



Appeal Decision

Hearing held on 6 December 2022

Site visit made on 6 December 2022

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 February 2023

Appeal Ref: APP/W4223/W/22/3306367

Land off Stockport Road, Lydgate, Oldham OL4 4JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission in principle.
 - The appeal is made by Mr S Leigh against the decision of Oldham Metropolitan Borough Council.
 - The application Ref: PIP/348651/22, dated 8 March 2022, was refused by notice dated 14 April 2022.
 - The development proposed is 3 No. dwellings and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the Hearing, the Council confirmed that it had not received the pre-hearing note which included requests for documents prior to the event. This was later discovered to be due to a network security issue. As detailed at the end of this Decision, the requested information was submitted during and/or after the Hearing along with additional documents raised at the event.
3. In the interests of fairness, the Appellant was given the opportunity to comment on the additional documents submitted after the event via a process of written representations, to which the Council was given the opportunity to respond. The Appellant submitted comments via email, copying in the Council¹. No response was subsequently received from the Council. I have therefore proceeded to determine the appeal having regard to the submitted evidence, the discussion at the Hearing and the additional documents and comments submitted after the event. I am satisfied that no parties' interests have been prejudiced by this approach.
4. The proposal is for permission in principle. The Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages. The first, or permission in principle stage, establishes whether a site is suitable in-principle; and the second, or technical details consent stage, is when the detailed development proposals are assessed².

¹ Email from Appellant dated 22 December 2022.

² Planning Practice Guidance, Paragraph: 001 Reference ID: 58-001-20180615.

5. This appeal relates to the first of these two stages where the scope of the considerations is limited to location, land use and amount of development³. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. Therefore, while I note the matters raised in representations by interested parties, such as highway safety, appearance, living conditions of neighbours, flood risk and drainage, these are detailed matters and not for my consideration as part of this appeal. This was confirmed with the parties at the Hearing.

Main Issues

6. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2021 (the Framework) and any relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the surrounding area, with particular regard to the setting of the Lydgate Conservation Area (the LCA);
- Whether the proposal would preserve the settings of the nearby Grade II listed buildings; and
- If the proposal would be inappropriate development, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

7. The appeal site (the site) lies immediately adjacent to the western side of Stockport Road within the settlement of Lydgate and the Greater Manchester Greenbelt. It is a rectangular-shaped piece of vacant grazing land that slopes down south to north. It is enclosed by a stone wall to the road frontage and a post and wire fence to the other sides.
8. To the north of the site is No 4 Stockport Road, a detached house (No 4); to the south is the Church of St Anne and graveyard, a Grade II listed building⁴ (the Church); to the southeast/east is the White Hart Inn and associated car park, also a Grade II listed building⁵ (the White Hart); and to the west is an open agricultural field. The LCA lies close by to the south.
9. The proposal is for the development of the site for residential purposes comprising the erection of three new dwellings. The Appellant has submitted drawings that illustrate one option of how they could be accommodated on the site⁶. These show three detached, two-storey, properties that the Appellant submits are of a contemporary but contextual design and respectful palette of

³ Planning Practice Guidance, Paragraph: 012 Reference ID: 58-012-20180615.

⁴ Listed Building: Church of St Anne, List Entry Number: 1068142.

⁵ Listed Building: White Hart Public House, List Entry Number: 1356426.

⁶ Drawing Refs: 1366-SK002-Perspective Sketch 1; 1366-SK4-001-Concept Scheme 04 Proposed Site Plan; and 1366-SK4-010-Concept Scheme 04 Proposed Street Elevation.

materials⁷. As this is an application for permission in principle, I have considered these drawings to be indicative only.

Whether inappropriate development

10. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to a number of exceptions. These include e) limited infilling in villages.
11. Relevant to the appeal, Policy 22, Protecting Open Land, of the Oldham Local Development Framework, Development Plan Document – Joint Core Strategy and Development Management Policies, 2011 (the CS) advises that development in the Green Belt will be permitted provided it does not conflict with national policies on Green Belt.
12. Assessing a proposal against Paragraph 149 e) requires consideration of whether the proposal would be in a village; whether it would represent infilling; and, if so, whether that infilling would be limited.
13. It is common ground between the parties that the site is located within the village of Lydgate. From the evidence before me and my observations on site, I agree. While the Appellant asserts that the Council 'accept that the proposal comprises infill development' and that 'the only point of disagreement is whether it comprises 'limited' infill development'⁸, having regard to the Council's submissions, this is not entirely accurate⁹. Therefore, under this main issue, I have assessed whether the proposal would represent infilling and, if so, whether that infilling would be limited.
14. The terms 'infilling' and 'limited' for the purposes of Paragraph 149 e) are not defined in the Framework or the CS. I note the definition of 'infill' quoted by the Appellant, 'To infill a house place or gap means to fill it'¹⁰, as well as the interpretation of infill highlighted by the Council, 'the filling of a small gap along a continuous built up frontage'. I have also had regard to the case law¹¹ and appeal decisions¹² cited by the Appellant and the appeal decisions¹³ submitted by the Council. Against this background, I accept that, whether or not a proposal would constitute limited infilling in a village for the purposes of Paragraph 149 e), is a question of fact and planning judgment for the decision maker, dependant on an assessment of the position on the ground.
15. With the above in mind, the northern boundary of the site adjoins the southern boundary of No 4, with the eastern and western boundaries of the site effectively continuing those of No 4, the former being a traditional stone wall at back of pavement and the latter being a post and wire fence next to an open field. The southern boundary of the site lies immediately adjacent to a field access lane and a public footpath, which themselves are next to the graveyard

⁷ Heritage Statement, Kathryn Sather & Associates, dated February 2022.

⁸ Email from Appellant dated 22 December 2022.

⁹ Para 5.4 Council's Statement of Case, dated October 2022.

¹⁰ Para 6.11 Collins dictionary definition of 'infill', Planning Statement, dated February 2022.

¹¹ *Julian Wood v SSCLG, Gravesham Borough Council* [2015] EWCA Civ 195; and *R (Tate) v Northumberland CC* [2017] EWHC 664 (Admin).

¹² Appeal Decisions cited by Appellant: APP/R0660/W/18/3203976; APP/F2360/W/21/3274471; APP/R0660/W/17/3170279; and APP/Q4245/W/21/3276225.

¹³ Appeal Decisions cited by the Council: APP/W4223/W/20/3260050; APP/W4223/W/20/3249428; and APP/W4223/W/17/3180960.

at the side and front of the Church. Together, these elements within the villagescape of Lydgate, create a perceptible break or 'gap' between the existing built structures of No 4 and the Church.

16. However, it is evident that, on the ground, the site forms only part of this physical and visual 'gap', the rest of which is made up of the field access lane, the footpath and the Church graveyard. Given the above, although the proposal would be located within a 'gap', it would not, to all intents and purposes, 'fill it'. Consequently, in my judgement, the proposal would not represent infilling.
17. Even if I considered that the proposal would constitute infilling, notwithstanding that the indicative plot widths of the new houses would reflect those of Nos 2 and 4 Stockport Road, I am not persuaded that the infilling would be 'limited'. This is mainly in respect of the size of the site, which is considerable in the context of this fairly small historic village; but also in recognising the potential nature and size of the proposal itself, as illustrated on the indicative drawings.
18. In coming to my decision, I have had regard to the Appellant's comments that the graveyard does not represent a 'gap' in developed land, but instead forms part of the village's built up frontage, and note their reference to an appeal decision where an Inspector concluded that land occupied by tennis courts and associated fencing contributed to a 'built-up frontage'¹⁴. Nevertheless, even though the graveyard has a distinct use associated with the Church and stone boundary wall enclosure, these are not comparable to what would, in all probability, be a more intensive use and the formal court layout and very tall fences associated with tennis courts.
19. I have also appraised the other appeal decisions submitted by the Appellant. While they are evidently relevant to the matters being considered here and have some similarities with the proposal before me, the varied site-specific circumstances and different proposal details that each of them possess means that none represent a direct parallel to the appeal. In any event, as advocated by the referenced caselaw, I have exercised my planning judgement and formed my own view, having regard to the specific nature and context of the site and the individual details of the proposal. Consequently, none of the decisions lead me away from my conclusion.
20. Accordingly, I conclude that the proposal, while located in a village, would not represent limited infilling for the purposes of Paragraph 149 e) of the Framework. As such, it would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies. It would therefore conflict with the provisions within the Framework which seek to protect the Green Belt and would not comply with Policy 22 of the CS referred to above.

Effect on the openness of the Green Belt

21. Paragraph 137 of the Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both spatial and visual aspects.

¹⁴ Appeal Decision cited by Appellant: APP/R0660/W/18/3203976.

22. The permission in principle nature of the proposal means that the size, scale and massing of the three new dwellings are not confirmed. Nonetheless, the site is, and historically has been, free of built form. The erection of three houses on the land would clearly introduce a new footprint and volume of built form where currently there is none. This would undeniably lead to a reduction in the spatial openness of the Green Belt. Additionally, given the site's prominent position within the village and the wider landscape, the new development would be highly conspicuous when viewed from public routes including the adjacent footpath, Stockport Road and the A669. This would give rise to an appreciable erosion of the visual openness of the Green Belt.
23. While I note the Appellant's contention that the proposal would support the five purposes which the Green Belt serves¹⁵, I am in no doubt that it would result in obvious harmful change to a recognised essential characteristic of the Green Belt, its openness.
24. Therefore, I conclude that the proposal would not preserve, and would have an adverse effect on, the openness of the Green Belt. As such, it would conflict with the provisions within the Framework which seek to preserve the openness of the Green Belt. As a consequence, it would also not comply with Policy 22 of the CS referred to above.

Character and appearance of the surrounding area, with particular regard to the setting of the LCA

25. In considering this and the next main issue, I have had regard to the definitions of 'significance (for heritage policy)' and 'setting of a heritage asset' in the Framework's Glossary, as well as guidance by Historic England on the setting of heritage assets¹⁶, recognising that the importance of a heritage asset's setting lies in what it contributes to the significance of the asset or to the ability to appreciate that significance.
26. The area surrounding the site comprises the buildings and spaces which form the historic Saddleworth village of Lydgate, including the landmark buildings of the Church and the White Hart, all situated within a generally spacious and verdant pastoral setting.
27. The LCA is located to the south of the site separated by a field access lane and public footpath. There is no dispute between the parties that the site lies within the setting of the LCA and, from my observations on site, I agree.
28. The LCA is a modestly sized conservation area, with its boundary drawn tightly around the routes, buildings and spaces which form the historic settlement of Lydgate. Its special interest and significance are principally defined by the preservation of the village's historic street pattern; the well-preserved stone and slate buildings that are interspersed by open spaces, denoting Lydgate's organic linear development; and the strong stone wall boundary treatments. Together, these elements combine to impart a distinct character and appearance to this Pennine ridge settlement and a strong sense of place.
29. Pertinent to the appeal, the LCA's significance is also derived, in part, from its topographically dramatic, and largely open, rural setting, of which the site forms part. The important contribution of the LCA's setting is particularly

¹⁵ Para 6.17 Planning Statement, dated February 2022.

¹⁶ Historic Environment Good Practice Advice in Planning: 3, The Setting of Heritage Assets, 2017.

realised when approaching and entering the LCA via the main routes of Stockport Road and Quickedge Road. The general absence of buildings and/or notable presence of open space at these entry points, in conjunction with the area's topography, engender a sense of anticipation in entering the historic village as well as provide space in which to view, experience and appreciate the special interest of the LCA. In these ways, the LCA's setting contributes in a tangible and positive way to its significance.

30. I note the Appellant's assertion that the significance of the LCA is not associated with the site's use. However, I find it is the site's undeveloped nature and lack of built form which positively contributes to the general character and appearance of the area and, being located within the LCA's setting at the northern entry point, positively reinforces the significance of this designated heritage asset.
31. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
32. The introduction of residential development on the site would result in the incremental erosion of an open space within the village, detracting from the historic punctuated organic pattern of development in the area and eroding the spacious qualities of the LCA's setting.
33. Given the position of the site and the topography of the surrounding land, three new dwellings in this location would detrimentally detract from a key view into the LCA when travelling south along Stockport Road. They would also markedly disrupt important views into and out of the LCA from a number of adjacent public routes and spaces, including the nearby public footpath, the White Hart car park and the A669. This would negatively alter the ability to appreciate the LCA's significance.
34. I note the indicative scheme and the parties differing opinions as to whether the dwellings would integrate well with the character of the area. While the technical details consent stage would provide an opportunity for these detailed matters to be resolved, it would not be sufficient to overcome the fundamental objections I have to the scheme's location.
35. I therefore consider that, in principle, the proposal would have a harmful effect on the character and appearance of the surrounding area. In particular, as development within the setting of the LCA, it would diminish the contribution that the LCA's setting makes to its significance as a designated heritage asset. In doing so, it would harm the LCA's significance as a whole.
36. Accordingly, I conclude that the proposal would have a harmful effect on the character and appearance of the surrounding area, with particular regard to the setting of the LCA. As such, it would conflict with the requirements of Policies 9, 20 and 24 of the CS in so far as they seek to protect and improve local environment quality and amenity; require development proposals to meet design principles, including local character; and aim to protect, conserve and enhance the borough's heritage assets and their settings, including conservation areas. Additionally, it would not comply with the provisions in the

Framework which seek to achieve well designed places and to sustain and enhance the significance of heritage assets.

37. With reference to Paragraphs 201 and 202 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the localised nature of the proposal, I find that the harm would be 'less than substantial' in this instance but still carries considerable importance and weight. Paragraph 202 requires this harm to be weighed against the public benefits of the proposal. I return to this in my balance and conclusion below.

Settings of the nearby Grade II listed buildings

38. The site lies in proximity to the Grade II listed buildings, the Church and the White Hart. There is no dispute between the parties that the site is within their settings and from my observations on site I would agree. As such, as required by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act), I have had special regard to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they possess.
39. The Church dates from 1787-88, but is described in the listed building entry as having been drastically remodelled, with the chancel dating from 1888, the vestry dating from 1911 and the tower dating from circa 1920. From the submitted evidence, the Church's special interest and significance are mainly derived from its historic and architectural interests. Important contributors in these regards are its surviving historic fabric, including internal features of interest; modest but pleasing architectural style; traditional construction and materials; ongoing ecclesiastical use and symbolism of faith; and meaning to the local community as part of the cherished local scene of Lydgate.
40. Pertinent to the appeal, the Church's significance is also derived, in part, from its setting. Its immediate setting, comprising its enclosed graveyard, has direct physical, visual, functional and historic links with the asset. This tranquil space allows the Church to be experienced and contributes considerably to its significance. Beyond this space, the organic and sporadic pattern of development within historic Lydgate, as well as the impressive topography and undeveloped nature of the surrounding landscape, including the appeal site, gives the building a prominence along with a generally expansive context which permit short, medium and long range views of the Church and its tower. In these respects, the Church's wider setting contributes in a meaningful and positive way to its significance.
41. The White Hart dates from the late 1700s with later additions and has had a variety of uses over the years, including a weavers cottage, police station and WWII look-out point. From the information presented, the White Hart's special interest and significance mainly stem from its historic and architectural interests. These principally relate to its surviving historic fabric; robust architectural form; use of traditional construction techniques and materials; and its sustained contribution to the distinct identity of Lydgate and its community. While the original building has been extended and altered, its heritage merit is still legible. Special interest and significance are also derived from its group value with other listed buildings nearby.

42. Relevant to the appeal, the White Hart's significance also stems, in part, from its setting. Its immediate setting has been compromised to a degree by extensions to the original building and 20th century residential development to the northeast, altering how the asset is experienced and moderating the contribution this aspect of its setting makes to its significance. Nonetheless, similar to the Church, the White Hart's wider setting, including neighbouring historic buildings and sloping pastoral fields, of which the appeal site forms part, impart a landmark status to the building and a rural quality to its surroundings, which are intricately linked to the building's historic uses. The White Hart's presence in a variety of views from a number of public vantage points in the area serves to strengthen the analysis that the building's wider setting contributes in a positive way to its significance.
43. Mindful of Paragraphs 199 and 200 of the Framework as set out above, I acknowledge that a large part of the significance of the heritage assets is derived from their historic form and fabric as well as their intangible social, cultural and/or spiritual values, which would remain unaffected by the proposal. I am also conscious that the immediate settings and most of the wider settings that contribute to the assets' significance would remain undisturbed by the scheme.
44. Nevertheless, and notwithstanding that there is no known historic functional relationship between the site, the Church and the White Hart, the proposal would result in the introduction of permanent built form within the assets' wider settings which has remained undeveloped throughout the period evidenced in the submitted historic maps¹⁷. This would notably erode and adversely undermine the physically and visually open qualities of the site, detrimentally altering a key characteristic of the assets' settings and, in doing so, negatively affect the ability to appreciate their significance.
45. I acknowledge that some important views of the listed buildings would be unaffected by the proposal, such as the Church from Quickedge Road or the White Hart from Stockport Road. However, given the topographically conspicuous location of the site within the village and the landscape, three new dwellings in this location would manifestly interrupt and detract from some key views of the assets, including the Church from Stockport Road and the White Hart from the A669, fundamentally weakening their landmark function and significance.
46. Overall, in my judgement, the proposal would detrimentally diminish important attributes of the buildings' wider settings and profoundly affect how the assets are experienced. In turn, this would lessen the positive contribution that their settings make to their significance as well as reduce the ability to appreciate that significance.
47. I am mindful of the in principle nature of the proposal and that there would be an ability to resolve detailed matters at the technical details consent stage. Even so, I am not convinced that this would adequately avoid or minimise the identified harm to the settings of these assets, as it would not overcome the central objections to three new houses in this location.

¹⁷ Heritage Statement – Land Off Stockport Road, Lydgate February 2022 Kathryn Sather and Associates – Heritage Conservation Consultants.

48. As discussed at the Hearing, designations do not preclude development. I recognise that change to the setting of a heritage asset does not automatically result in harm to its significance, and that conservation is an active process of managing change to heritage assets in ways that sustain, reveal or reinforce their heritage interests.
49. However, in all of the above respects, I conclude that the proposal would not preserve the settings of the nearby Grade II listed buildings. The contribution that the settings of the Church and the White Hart make to their significance would be diminished, which would result in harm to the overall significance of these designated heritage assets. As such, the proposal would fail to meet the requirements of section 66(1) of the Act. It would also conflict with Policy 24 of the CS in so far as it aims to protect, conserve and enhance the borough's heritage assets and their settings, including listed buildings. Additionally, it would not comply with the provisions within the Framework which seek to sustain and enhance the significance of heritage assets.
50. With reference to Paragraphs 201 and 202 of the Framework, given the proposal's localised extent, I find that the level of harm would be 'less than substantial', to which I attach considerable importance and weight. Paragraph 202 advises that this harm should be weighed against the public benefits of the proposal. I return to this in my balance and conclusion below.

Other considerations

51. At the Hearing the Council confirmed that, although its housing land supply position is strengthening, currently, it is unable to demonstrate a five-year supply of deliverable housing land when considered against the standard methodology and Paragraph 11d) of the Framework¹⁸. On this basis, the policies which are most important for determining the appeal are deemed to be out-of-date and planning permission should be granted unless one of two exceptions applies.
52. Notwithstanding the submission of additional evidence and subsequent discussion at the Hearing, the extent of the shortfall was not clearly confirmed by the Council, and the weight that should be attributed to it in the planning balance was not agreed by the parties.
53. Even so, the proposal would contribute three houses in an accessible location to the overall housing land supply in the borough. Moreover, economic and social benefits would flow from their construction and occupation, as well as from future occupiers supporting local services and facilities, potentially assisting the vitality and viability of the village and its community. While the extent of these benefits are tempered by the modest amount of development proposed, they attract moderate weight in favour of the appeal.

Balance and Conclusion

54. I have found that the proposal would be inappropriate development in the Green Belt which is, by definition, harmful and should not be approved except in very special circumstances. It would also not preserve, but instead have a harmful effect on, the openness of the Green Belt. In line with Paragraph 148 of the Framework, I give this harm substantial weight.

¹⁸ Update on Housing Land Supply Position – submitted at the Hearing.

55. I have also found that the proposal would result in harm to the character and appearance of the surrounding area; and, as development within the settings of the LCA and the Grade II listed buildings of the Church and the White Hart, would cause less than substantial harm to the significance of these designated heritage assets. I give this harm considerable importance and weight. In undertaking the balance as required by Paragraph 202 of the Framework, this would not be outweighed by the moderate weight I attach to the public benefits that would accrue from the proposal.
56. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
57. Having regard to the 'other considerations' set out above and the overall moderate weight I attach to them in favour of the proposal, it would not 'clearly outweigh' the substantial weight which must be given to Green Belt harm and any other harm. Therefore, they are not sufficient to amount to the very special circumstances required to justify the proposal.
58. Moreover, the application of policies in the Framework that protect areas or assets of particular importance, including land designated as Green Belt and designated heritage assets, provides a clear reason for refusing the development proposed in accordance with paragraph 11d)(i) and footnote 7 of the Framework.
59. Accordingly, for the reasons given above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr G Salthouse	Agent, Associate Director, Emery Planning
Ms K Sather	Heritage Consultant, Kathryn Sather & Associates

FOR THE LOCAL PLANNING AUTHORITY:

Ms S Leech	Planning Officer
Ms P Stebbings	Conservation Officer
Mr G Dickman	Special Projects Development Lead

INTERESTED PARTIES:

Cllr H Bishop

Cllr M Woodvine

Mr C Brierley

Mr R Fleming

Ms J Greenwood

Mr M Rathbone

Mr G Whitehead

Ms J Whitehead

ADDITIONAL DOCUMENTS Submitted at the Hearing

1. Hard copy of Policy 24 of the CS, Historic Environment.
2. Update on the Council's Housing Land Supply Position.
3. Hard copy of the representation presented by interested parties.

ADDITIONAL DOCUMENTS Submitted after the Hearing

1. Electronic copies of omitted Policies of the CS: 3, An Address of Choice; 5, Promoting Accessibility and Sustainable Transport Choices; and 24, Historic Environment.
2. The omitted representations from Saddleworth Parish Council, Environmental Health, United Utilities Water Limited and Highways.
3. The three omitted representations from interested parties (application stage).
4. Electronic copies of appeal decisions raised by parties in their evidence: APP/W4223/W/20/3260050; APP/W4223/W/20/3249428; and APP/W4223/W/17/3180960.