



Appeal Decision

Site visit made on 6 December 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/Z4718/W/23/3320059

Land adjacent to 2A Haigh House Hill, Lindley Moor, Huddersfield, HD3 3SZ

- 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 Gibson against the decision of Kirklees Metropolitan Council.
 - The application Ref 2022/62/92051/W, dated 16 June 2022, was refused by notice dated 17 October 2022.
 - The proposed development is a detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised 'Scheme Proposals Plan 1' accompanied the appeal. It slightly amends the external layout and provides further clarity, and parties have had the chance to comment. In accordance with the *Holborn Studios Ltd judgement*¹, accepting it meets the substantive and procedural tests, with no parties prejudiced in the interests of natural justice. However, no plans have been submitted to accompany the appellants' suggestion of reducing the overall ground level. This would be a too substantial a change to incorporate through the imposition of conditions, and would not be in accordance with the tests. I have therefore assessed the appeal based on the submitted plans.

Main Issues

3. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') (2023) and any relevant development plan policies;
 - the effect on the character and appearance of the area, with particular regard to the setting of the adjacent listed building;
 - whether there would be acceptable living conditions for the future occupiers, with particular regard to garden space;
 - the effect on highway safety, with particular regard to parking provision; and
 - 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 necessary to justify the proposal.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

Reasons

Inappropriate Development in the Green Belt

4. The site is on land defined as Green Belt by the Kirklees Local Plan (LP) and Policies Map (2019). No other relevant LP Green Belt policies have been suggested, and so I have assessed the proposal against the Framework guidance. The proposal is for a 2 storey detached dwelling on garden land of the dwelling at 2A Haigh House Hill, with access from its existing driveway.
5. The Framework paragraph 137 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. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149.
6. The only relevant exceptions which could apply are paragraph 149(e), comprising limited infilling in a village, or 149(g) regarding previously developed land (PDL) which would not have a greater impact on the openness of the Green Belt than the existing development.
7. For paragraph 149(e) the site must be within a village. The dwelling which is now No. 2A was granted in 2016 partly based on precedents, whereby previous decisions concluded that Haigh House Hill forms a settlement/village. It is a very small and loose-knit development of predominantly 19th century stone buildings, plus a feed distribution yard.
8. Even were I to accept the site as lying within a village, paragraph 149(e) also requires the proposal to comprise limited infilling. This is a matter of both fact and planning judgement. The No. 2A permission does not set a precedent as it was based on very special circumstances which no longer apply, relating to the removal of a builder's yard. The site does not occupy a gap in an otherwise continuously built-up frontage, being only bounded by built form to one side, plus the dwelling on the opposite side of the road. It would extend the built form of the settlement beyond its current extent. I therefore do not find it would qualify as infill development.
9. To comply instead with the Framework paragraph 149(g) exception, the site must be PDL. The Framework glossary for PDL specifically excludes residential gardens in built-up areas. However, even if I deem it not to be built up, and therefore PDL, the proposal must also not have a greater impact on the openness of the Green Belt than the existing development. I have discounted the second part of paragraph 149(g) as the dwelling has not been suggested to meet an identified affordable housing need.
10. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects, and is a matter of planning judgement. Although the land is used by the appellants, spatially the erection of a dwelling would result in built development and massing where there is presently none. It would be prominent, and so would result in a loss of openness in spatial terms.
11. Visually, the openness of the Green Belt is clearly evident around the site and the wider area, contributing to its rural countryside character, including wide

open sky views. This openness across the site is visible from both directions along Haigh House Hill. The site's topography would make the proposal particularly prominent in these views.

12. Although the appellants cite examples of recent nearby Green Belt properties and commercial and housing developments, I do not have full details of these, and therefore cannot be certain that there is any direct comparison with the proposal before me. Each case must be assessed on its own merits.
13. In drawing together my findings on spatial and visual impact, I therefore find that the proposal would result in significant harm to openness, to which, as set out in the Framework, I give substantial weight. For these reasons, the appeal proposal would be inappropriate development in the Green Belt, which is, by definition, harmful. Even if the proposal would not conflict with the 5 purposes of the Green Belt under the Framework paragraph 138, it would conflict with Section 13 of the Framework as a whole.

Character and Appearance and Listed Building

14. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the impact of the proposal on the special architectural and historic interest of listed buildings and their settings. Opposite the site lies the Grade II Listed Building of No. 7 Haigh House Hill. Its significance is as an example of an early C19 farmstead dwelling, comprising traditional materials of hammer-dressed stone with a pitched stone slate roof, and in forming a cohesive character with the other period dwellings further up the hill. Its position on the edge of the settlement gives it some prominence within the streetscene, including from lower down the valley. The appeal site lies within its setting.
15. The proposed dwelling would use materials and an overall scale and form which would be cohesive within this historic context, as well as with the adjacent more modern dwellings. However, it would appear cramped within its plot. Its high position well above the road would also create undue prominence and dominance, both in general within the open street scene at that point, and in its proximity to the listed building. While smaller than No. 7, the imbalance between their respective heights would appear overbearing to that building, and be inappropriate within its setting. Changes which may have been made to other properties close to the listed building, are not the same context as the for proposal before me.
16. Furthermore, although the side window placement would avoid overlooking and privacy issues, the lack of front fenestration would present a largely blank elevation uncharacteristic within the streetscene. This would also provide further undue juxtaposition with No. 7. Although there would be new landscaping, this would not provide sufficient camouflage overall.
17. Therefore, the proposed dwelling would lead to less than substantial harm to the significance of a designated heritage asset. I give great weight to this harm, as advised by the Framework paragraph 199. Paragraph 202 advises that less than substantial harm should be weighed against the public benefits of the proposal.
18. The Framework seeks to significantly boost the supply of homes, and the appellant notes a national shortage of houses. However, the public benefits

from a single additional dwelling would be a very small-scale contribution, and the Council has identified a local housing land supply of over 5 years. There would also be very small social and economic benefits from the dwelling's construction and occupation. The new landscaping may also provide a small-scale biodiversity benefit compared to the site's current condition. I give minor weight cumulatively to these benefits.

19. Compared to the great weight I give to the less than substantial harm to the listed building, I find that the demonstrated public benefits would not outweigh the harm. The proposed development would therefore cause harm to the character and appearance of the street scene, and less than substantial harm to the setting of the adjacent listed building. It would conflict with the LP Policies LP24 and LP35, and Principles 2 and 14 of the Housebuilders Design Guide Supplementary Planning Document ('the SPD') (2021). Together and amongst other matters, these aim for development to preserve or enhance the significance of designated heritage assets, respect and enhance the character of the townscape and landscape, and complement the surrounding built form in terms of height and form and relationship with the street frontage.
20. The proposal would also conflict with the need to achieve well-designed places as set by the Framework paragraph 130, and its section 16 on conserving and enhancing the historic environment.

Living Conditions

21. The Council considers the proposed garden size would be insufficient. The SPD Principle 17 identifies that all new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling, and the character and context of the site.
22. The shrub planted front garden would comprise steep banking, and so would not be functional. The plan identifies 38sqm of private amenity space, although it is unclear whether this includes the strips of land around the rear and west of the dwelling, which would also not be functional as garden. As such, I find overall that the garden size would not be functional and proportionate in relation to the size of the proposed 4 bedroom dwelling. It would therefore provide unacceptable living conditions for the future occupiers, with particular regard to the garden space. It would conflict with the LP Policy LP24, the SPD Principle 17, and the Framework paragraph 130, which amongst other things, seek to provide a high standard of amenity for future occupiers.

Highway Safety

23. The Council identifies that the site should include at least 3 on-site parking spaces. While the Council's decision was based on the provision of only 2 spaces, 3 are now identified in the revised scheme plan. The large driveway of No. 2A Haigh House Hill would also allow for at least 3 parking spaces to remain for that dwelling, alongside suitable turning space.
24. The proposal would therefore comply with the LP Policies LP21 and LP22, and Principle 12 of the Council's Housebuilders Design Guide SPD. Together and amongst other matters, these require proposals to provide sufficient vehicle parking, and safe and suitable access to the site.

Other Considerations

25. 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. I have identified above the benefits which would arise from the scheme, to which I give minor weight.
26. The Council suggests that despite the site being identified as garden land, the builders yard use may be a fallback position. Even if this were the case, the resulting visual clutter and activity in this location would have less impact on the Green Belt and on the character and appearance of the area, such that it does not amount to very special circumstances so as to weigh in favour of allowing the appeal. Although the location is suggested to be very safe and pleasant for future residents, this also does not amount to very special circumstances.

Planning Balance

27. In summary, due to its effects on openness, the proposal would be inappropriate development in the Green Belt in the terms set out by the Framework. The proposal would also cause harm to the character and appearance of the street scene, the setting of the adjacent listed building, and the living conditions of its future occupiers. Furthermore, no public benefits have been identified which would outweigh the less than substantial harm which would be caused to the designated heritage asset.
28. The Framework requires that substantial weight should be given to any harm to the Green Belt, and that inappropriate development should not be approved except in very special circumstances. It goes on to explain that very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
29. Against the totality of the harm I have identified, I have found no other considerations in this case that would individually or cumulatively clearly outweigh the harm to the Green Belt and any other harm. Therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. The proposal would thus conflict with the Green Belt policies in the Framework.

Conclusion

30. The proposal would be contrary to the development plan and the Framework taken as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR