening to the dike has been sized so as to exceed this. Concern has also been raised about the potential for using a road drain overflow within the site. Rather than being a concern of the reserved matters submission, however, as the Council points out, the drainage from the site has to be secured through a separate application to obtain the planning authority's approval of the details required by condition No 6 of the outline permission. These matters are more appropriately considered at that juncture, and accordingly I do not impose a requirement to comply with the drainage plans that have been submitted, which would require revisions to reflect the number of houses now under consideration.
22. Objectors also raise the question of whether retaining walls or structures within the site would affect the holding capacity of the floodplain. Walls to the road and raised patio areas are shown on the plans, although the principal parties are agreed that no retaining structures would be erected within the garden areas of the proposed dwellings. No development would take place within Flood Zone 3, and the Council and the Environment Agency are content with the information submitted. Although it is asserted otherwise, I have insufficient evidence to conclude that the proposed development would unacceptably affect the holding capacity of the floodplain or increase flood risks elsewhere.

**Conditions**

23. The Council has suggested a number of planning conditions, although without detailed reasoning or extracts from the development plan in support of its limited reasons. A condition requiring compliance with the approved plans is required for certainty about what has been approved. This includes the Arboricultural Method Statement, which does not require a separate condition. Details of the proposed external surfaces should be subject to approval in advance of building above slab level, in order to ensure an acceptable finish to the development that is in keeping with the area. A scheme for the boundary treatment of the site is required because of the privacy and overlooking concerns of neighbours and the views from the public footpath, and because the landscaping details submitted as part of the reserved matters application are lacking in abundant detail. The approved access arrangements should be secured by requiring their provision, including the adjoining footway, at an appropriate stage of the development, and their future maintenance thereafter. Similarly, arrangements for the collection of wastes, and the provision and retention of appropriately surfaced parking areas, are related to the access arrangements hereby approved.
24. The Council also suggests that the overall method of construction of the development will need to be secured by the details of a construction management plan, to be submitted and approved before development commences. This however goes beyond the scope of the matters reserved for approval at this stage and I do not impose it.

25. The proposed requirement for bat and bird boxes for ecological reasons also appears to go beyond the scope of the reserved matters for which approval is sought, and I do not consider this condition to be necessary or reasonably related to the details before me. The details of any external lighting of the proposed dwellings, although proposed for ecological reasons, do however obviously relate to the appearance of the development, and I accept that such a condition is reasonably related to what is now proposed. No detailed evidence is before me as to the necessity of such a condition, but I accept that the wildlife corridor of the adjoining dike could be susceptible to adverse impacts from night-time lighting and so it is a reasonably necessary condition to impose.
26. Condition No 8 of the outline permission restricts the application of the Town and Country Planning (General Permitted Development) (England) Order ('GPDO') concerning the erection of walls or other means of enclosure within part of the site. This relates to the part of the site lying within Flood Zone 3 only. Whether or not the construction of retaining walls would already require permission (with or without the application of the GPDO), the Council seeks to prevent them without prior written consent, in furtherance of flood mitigation objectives. This matter refers to both the layout and the appearance of the proposed development, and I concur that such a restriction is necessary. I acknowledge that there are local concerns about flood risk, but moreover a number of representations have referred to the adverse visual impacts of any proposed retaining walls when viewed from the recreational footpath on the other side of the dike. Such a condition is therefore necessary for this reason.
27. As to the further prohibition on permitted development rights sought by the Council, however, I do not think that this is necessary. Classes A and E of Part 1 of the GPDO are already restricted by the outline permission, and so the Council's suggested condition is unnecessary in these respects. As to Classes B and D, there is no clear evidence before me as to the flooding risks that might materialise from any alterations to the roof of a property, and the proposed dwellings would be largely surrounded by areas of hardstanding, including in the areas in which any porches might reasonably be expected to be constructed. It is not explained how the exercise of these permitted development rights might reasonably be expected to obstruct flood mitigation measures.

## **Conclusion**

28. For the reasons given above, and subject to the imposition of appropriate conditions, the Council's reason for refusing to approve the reserved matters is not substantiated. There is insufficient evidence that the proposed layout of the development would be unacceptable on flood risk grounds, especially given that the principle of the development has already been established with regard to such matters. The proposal complies with the development plan for the area and so the appeal is allowed and reserved matters approved in accordance with the Schedule of Conditions set out below.

*Laura Renaudon*

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and specifications:
  - Location Plan Ref 2397-LOC
  - Existing Site Plan Ref 2397-01
  - Existing Site Levels Ref 2397-02
  - Proposed Site Layout Ref 2397-03G
  - Proposed Site Sections Ref 2397-04E
  - Plot 1 House Type – Proposed Plans & Elevations Ref 2397-05
  - Plot 2 House Type – Proposed Plans & Elevations Ref 2397-06A
  - Flood Plan Ref 2397-09A
  - Arboricultural Report Ref 13978/AJB
  - Arboricultural Method Statement Ref 13978-A/AJB incorporating Appendix 5: Tree Protection Plan
- 2) Before any development above slab level takes place in the construction of the hereby approved dwellings, details of the materials to be used in the external surfaces of the dwellings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
- 3) Prior to the occupation of the hereby approved dwellings, a scheme detailing the boundary treatment of the all the site shall be submitted to and approved in writing by the Local Planning Authority. The dwellings hereby approved shall not be occupied until the works comprising the approved scheme have been completed, and it shall be retained thereafter.
- 4) Prior to the occupation of the hereby approved dwellings, the sightlines as set out on the hereby approved Dwg. No. 2397-03G shall be provided with no obstructions above 1 metre in height. The sightlines shall thereafter be retained.
- 5) The development shall not be brought into use until a scheme of design and construction details for the provision of a 2 metre wide footway across the frontage of the application site and as detailed on the hereby approved plan Dwg. No. 2397-03G has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before either of the dwellings are first occupied and retained thereafter.
- 6) The development shall not be brought into use until all areas indicated to be used for the parking of vehicles as set out on Dwg. No. 2397-03G have been marked out, and laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. These areas shall be so retained, free of obstructions and available for the use specified on the plan and retained thereafter.
- 7) Prior to the occupation of the hereby approved dwellings details of any external lighting to be installed on the dwellings shall be submitted to and approved in writing with the Local Planning Authority. No external lighting other than that approved shall be installed on the hereby approved dwellings.
- 8) No retaining walls other than those indicated on hereby approved site layout plan Dwg. No. 2397-03G and site sections plan Dwg. No. 2397-04E shall be erected in the site outlined in red on the hereby approved Location Plan,

Dwg. No. 2397-LOC without the prior written consent of the Local Planning Authority. For the avoidance of doubt there shall be no development in Flood Zone 3 as identified on Dwg. No. 2397-03G.

- 9) Before the hereby approved dwellings are first occupied, details of storage and access for collection of wastes from the premises shall be submitted to and approved in writing by the Local Planning Authority. The works comprising the approved details shall be provided before the dwellings are first occupied and shall be so retained thereafter free of obstructions and available for storage.



# Appeal Decision

Site visit made on 2 July 2019

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

an Inspector appointed by the Secretary of State

Decision date: 9 August 2019

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**Appeal Ref: APP/Z4718/W/19/3227094**

**2 Romsey Close, Lindley, Huddersfield, West Yorkshire HD3 3GU**

- 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 Polzin against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2018/62/93784, dated 9 November 2018, was refused by notice dated 11 January 2019.
  - The development proposed is a new dwellinghouse on land at 2 Romsey Close.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The Council adopted the Kirklees Local Plan (Kirklees LP) on 27 February 2019. I am required to determine the appeal on the basis of the development plan that is in force at the time of my decision. Accordingly, the proposal should now be considered against Policy LP24a of the adopted LP, which is cited as PLP24(a) in the reason for refusal. The parties have had the opportunity to comment on the effect of the Kirklees LP on the proposed development and I have taken any comments into account in reaching my decision.
3. On 19 February 2019, the Government published an updated revised version of the National Planning Policy Framework (the Framework). In relation to the main issue in this appeal, Government policy has not materially changed. Accordingly, no parties have been prejudiced by my having regard to it.

## Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

## Reasons

5. Romsey Close is a small residential cul-de-sac principally comprising two-storey semi-detached dwellings. They have a mostly uniform appearance, set back from the road behind a driveway/garden along a broadly consistent building line. The houses typically have a longer garden to the rear.
6. The appeal site at No 2 Romsey Close is different to this established pattern, sitting within a large irregularly shaped plot with an extensive front garden so that the house, a double fronted detached property with a long single storey side extension, is substantially set back from the road. It has further garden areas to the side and rear.

7. The proposal would introduce a detached two-storey house with a separate garage accessed from the existing driveway on land that is presently the lawned front garden of No 2. A new driveway would also be created along the eastern edge of the site, adjacent to a public footpath. This would serve No 2, as well as a detached dwelling set back behind the rear elevation of No 2 that was approved in June 2018<sup>1</sup> but not yet constructed.
8. A previous application for 2 dwellings within the garden of No 2, one effectively in the same location as the June 2018 approval cited above, and the other to the front of the site, was refused in February 2018<sup>2</sup>. The appeal proposal would be set further into the site in comparison to this previous scheme and it would provide a larger garden. Consequently, I acknowledge that the Council, in its officer report, accept that the proposed dwelling would provide acceptable living conditions for both existing residents and future occupiers.
9. However, No 2 is distinct within the cul-de-sac as a consequence of being a large house that is set back generously within the site. Its front garden provides an attractive landscaped opening as the road curves. This contributes to the quality of the street scene and provides a visual break between the properties on Crosland Road and the more 'tight-knit' houses from No 4 Romsey Close onward. Even though the appeal site is not within a Conservation Area, the proposal would introduce a dwelling within this space, and it would be visually conspicuous as a result.
10. Furthermore, with the exception of No 2, the existing houses along the street, including the two detached properties to the north of the site, are of a broadly consistent design. They are modest in their width and depth and present largely flat fronted elevations, detailed with small projecting porches with simple and repetitive proportions to provide a coherent street scene. Because the appeal proposal would broadly align with the front building line of dwellings on the south side of Romsey Close, it is within the context of these houses, rather than No 2, that the proposed dwelling would be seen.
11. I appreciate that the proposal would be two storeys with a comparable set back from the site frontage and a similar rear garden depth to neighbouring properties. It would also be constructed in brick with a tiled roof. Nevertheless, it would be noticeably wider than the existing houses along the street frontage. It would also have a projecting front gable and bay detail. Taken together, its scale and design would be at odds with the established form of development along the road. Given its prominent location on a bend close to the entrance of the cul-de-sac, it would therefore be incongruous within the street scene.
12. For these reasons, I conclude that the proposal would be harmful to the character and appearance of the area. It would therefore conflict with Policy LP24(a) of the Kirklees Local Plan (2019). This policy seeks to ensure that all development respects and enhances the townscape having regard to, amongst other matters, the form, scale and details of the development. It would also fail to accord with guidance in Chapter 12 of the Framework in respect of seeking to achieve well-designed places.

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<sup>1</sup> Council Ref: 2018/90760

<sup>2</sup> Council Ref: 2016/92466

## **Other Matters**

13. The Council identify two Grade II Listed Buildings at Nos 80 and 82 Cowrakes Road to the south-east of the site. In accordance with the statutory duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have to consider the impact of the proposal on the special architectural and historic interest of the Listed Buildings affected, and their settings. In this case, the proposal would be some distance away from these listed cottages. As a result, it would have no perceivable effect on either the Listed Buildings or their setting, which would be preserved.

## **Planning Balance and Conclusion**

14. From the evidence before me, it is apparent that the Council is not able to demonstrate a 5-year supply of deliverable housing sites. Therefore, having regard to the Framework, the presumption in favour of sustainable development applies and relevant policies that are most important for determining the application should be considered out-of-date.
15. However, in the context of the development plan, the Local Plan is very recently adopted, and I have found that the proposed development would be contrary to Policy LP24(a). Moreover, the overall high-quality design objectives of this policy are consistent with the Framework. As such, it can be afforded substantial weight.
16. Nonetheless, I recognise that the Government seeks to significantly boost the supply of homes. Furthermore, the site is within an accessible location for housing, with bus services to Salendine Nook and Lindley where the principle of residential development would be acceptable. This is evidenced by the recently approved dwelling to the south-east of the site.
17. The benefits arising from one new dwelling and its contribution to housing supply would, however, be limited. Consequently, the harm to the character and appearance of the area would, in my view, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development.
18. For this reason, I conclude that the appeal should be dismissed.

*Kate Mansell*

INSPECTOR



## Appeal Decision

Site visit made on 5 August 2019 by Darren Ellis MPlan

**Decision by Susan Ashworth BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 23 August 2019**

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**Appeal Ref: APP/Z4718/D/19/3229098**

**8 The Crest, Bradley, Huddersfield, HD2 1QN**

- 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 Aurangzeb Hussain against the decision of Kirklees Metropolitan Council.
  - The application Ref 2018/62/94133/W, dated 14 December 2018, was refused by notice dated 14 March 2019.
  - The development proposed is a two-storey side and single-storey front and rear extensions.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Preliminary Matters

3. Planning permission was granted in 2018 for single-storey side, front and rear extensions<sup>1</sup>. The front and rear extensions have been built in accordance with the approved drawings, however the side extension has been built higher than was approved. The proposal before me effectively seeks to regularise the matter. As the Council has no objection to the single storey elements of the proposal, my determination of the appeal concentrates on the two-storey element.

### Main Issue

4. The main issue is the effect of the development on the character and appearance of the property and the area.

### Reasons for the Recommendation

5. The street is characterised by detached two-storey dwellings and bungalows that are traditionally designed with regular proportions and similar materials. The consistent appearance of the properties contributes positively to the character and appearance of the area.

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<sup>1</sup> Application ref: 2018/62/92485/W

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6. The side extension is set back from the front elevation of the main dwelling and has a ridge height that is lower than the existing roof. The exterior materials match those of the dwelling. However, the extension is neither fully two storeys in height nor single storey and its form has resulted in a design that includes a disproportionate amount of unrelieved masonry between the top of the windows and the roof. Consequently, the extension appears to be disproportionate and thereby discordant with the original dwelling and as such detracts from its character and appearance.
7. Furthermore, the appeal property is located on a corner plot and when viewed from the rear, and in particular from the junction with Park Hill, the side extension is a highly prominent feature that protrudes beyond the established building line. The height of the side extension adds to the prominence of the dwelling and as such the extended building appears bulky on its plot. In addition, its awkward design is highly visible in the street scene. Consequently, the development also detracts from the character and appearance of the area.
8. I acknowledge that the existing hedge when fully grown would soften and partially screen the appearance of the extension and that climbers could be encouraged on the rear and side walls. However, such planting would take some time to become established and could be cut down or removed at any point in the future. I am unconvinced therefore that such planting would negate the harm I have identified.
9. I note that other properties in the street have previously been extended. However, no documents have been submitted regarding any planning permissions for these extensions and it seems to me that in any event they are of designs that are not necessarily directly comparable with the appeal proposal. In any case I have determined this appeal on its own merits.
10. For these reasons, the side extension causes significant harm to the character and appearance of the appeal property and the surrounding area and is therefore contrary to Policy LP24 of the Kirklees Local Plan, which seeks to protect appearance and character through high quality design including through ensuring that the scale, form and appearance of a proposal ensures that it respects and is in keeping with its surroundings.

*Other matters*

11. No concerns were raised by the Council with regards to the effect on the neighbouring properties or highway safety, and I have no reason to disagree.
12. I acknowledge the appellant's reasons to provide an additional bedroom in the side extension as built. However, this private benefit does not outweigh the harm to the character and appearance of the building and surrounding area.

**Conclusion**

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

*Darren Ellis*

APPEAL PLANNING OFFICER

**Inspector's Decision**

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*S Ashworth*

INSPECTOR



## Appeal Decision

Site visit made on 5 August 2019 by Andreea Spataru BA (Hons) MA MRTPI

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

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

**Decision date: 29 August 2019**

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**Appeal Ref: APP/Z4718/D/19/3231408**

**3 Cromwell Court, Almondbury, Huddersfield HD5 8ZH**

- 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 Blyth against the decision of the Council of Kirklees.
  - The application Ref 2019/62/90646/W, dated 28 February 2019, was refused by notice dated 7 May 2019.
  - The development proposed is a single storey garage.
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### Decision

1. The appeal is allowed and planning permission is granted for a single storey garage at 3 Cromwell Court, Almondbury, Huddersfield HD5 8ZH in accordance with the terms of application ref: 2019/62/90646/W, dated 28 February 2019 and subject to the following conditions:
  1. The development hereby permitted shall begin no later than three years from the date of this decision.
  2. The development hereby permitted shall be carried out in accordance with the following approved plans: 100; 101; 102.
  3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Preliminary matter

3. The appeal statement refers to a revised scheme, which appears to constitute a second application to the Council. I can only determine the appeal based on the original proposal, thus the alternative plans included within the appeal statement have not been considered.

### Main Issues

4. The main issues are whether the proposal would preserve or enhance the character or appearance of the Conservation Area and the effect of the proposal on the character and appearance of the streetscene.
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## Reasons for the Recommendation

5. 3 Cromwell Court is a detached, two-storey dwelling located in a small cul-de-sac, within the Almondbury Conservation Area (CA). The appeal dwelling has a two-storey side extension to the north and a first-floor side extension to the south. It also has a shed next to the southern side boundary. This cul-de-sac is formed of four detached properties, which appear to be originally built with a single storey garage/structure to the side. They are similar in terms of design and materials and are located in close proximity to each other. They form a small residential estate, which is a more recent addition to the CA, and occupy a secluded position at the edge of the CA.
6. The proposed garage would replace the existing shed and would infill the gap between the host dwelling and the southern side boundary. Given the shape of the appeal site, the garage would be at an angle with the dwelling. It would have a pitched roof and would match the materials of the original dwelling.
7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
8. The Council found that the proposal would not harm the character and appearance of the CA, as the development would not have a prominent position within the CA and would match the materials of the host dwelling. I am satisfied from all I have seen and read that for those reasons the proposal would preserve the character of the Conservation Area. However, the Council is concerned that the proposal would appear as a cramped addition that would lead to overdevelopment of the site, thus would harm the character and appearance of the streetscene.
9. Although the development would infill the gap between the host dwelling and the southern boundary of the site, there would still be a clear separation between the appeal dwelling and the neighbouring property. From what I have seen, neighbouring property no 4 Cromwell Court has a single-storey structure that is slightly set-in from the side boundary shared with the appeal site. In addition to the gap between the proposal and the neighbouring dwelling, the garage would also be set back from the front elevation of the neighbouring dwelling. Furthermore, I noted that neighbouring properties located on the northern side of Cromwell Court also have single-storey garages next to the side boundary shared with their adjoining property.
10. I note that the dwelling has been previously extended and that the garage would further extend the dwelling towards the southern boundary of the site. The existing shed, although not attached to the dwelling, occupies a significant area to the south of the dwelling. Whilst the garage would completely infill this gap and thus increase the mass of the dwelling, it would not appear out of context, as neighbouring dwellings also project significantly along the width of their plot. I acknowledge that the appeal site is wider than neighbouring sites, however given the corner plot location of the appeal property and the siting of the garage in relation to the host dwelling and neighbouring properties, the proposal is acceptable.

11. The garage would be single-storey; its eaves would be in line with the ground floor level of the host property and its ridge line would be slightly below the eaves of the first-floor side extension. Whilst the roofline of the garage would not be in line with that of the front porch, or with the eaves of the first-floor extension, the development would be sufficiently in keeping with the host property as to not adversely affect its character and appearance, or the character and appearance of the area. The matching materials, roof style, and the eaves height would ensure that the garage is in keeping with the host dwelling and the streetscene.
12. In light of the above, I conclude that the appeal development would preserve the character of the Conservation Area and would not adversely affect the character and appearance of the streetscene. Consequently, the development would meet the statutory tests set out in the Act and would accord with Policy LP 24 (a) and (c) of the Kirklees Local Plan, which amongst other things, supports developments that are designed to be in keeping with existing buildings, and that respect the character and appearance of the area.

**Other matter**

13. I note that the garage would not meet the standards to be considered a parking space. Given that the proposal would not reduce the existing number of off-street parking spaces for the appeal dwelling, and would not be detrimental to highway safety, the Council found it acceptable in terms of impact on highway safety. I have no reasons to disagree.

**Conditions and Recommendation**

14. In the interests of proper planning and to provide certainty I have recommended the standard time limit condition and have specified the approved plans. In order to protect the character and appearance of the area a condition that specifies that matching materials are used in the development is necessary. These conditions have also been suggested by the Council in the event that the appeal was allowed.
15. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to these conditions.

*Andreea Spataru*

APPEAL PLANNING OFFICER

**Inspector's Decision**

16. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*S Ashworth*

INSPECTOR



## Appeal Decision

Site visit made on 19 June 2019

**by F Rafiq BSc (Hons), MCD, MRTPI**

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

**Decision date: 30<sup>th</sup> August 2019**

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**Appeal Ref: APP/Z4718/D/19/3227847**

**7 Lake View, Armitage Bridge, Huddersfield, HD4 7NX**

- 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 Gloria Gough against the decision of Kirklees Metropolitan Council.
  - The application Ref 2019/62/90351/W, dated 6 February 2019, was refused by notice dated 5 April 2019.
  - The development proposed is the erection of a conservatory.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal development is for a conservatory to the north-east elevation of the property. The development had already been carried out at the time of my visit and I have considered the appeal accordingly. I was also able to see the fence enclosing the garden area that the Council have stated requires planning permission. Although, there are references to it on the appeal application form, it does not form part of the description of development and therefore is not before me in the determination of this appeal.
3. The Kirklees Local Plan was adopted on the 27 February 2019 before the Council made its decision. It forms part of the development plan and I have proceeded to determine the appeal accordingly.

### Main Issue

4. The main issue is the effect of the extension on the character and appearance of the host dwelling and the area and whether it preserves or enhances the character or appearance of the Armitage Bridge Conservation Area (Conservation Area).

### Reasons

5. The appeal property is a mid-terrace dwelling which is within a Conservation Area. It is constructed in natural stone with the roof formed of stone slate material. The surrounding area in the vicinity of the site is predominantly residential although to the north of the appeal property is a mill pond and allotments, which provide an open setting. This, alongside the historic form of the modest two storey terraces, including the generally low boundary walls, contribute to the attractive and cohesive character of the area.

6. The conservatory projects around 3m from the main two storey wall of the dwelling and has a similar width to its projection. It is separated from the neighbour at No. 5 by a distance of around 1.5m, but does extend across most of the width of the dwelling. At the time of my site visit, I was able to see that the terrace along the north-eastern frontage retained its original form, with projections forward of the main two storey facade limited mainly to some porch structures around entrance doors. In contrast to this, the scale of the appeal proposal, despite its construction in wall materials that are sympathetic to the existing property, as well as having gutters in a traditional style, has resulted in a large addition to the dwelling. The extension detracts from the generally uniform and consistent character of the terrace row and has intruded into a largely open garden area.
7. The roof materials, although formed of slate, are different to the stone slate materials of the main dwelling. This along with the shallow hipped roof form, which also differs from the simple pitched roof form of properties in the area, draws attention to the development, resulting in it appearing conspicuous in its surroundings.
8. I conclude therefore that the appeal development has an unacceptable adverse effect on the character and appearance of the host dwelling and the area and also fails to preserve or enhance the character and appearance of the Conservation Area. It is contrary to Policies LP 24 and LP 35 of the Kirklees Local Plan, which seek, amongst other matters, good design that enhances the character of the townscape and development that preserves or enhances the significance of the heritage asset. It would also be contrary to paragraph 193 of the National Planning Policy Framework (Framework), which states that great weight should be given to a heritage asset's conservation. In relation to paragraph 196 of the Framework, this states that where there would be harm that is less than substantial, as in this case, it must be weighed against the public benefits of the proposals.
9. I acknowledge the extension has replaced a run-down timber structure, however, from the information provided, this was a smaller porch like others that exist on the terrace row. In any event, this does not overcome my concern regarding the visual impact of the development.
10. The conservatory provides additional living space to meet the needs of the Appellant and her family and benefits from improved insulation. The Appellant has stated that she acted on advice that planning permission was not required for the appeal development. I also note the comments that the Appellant and her neighbours consider the elevation where the Conservatory is built, to be the rear. The Appellant has further raised concern on the consistency of communications from the Council and the length of time taken for them to respond stating that planning permission was required. Whilst I sympathise with the Appellant, I am required to deal with the appeal before me on its own merits. These matters do not outweigh the harm I have identified in respect of the main issue.

### **Other Matters**

11. The development has not resulted in an unacceptable effect on the living conditions of neighbouring occupiers or on wildlife. There has also been no increase in localised flooding. These are, however, neutral considerations and not benefits of the proposal.

**Conclusion**

12. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

*F Rafiq*

INSPECTOR