



Appeal Decision

Hearing held on 19 November 2024

Site visit made on 19 November 2024

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 21st February 2025

Appeal Ref: APP/R4408/W/24/3347461

Land to rear of Greenland Cottage, High Hoyland Lane, High Hoyland, Barnsley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Steven Warsop against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref is 2023/0880.
 - The development proposed was originally described as “Full Planning Permission of the Erection of 1 no. Self-Build Residential Dwelling”
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr Steven Warsop against Barnsley Metropolitan Borough Council. This is the subject of a separate decision.

Preliminary Matters

3. The appellant submitted revised plans¹ with the appeal. The changes set back part of the front elevation, to ensure that an existing outbuilding could be retained. This would alter the internal floor layout of the proposed dwelling. Nonetheless, when assessing whether to accept amended plans consideration needs to be given to the *Holborn Studios Judgment*².
4. The proposed changes are minor and do not amount to a fundamental change to the proposal. The amended plans formed part of the appeal documents which interested parties could review prior to the Hearing. They were informed in the notification letter that the appellant had submitted additional evidence which they had not previously seen. As such, no party to the appeal has been prejudiced and I have determined the appeal based on the amended plans.
5. Prior to and during the Hearing, the appellant submitted several pieces of additional evidence. This included an Arboricultural Report and an Appeal Decision (ref. APP/R4408/W/24/3341097). The Arboricultural Report was provided in response to comments received from the Council following the submission of this appeal. The Appeal Decision was determined following the submission of this appeal and the appellant only sought to refer to the fact that the Council

¹ Proposed Site Plan and Section Ref. 2023/01/02 Rev. A and Proposed Dwelling Details Ref. 2023/01/03 Rev. A

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

acknowledged that it could not demonstrate a five-year supply of deliverable housing land within that appeal. These documents are necessary for the purposes of the appeal and the Council and interested parties have had adequate opportunity to review them. I have therefore considered them when determining the appeal, a list of the accepted evidence is appended to this decision.

6. Other pieces of additional evidence, related to correspondence and were repetitious and I do not consider them necessary for the purposes of the appeal determination. Moreover, interested parties would have not had the opportunity to review them.
7. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I sought submissions from the parties on this matter and have considered these alongside the original representations in determining the appeal. On the same date, the Government publish the results of the 2023 Housing Delivery Test (HDT). Over the preceding three years 84% of the Council's housing requirement was delivered, this has decreased from 102% which was the measurement in the 2022 HDT. The consequence of the underperformance is now a 20% buffer should be applied to the Council's supply of specific deliverable sites. I therefore requested and received an updated housing land supply position from the Council.

Background and Main Issues

8. Following correspondence between the parties, the Council is no longer seeking to defend the fourth reason for refusal which concerned the effect of the proposal on protected species. Therefore, this does not form part of the main issues.
9. Conversely, the effect of the proposal on trees did not form one of the reasons for refusal. However, within the Council's representations it has indicated that the proposal would lead to future pressure to prune a tree (T1) and that this would be contrary to Policy BIO1 of the Barnsley Local Plan, January 2019 (LP). As such, I consider this to be a main issue.
10. Therefore, the main issues are:
 - the effect of the proposal on the character and appearance of the area, including the effect of the proposal on trees;
 - whether the appeal site is an appropriate location for residential development having regard to local and national planning policy and the accessibility of services and facilities;
 - whether the proposal would be inappropriate development in the Green Belt having regard to local and national planning policy;
 - the effect of the proposal on the openness of the Green Belt;
 - 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

Character and appearance

11. The appeal site is in proximity to Greenland Cottages, which are terraced properties. The cottages on either end of the terraced block are single storey and

those in the middle are two storeys. There is a pleasing symmetry to the form of the cottages. A cliff face toward the front of the site is a remnant feature of the site's former quarry use. Currently the lower part of the site accommodates steel containers and a small stone outbuilding.

12. There is a loose pattern of development in this area of High Hoyland with properties well set back from the road. There are also several mature trees in proximity to the appeal site and fields on the opposite side of High Hoyland Lane are largely undeveloped. These aspects combine to create a semi-rural character.
13. The proposed dwelling would be sited toward the front of the plot on the lower ground and most of the proposed garden would be on the higher land. Although only one storey would be higher than the cliff face, the proposed dwelling would be three storeys tall. The height and massing of the proposed dwelling would be substantially larger than the neighbouring cottages. These aspects in combination with the limited set back of the side projection would lead to the proposed dwelling dominating the street scene and it would disrupt the pleasing symmetry of the terraced block.
14. The amount of glazing on other three storey buildings in the area tends to reduce on upper levels. On the contrary, the proposed dwelling would incorporate a significant amount of glazing at the third-floor level including a very large window on the gable projection facing toward High Hoyland Lane. This window would extend almost the full height of the room. The extensive glazing would increase the visual prominence of the third storey. Furthermore, most other windows on the proposed dwelling would be tall and narrow. The vertical emphasis of these windows would accentuate the unacceptable height of the proposed dwelling. This in combination with the visual prominence of the third storey would make the proposed dwelling appear overly tall and imposing alongside smaller properties.
15. Given the surrounding landscaping and topography of the area, views of the proposed dwelling from the road would be partially screened. Nevertheless, when walking past the site, the gable projection would be prominent in public views from the road. Paragraph 12.7 of the Supplementary Planning Document Design of Housing Development, July 2023, (SPD) indicates that the design and location of garages should be subservient to dwellings and integral garages should be set back from the frontage. The proposed large integral garage would be located within the gable projection and would be a prominent feature in the street scene. Therefore, the design of the proposed dwelling would be contrary to the guidance within the SPD. Moreover, as the design would appear similar to a townhouse, the proposed dwelling would be incongruous to the semi-rural character.
16. I note that there are three storey dwellings in High Hoyland, including 'The Mount'. However, due to the surrounding vegetation and topography of the area, the proposed dwelling would be primarily viewed alongside the much smaller Greenland Cottages. Moreover, the tallest dwellings in the village are often set back from the road within more spacious grounds or they are sited closer to the centre of the village. Therefore, these developments are materially different to the appeal proposal.
17. With regard to the effect of the proposal on trees, the only matter of dispute between the parties, is the effect of the proposal on Tree T1 as identified within the Arboricultural Report. It is assessed to be of good quality, with significant life

expectancy, located in a prominent position, and offering moderate amenity value. As part of the proposal, Tree T1 would be retained. However, given the proximity of Tree T1 to the proposed dwelling, there would be future pressure to prune the tree. This work may lead to reactionary regrowth and could limit its lifespan.

18. The loss of this tree or a significant reduction in its canopy would reduce the visual amenity value of it. Given its prominent position, and the contribution mature trees make to the semi-rural character, the loss of the tree or reduction in the canopy would be harmful to the character and appearance of the area. Whilst there may be space for replacement planting this would not adequately compensate for the loss of a mature tree in a prominent position as it would be away from the site frontage.
19. The use of locally sourced materials, including the reuse of quarry stone, and the removal of the steel containers would be beneficial. Nevertheless, this would not overcome the identified harm.
20. Overall, I conclude that the proposal would have a harmful effect on the character and appearance of the area. The proposal would therefore be contrary to LP policies D1 and BIO1 which indicate that development is expected to be of a high quality design and respect and reinforce the local character of Barnsley; and development which may harm a geological feature will not be permitted unless effective mitigation and/or compensatory measures can be ensured.

Location

21. The appeal site is located outside of the 'Urban Fabric' of High Hoyland as identified on the proposals map. However, it is only a short distance from the centre of the village around The Cherry Tree Public House and the bus stops. Despite the lack of a footpath and the topography of the area, I am not convinced that future occupiers would not walk to the centre of the village, as there is a wide grass verge and street lighting. Therefore, the appeal site is as accessible as other locations within High Hoyland.
22. LP Policy T3 indicates that new development will be expected to be located to reduce the need to travel, be accessible to public transport and meet the needs of pedestrians and cyclists. High Hoyland accommodates very few services and has limited public transport options. Future occupiers of the proposed dwelling would be largely reliant on the use of private motor vehicles to meet everyday needs. Nevertheless, LP Policy LG2 outlines that priority will be given to development in Urban Barnsley, then Principal Towns, and then Villages, including High Hoyland. This is an indication that High Hoyland would be prioritised for development over unspecified areas.
23. Moreover, the appeal site is in proximity to Kexbrough which forms part of Urban Barnsley, and Clayton West, Scissett and Skelmanthorpe which are settlements in the neighbouring authority area. There are further services and facilities in these settlements which could meet occupiers' everyday needs. Even if future occupiers did undertake journeys via car to these settlements, those journeys would not be unduly long.
24. I am mindful of paragraph 110 of the Framework, which indicates that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. High Hoyland is a rural area with limited facilities but is an area

which the Council prioritises for development and is in proximity to other larger settlements. I therefore conclude that the appeal site is an appropriate location for residential development and would be in general accordance with LP Policy T3, for the reasons given above.

Green Belt

25. The appeal site is in the Green Belt. LP Policy GB1 states that the Green Belt will be protected from inappropriate development in accordance with national planning policy. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt. Paragraph 155 of the Framework indicates that the development of homes in the Green Belt should not be regarded as inappropriate subject to the specified criteria.
26. The appeal site was formerly a quarry but there was no provision for its restoration. Several structures were also located on the site, including an outbuilding which remains to the current day. Therefore, the appeal site is previously developed land and consequently it can be classified as Grey Belt land.
27. A large proportion of the borough of Barnsley is Green Belt land, the appeal site represents a very small amount of this land. Development on this parcel of land would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan. The Council cannot demonstrate a five-year supply of deliverable housing sites. Also, for the reasons given above, the development would be in a sustainable location. Moreover, as the proposal is not major development the 'Golden Rules' do not apply. For these reasons, the appeal proposal would comply with the criteria set out within paragraph 155 of the Framework. Consequently, the proposed dwelling would not be inappropriate development in the Green Belt.
28. There is no requirement for me to assess the proposal against other exceptions specified in paragraph 154 of the Framework, as I have already concluded that the development is not inappropriate. Also, the Lee Valley v Epping Forest District Council Judgment³ outlines where the development is not inappropriate in the Green Belt, applying the exceptions identified in the Framework, it should not be regarded harmful to the openness of the Green Belt. An assessment on the effect of the proposed development on the openness is not therefore required. Likewise, very special circumstances do not need to be demonstrated for the proposal to be considered acceptable.
29. I conclude that the proposal would not be inappropriate development in the Green Belt, having regard to local and national planning policy. The proposal would comply with LP Policy GB1 and paragraphs 153 and 155 of the Framework for the reasons given above.

Other considerations

30. Benefits of the proposal would be the provision of a house which would be built to the Future Buildings Standard and would include energy efficient measures alongside the installation of photovoltaic panels, and grey water and rainwater harvesting facilities. Level access would also be provided to the proposed dwelling. The proposed dwelling would be located where it would enhance the

³ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

vitality of a rural community and new residential development in High Hoyland would improve the vitality of the centre. There would also be economic benefits associated with the construction of the dwelling. The proposal would lead to the removal of the containers which have a harmful effect on the character and appearance of the area.

31. The appellant would also be able to live in the proposed dwelling and support nearby relatives. However, the weight given to this benefit is reduced due to the presence of an extant planning permission for a residential annex close to the appeal site which could be occupied by the appellant.
32. Furthermore, the appellant has indicated that the proposed dwelling would be a self-build dwelling which they would occupy, and they have confirmed that they are on the Council's self-build register. I have no reason to doubt the appellant's intention to occupy the proposed dwelling. However, permission runs with the land and there is no mechanism before me which would ensure that the property would be occupied by them. If permission was granted, the Council would have no assurance that the proposed dwelling would not be sold prior to occupation by the appellant. If the proposed dwelling was sold, it would not meet the definition of self-build or custom housebuilding as set out within the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). Consequently, there is a lack of sufficient evidence to record the planning permission as a suitable development permission to meet the demand for self-build and custom housebuilding in Barnsley.
33. Neither party proposed a condition which would ensure that the dwelling would meet the legal definition for Self-Build and Custom Housebuilding. Moreover, I have not been able to form a condition which would ensure this and be compliant with the tests set out within paragraph 57 of the Framework. I therefore ascribe very limited weight to the benefit of providing a self-build dwelling.
34. I acknowledge the appellant's comments in relation to the conduct of the Council during the determination of the application. However, these are matters between the appellant and the Council and it is not a matter for my consideration on the acceptability of the appeal proposal.

Planning Balance

35. The LP dates from January 2019 but the weight to be attached to it does not hinge on its age. Rather paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework.
36. The Framework indicates that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. In addition, it outlines that planning decisions should ensure that developments are visually attractive and are sympathetic to local character. Moreover, the Framework states that development that is not well designed should be refused. In addition, it advises that planning decisions should contribute to the natural and local environment by recognising the benefits of trees and woodland. As such, significant weight is ascribed to the conflict between the proposal and LP policies D1 and BIO1.

37. As there are no policies in the LP which would support development which is contrary to LP policies D1 and BIO1. The proposal conflicts with the development plan when read as a whole.
38. There is a dispute between the parties with regard to the amount of deliverable housing land supply the Council can demonstrate. The Council indicate that they can demonstrate 3.1 years' supply, and the appellant indicate that the supply is less than 2.5 years'. Regardless, both figures are significantly below five years. In these circumstances footnote 8 establishes that the policies which are most important for determining the application are out of date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Although the site is in the Green Belt, as the proposal would not be inappropriate development, the application of policies in the Framework does not provide a strong reason for refusing the development.
39. The Framework identifies that small sized sites can make an important contribution to meeting the housing requirement of an area and prioritises the use of brownfield land. Even when considering the objective of boosting significantly the supply of housing and the Council's housing land supply position and the underperformance in relation to the HDT, I ascribe moderate weight to the benefits of the proposal due to the scale of the proposed development. Notwithstanding this, as set out above, the Framework identifies high quality buildings as being fundamental to the planning process and that development which is not well designed should be refused.
40. Consequently, the adverse impacts on the character and appearance of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to securing well-designed places. As a result, the presumption in favour of sustainable development does not apply.

Human Rights Act and Public Sector Equality Duty (PSED)

41. I have had regard to the rights of the appellant under Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998. Article 8 affords the right to respect for private and family life and home. This is a qualified right, and interference may be justified where that is lawful and in the public interest. The concept of proportionality is crucial.
42. Dismissing the appeal would interfere with the appellant's rights under Article 8, as the consequence might be that they continue to live in a home which does not meet their need for a private life. However, the interference would be in accordance with the law and in pursuance of a well-established and legitimate aim of the protection of the character and appearance of an area.
43. Since alternative accommodation would be available in the form of the proposed residential annex, it is proportionate and necessary to dismiss the appeal. The protection of the public interest cannot be achieved by means that are less interfering with their rights.
44. I have also had due regard to the PSED set out within the Equality Act 2010, but the harm caused to the character and appearance of the area outweighs the proposal's benefits in terms of eliminating discrimination against persons with the

protected characteristics of age and/or disability, advancing equality of opportunity for those persons and fostering good relations between them and others.

Conclusion

45. The proposal conflicts with the development plan, when considered as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Richard Mowatt	Planning Consultant
Mr Steven Warsop	Appellant
Mr Steven Green	On behalf of the appellant
Mr Samuel Green	On behalf of the appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Smith	Group Leader, Development Management
Mr Nicholas King	Senior Urban Design Officer
Mr Edward Jowett	Tree Officer

LIST

DOCUMENTS

Arboricultural Report and Impact Assessment, dated September 2024 (Ref. AWA6205)

Appeal Decision, Land north of Shaw Lane, Carlton, Barnsley S71 33HH
(Ref. APP/R4408/W/24/3341097)

Copy of internal email correspondence between Council officers dated from 8 February 2024 to 24 June 2024