

GROUND OF APPEAL
33 WILSHAW ROAD, WILSHAW, HOLMFIRTH, HD9 4DZ

Introduction and background

1. This Appeal is made under S78 of the Town and Country Planning Act, as amended, against the decision of Kirklees Metropolitan Council to refuse to grant planning permission for the demolition of an existing garage and the erection of a two storey and single storey rear extension at 33 Wilshaw Road, Wishaw, Holmfirth located within the Green Belt and the Wishaw Conservation Area. Natural materials are proposed, comprising natural stone to walls and blue slates to the roof, both to match the existing dwelling.
2. Full planning permission for the demolition of the existing garage and the erection of a two storey and single storey rear extension with first floor balcony and detached garage was granted by the LPA on 22 August 2017. The difference between the two schemes is the creation at lower ground floor of a garage and garden room in place of the detached garage. A copy of the approved plans and Notice of Decision is appended to these Grounds of Appeal.
3. The refused planning application was submitted in full to Kirklees Council on 19 October 2017 and refused under the Planning Authorities officer delegation system on 24 January 2018.
4. There are two refusal reasons, which read as follows:
“1. The site is within land designated as Green Belt within the Kirklees Unitary Development Plan and Kirklees Publication Draft Local Plan, the proposed lower ground floor garage, garden room and terrace extension by reason of its scale and projection from the rear of the host property when combined with the two and single storey extension would represent a disproportionate addition over and above the size of the original building. Such a level of addition would be detrimental to the character and openness of the Green Belt and would therefore constitute inappropriate development within the Green Belt. No very special circumstances have

been provided which would clearly outweigh the harm to the Green Belt by reason of inappropriateness. The garage, garden room and terrace extension would therefore fail to comply with Policy D11 (i & ii) of the Kirklees Unitary Development Plan, Policy PLP57 (a) of the Kirklees Publication draft Local Plan and Policies set out in Chapter 9 of the National Planning Policy Framework.

2. The proposed extensions by reason of its design, scale and siting, would represent an over development of the site which would be harmful to visual amenity and would detract from the character and appearance of the Wilshaw Conservation Area. To permit such a development and would therefore be contrary to Policies BE1 (i), BE2 (ii), BE5 and BE14 (ii) of the Kirklees Unitary Development Plan, Policies PLP24 (a & c) and PLP35 (1) of the Kirklees Publication Draft Local Plan and Policies in Chapters 7 and 12 of the National Planning Policy Framework.”

5. It is not accepted that the proposals constitute ‘inappropriate development’ in Green Belt terms or that the design of the extension adversely affect the character or appearance of the conservation area.
6. Accordingly the main issues raised by the Appeal application are:
 - Whether the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (Framework) and development plan policies and the effect on the openness of the Green Belt, and;
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify it.
 - The effect of the proposed extension on the character and appearance of the conservation area.
7. These matters are considered below.

Whether the Appeal proposal is “inappropriate development.”

8. Paragraph 88 of the Framework states that local planning authorities should regard the construction of new buildings as inappropriate in Green Belt, unless, amongst other exceptions it involves the extension or alteration of a building provided it does not result in disproportionate additions over and the above the size of the original building.
9. The Framework does not limit its consideration of whether or not an extension or alteration of a building would constitute a disproportionate addition to a particular use and neither does the Framework state at what point an addition to a building becomes ‘disproportionate.’
10. Saved Kirklees Unitary Development Plan Policy D11 states that proposals for the extension of buildings within Green Belt will be considered having regard to:
 - i. The impact on the openness and character of the Green Belt;
 - ii. The size of the extension in relation to the existing building which should remain the dominant element, and in the case of traditional buildings
 - iii. The effect on the character of the existing building
11. UDP Policy D11 is restated as Policy LPL57 of the Kirklees Draft Local Plan, which commenced Examination in October 2017.
12. The Appeal proposal is the same as that development approved under LPA ref. 2017/92124, other than it proposes an attached garage and store with terrace above located to the rear of the dwelling. This would project some 5.3m and span the 11.3m width of the dwelling. It is proposed to be constructed from reclaimed natural stone.
13. The original dwelling was some 145sq.m including a now demolished garage. The aforementioned approval added a further 51sq.m plus an additional 19.5sq.m in a detached garage. The Appeal proposal includes the previously approved extensions, plus a further 59sq.m in the garage/store but excludes the previously

approve detached garage, thereby being a 39.5sq.m increase over the approved scheme.

14. On this basis the approved scheme allows a 48% increase over and above the original dwelling and the Appeal proposal a 62% increase.
15. Assessment needs also to consider the overall size, and not just its increase in floorspace. The size of the additional extension would be modest, over and above the existing, and, as a consequence, it would not constitute a disproportionate addition. When the height and footprint size are combined, its bulk and massing would not to be unduly substantial and will be partly screen when grounds levels are reinstated. Further the Applicant is in agreement with the imposition of a planning condition to secure landscaping within the garden between the extension and the paddock.
16. Overall it is considered that the addition of the garage and garden room is not a disproportionate addition to the host dwelling, which will clearly remain dominant.
17. Therefore, it is considered that the proposal would not constitute inappropriate development within the Green Belt and, as such, it would comply with the Framework and, in this regard, with Policy D11. Following the Court of Appeal judgment of 22 April 2016¹, it should not therefore be regarded as harmful to the openness of the Green Belt as the impact on openness is implicitly taken into account in the exceptions under paragraph 89 of the Framework.

Very special circumstances

18. Notwithstanding the above, if this is not accepted then the required very special circumstances exist to override the presumption against inappropriate Green Belt development.
19. Construction of the approved extension has necessitated construction of a 2.0m wall below ground to overcome adverse ground conditions to the satisfaction of Building Control. This

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

construction is required whether the Appeal proposal is built or not. The extant grant of consent requires the Appellant to raise the levels at the rear of the dwelling necessitating construction of a 1.2m high stone wall above ground which will be either backfilled or paved or decked.

20. The Appeal proposal simply makes use of these structural features to provide additional floorspace below ground level. The Planning Officer's delegated report acknowledges that the extension would be set at current ground level thereby reducing the impact of development on the Green Belt and as the 'under ground' garage will replace the approved detached garage. A Unilateral Undertaking will be submitted to the Inspectorate in accordance with the required timescale to prevent the approved garage from being constructed in the event the Appeal is successful.
21. An additional consideration is that the relocation of the garage enables vehicle access from Gill Birks rather than the private drive to Wilshaw Road. Traffic flows using Gill Birks are minimal and as such the likely hood of collision with vehicles on the main road is reduced.
22. This enables cars to drive into the dwelling curtilage and exit in forward gear whereas the approval proposes a single garage located east of the dwelling off a long single width drive and involves reversing the length of the drive and existing onto Wilshaw Road in reverse or stopping in Wilshaw Road and reversing the length of the drive. While that is the historical position, the Appeal application will lead to a significant improvement in highway safety, by removing potentially dangerous vehicle manoeuvres opposite a bus stop and close to a tight bend in Wilshaw Road with limited visibility.

Impact on openness

23. If considered inappropriate in Green Belt terms, then it is necessary to consider the impact of the proposals on the openness of the Green Belt.

24. The location of the extension would not lead to an encroachment of built form into an undeveloped part of the site as it is contained within the existing residential curtilage. The current proposals would not lead to a notable reduction in openness of the Green Belt.
25. Furthermore the height of the extension is set at current ground level, for the reasons previously set out.
26. Overall, the scale of extension to the property would also not lead to visual intrusion and so will not harm the character of the area.
27. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and one of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment.
28. The proposed development would not conflict with this guidance and so no further harm occurs from the proposed development.

Character and appearance

29. The site's location within the Wilshaw Conservation area requires special attention to be had to the desirability of preserving or enhancing the character or appearance of the conservation area.
30. Paragraph 131 of the Framework states that in determining planning applications, LPAs should take account of;
 - The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - The positive contribution the conservation of heritage assets can make to sustainable communities; and
 - The desirability of new development making a positive contribution to local character and distinctiveness.
31. Saved UDP Policy BE5 states that proposals for new development within conservation areas, including extensions or changes of use to existing buildings, should respect the architectural qualities of surrounding buildings and their materials of construction, and

contribute to the preservation or enhancement of the character or appearance of the area.

32. Saved UDP Policy BE1 and Policy BE2 require all development to be of a good design quality, which contributes to the built environment, and is in keeping with the surrounding development. The aims of these two policies are reaffirmed in Draft local Plan Design Policy PLP24 and Historic Environment Policy PLP35.
33. The refusal notice states that the application is contrary also to Saved UDP Policy BE14. This policy states that extension to terrace, semi-detached or closely spaced detached dwellings, will normally be permitted unless the proposal will have a detrimental effect on visual amenity, adjacent dwellings or occupiers of adjacent land.
34. It is considered that this policy does not apply to the consideration of the Appeal application as the subject dwelling is not a terraced, semi-detached or closely spaced detached dwelling. Notwithstanding, the principles of this policy are addressed below.
35. The Appeal site is located at the west edge of the Wilshaw Conservation Area defined by the track running from Wilshaw Road north to Gill Birks Farm and falling within Townscape Character Area F. The Appeal site is not a Key Unlisted Building/Building of Merit.
36. The Appraisal notes the importance of the Victorian buildings interspersed throughout the conservation area and the view along Gill Birks to the Church of St Mary to the south is also noted as a particularly important view.
37. The Appeal site is an infill dwelling constructed in the early 20th century.
38. The form of the extension would be subservient and its massing limited by its single storey form. It would not be prominent with its single storey form and therefore its effect on the prevailing character of its location would be acceptable.

39. The Planning Officer report confirms that the extension would not be visible from the main highway fronting the dwelling as it is located to the rear of the dwelling.
40. The rear elevation of the dwelling is visible from the PROW, which runs north of the Appeal site. This PROW is approximately 70m from the boundary of the Appeal site and in views from this location the dwelling sits well in the group of dwellings in this part of the village. The extension is not intrusive in these views and harm arises to visual amenity.
41. In particular, the view along Gill Birks to the Church is unaffected by the proposals.
42. Therefore no conflict arises to the objectives of Framework guidance or Saved UDP policies BE1 and BE2 and draft policies PLP24 and PLP35, which collectively seek to ensure that new development is of a high quality design, that is complementary to the qualities of the area and that no harm should arise to the character of the conservation area.

Other matters

43. Consideration has been had to the Appeal site's planning application history and in particular refusals of consent in 2009 and 2010 including an Appeal dismissal in 2010. As each of these previous applications either pre-dated current Framework guidance or proposed significantly larger extensions, including to the side of the Appeal site and so none has been material to these Grounds of Appeal.

Conclusion

44. Accordingly, it is considered the proposed extension can be accommodated here in compliance with the principles of Framework Green Belt guidance in addition to Saved UDP Policy D11 as it will not lead to an unreasonably disproportionate addition to the original dwelling, as it is both balanced and proportionate.

45. If that is not accepted, then special circumstances justify an exception to policy being made in this particular case.
46. The proposal would not demonstrably affect the openness of the Green Belt and would therefore meet with the relevant parts of Saved UDP policies and emerging local plan policies as well as Framework guidance.
47. The proposed extension by virtue of its design and materials would be wholly in keeping with the character of the original dwelling and proportionate in scale and massing.
48. For all of these reasons, it is therefore respectfully requested that the Appeal is allowed.