

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No: 2018/60/90939/W

Site Address: adj, 982, New Hey Road, Outlane, Huddersfield, HD3 3FJ

Description: Outline application for erection of detached dwelling

Recommending Officer: Nick Hirst

DECISION - Refused

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Neil Bearcroft

AUTHORISED OFFICER

Date: 18-May-2018

Application: 2018/60/90939/W

Site: adj, 982, New Hey Road, Outlane, Huddersfield, HD3 3FJ

Proposal: Outline application for erection of detached dwelling

Site Description

The application site is a rectangular portion of land within a larger open field. Along the south-west boundary is a mature sycamore, which benefits from a TPO.

The east of the site abuts New Hey Road and The Commercial public house. To the north-west are several dwellings, within a converted farmstead/barn, accessed via driveway that runs along the application site's south-west boundary.

Description of Proposal

The application seeks outline consent for the erection of one dwelling. Access, Appearance, Layout and Scale have been applied for; landscape is a reserved matter.

The proposal is for a detached two storey four-bed dwelling, with habitable office/study, within the roof space. An attached side garage, with first floor above, would be included. The building has a maximum width and depth of 11.0m x 10.6m respectively. Walls are indicated to be natural stone, with natural blue slate roofing.

Openings are principally contained to the front/rear, however the side elevations do include one window each.

Externally a driveway is to connect to the garage, with on-site turning.

Relevant Planning History

Application Site

The application site has no planning history.

Surrounding Area

2, More Pleasant

2008/92290: Reuse adaptation and new extension of barn to form one dwelling and erection of detached double garage (Listed Building) – Conditional Full Permission

2008/92291: Listed Building Consent for reuse adaptation and new extension of barn to form one dwelling and erection of detached double garage – consent granted

History of Negotiations

None undertaken, as the concerns relate to the principle of development.

Representations

Final publicity date expired: 27.04.2018

Three public representations were received. The following is a summary of the concerns raised;

- The proposal would erode and harm the Green Belt around Outlane.
- Future residents would complain about the adjacent public house, from noise and parking. This would harm the business.
- Insufficient local facilities, namely schools, doctors and dentists.
- New Hey Road is used as a 'race track', with there being numerous accidents in the area. This concern is exacerbated by the M62, poor weather conditions and by the increase in bicycle users.
- The new access would be opposite the driveway for no.982, making it more difficult to emerge from their own driveway.
- There is a tree on site, which the application makes no reference to.

Consultation Responses

K.C. Trees: Object, due to impact on protected tree on site. Note that the tree benefits from a new TPO.

K.C. Environmental Health: No objection subject to condition.

Policy

The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in

the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is Green Belt on the UDP Proposals Map.

The site is Green Belt on the PLP Policies Map.

Kirklees Unitary Development Plan

- **D13** – Infill development within the Green Belt
- **BE1** – Design principles
- **BE2** – Quality of design
- **EP4** – Noise sensitive locations
- **T10** – Highways accessibility considerations in new development
- **H1** – Housing: Strategy

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- **PLP1** – Presumption in favour of sustainable development
- **PLP2** – Place shaping
- **PLP3** – Location of new development
- **PLP21** – Highway safety and access
- **PLP24** – Design
- **PLP51** – Protection and improvement of local air quality
- **PLP52** – Protection and improvement of environmental quality
- **PLP59** – Infilling and redevelopment of brownfield sites

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, together with Circulars, Parliamentary Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Paragraph 17** – Core planning principles
- **Chapter 1** – Building a strong, competitive economy
- **Chapter 6** – Delivering a wide choice of high quality homes
- **Chapter 7** – Requiring good design
- **Chapter 9** – Protecting Green Belt land
- **Chapter 11** – Preserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

1 – Principle of development

1.1 – Sustainable Development

NPPF Paragraph 14 and PLP1 outline a presumption in favour of sustainable development. Paragraph 7 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation (Para.8).

The dimensions of sustainable development will be considered throughout the proposal.

Further to the above the Council are unable to demonstrate a 5 year supply of housing land. Therefore relevant policies for the supply of housing should not be considered up to date. Notwithstanding this the site is not subject to policies which restrict the supply of housing. In addition National Planning Practice Guidance states that 'unmet housing demand...is unlikely to outweigh the harm to the Green Belt and other harm to constitute 'very special circumstances' justifying inappropriate development in the Green Belt.

In addition Paragraph 14 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted, this includes 'land designated as Green Belt' (Footnote 9).

1.2 – Land allocation

The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 89 or 90 of the NPPF.

Paragraph 89 permitted limited infilling in villages. This is in general conformity with D13 of the UDP which states that within existing settlements in the Green Belt, infill development will normally be permitted subject to certain criteria. These include the site being small in scale and within a built

up frontage or being small and largely surrounded by development. The PDLP does not have a Greenfield site infilling policy.

The Framework does not provide a definition of what constitutes a “village”, and the UDP does not provide a definition of what constitutes a “settlement”. Accordingly, this is a matter of planning judgement.

Whether the proposal is inappropriate development in the Green Belt

Although there is no definition of village/settlement where a settlement is inset within the Green Belt on the UDP and surrounded by it, the Green Belt boundary is usually treated as being co-existent with the settlement/village boundary. This means that if a site is on the edge of the settlement/village but is designated as Green Belt on the UDP proposals map, it is not within a settlement/village and cannot qualify as “limited infill within” a village.

This approach has been called into question by a recent court case, Julian Wood -V- The Secretary of State for Communities and Local Government and Gravesham Borough Council. It was ruled that an Inspector had misdirected himself by concluding that an appeal site lay outside the village based on the village boundary on the local plan proposals map, rather than on his own assessment of the village boundary on the ground.

There is also a recent appeal decision, against refusal of permission for the erection of a single detached dwelling at Coppull Moor Lane Nurseries, Chorley (ref 3154595). The Inspector concluded that:

“Both parties accept that the site is outside of the settlement area; the appellant indicating that it is some 256m away from the boundary. That said, the site is within a clear continuum of development spreading out from the settlement.

Notwithstanding the location of the formal boundary, there is nothing to obviously separate the site from the rest of the settlement. Therefore it is my view that the appeal site forms part of the settlement”.

So, the question of whether a site forms part of a village has to be assessed in each instance based on the characteristics of the site and its surroundings. A village boundary, or a line forming the boundary between Green Belt and unallocated land on an adopted Proposals Map, is not necessarily determinative.

Officers are satisfied that Outlane can be considered a settlement/village. Therefore the question is whether the site falls within the settlement/village of Outlane for planning purposes.

As one travels down New Hey Road development becomes more sporadic, with increasingly large gaps between dwellings. There is a 100.0m gap along the north side of the New Hey Road from the Green Belt boundary. The south side of the road has a higher density of development, but does include open

fields and larger dwellings with greater separation between properties. However this is considered to be historic ribbon development, following the course of the road, as opposed to being within the core of the village. It is considered that the area represents a transitional landscape moving away from the centre of the village into the open countryside, which is typical outside of any village/settlement.

Weighing the above considerations, officers conclude that the application site does not fall within the boundary of Outlane as a settlement/village for Green Belt and Planning purposes.

Regardless of whether the site falls within the settlement/village of Outlane, further tests of D13 must be applied as to whether the site can be deemed 'infill'.

D13) Within existing settlements in the Green Belt infill development will normally be permitted where:

- i. the site is small, normally sufficient for not more than two dwellings, and within an otherwise continuously built-up frontage, or*
- ii. the site is small and is largely surrounded by development, and*
- iii. no detriment will be caused to adjoining occupiers of land or to the character of the surrounding area.*

Infill development should be in harmony with existing development in terms of design and density and capable of safe access from the highway.

The above is reflected in Policy PLP59 of the draft Local Plan.

While the application red line area can be considered 'small', being for a single dwelling, it is part of a larger field. Having a matching rear boundary with that of the adjacent public house is noted to be logical, but ultimately the proposal is subdividing a larger field and therefore is in itself not considered a 'small in fill plot'.

Turning to whether the site is part of a built up frontage, the frontage is limited to the adjacent public house. To the north-east of the public house is open land, with the next developing along being 110.0m away. To the south-west, along New Hey Road, is an open stretch of 310.0m. The site is therefore not part of a built up frontage.

'Largely surrounding by development' is not defined, and therefore requires planning judgement. While there is development to the north-east, west and due east across New Hey Road, these pockets of development are also interceded by fields. Bar these examples, all other directions consist of open

land. Officers are therefore satisfied that the site cannot be considered 'largely surrounded by development'.

As the site is neither considered to be part of a built up frontage, or to be largely surrounded by development, it is deemed to fail to '*harmonise with existing development in terms of design and density*'. Conversely, as examined in detail below, the highway access arrangements are considered acceptable.

Summarising the above the proposal is not considered to fall within the village/settlement of Outlane. Furthermore, if determined to be within Outlane, the specifics of the site do not comply with the further tests of Policy D13. Therefore the proposal fails to comply with D13 and Paragraph 89, and is considered inappropriate development. Paragraph 87 of the NPPF states that '*inappropriate development is, by definition, harmful to the Green Belt*', with paragraph 88 continuing '*When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt*'.

Whether there would be any other harm to the Green Belt, including visual amenity

The proposal would reduce openness and prejudice the objective of keeping land permanently open through the introduction of a new built form on previously undeveloped land. The site is an area of land that is generally free from any built development and contributes to the verdant character of the wider surroundings. It makes a positive contribution to the character and appearance of the area, not least when viewed from the New Hey Road, where the site provides a break between the road and the dwellings to the rear. Therefore, a new dwelling in this location would result in a significant reduction in the openness to this part of the Green Belt.

Specific to the design, the building is not considered visually unattractive, and has a design which respects and reflects that of the surrounding built environment. Facing materials are to be natural stone, which is appropriate in the area, however if minded to approve a condition would be imposed requiring samples to be submitted to ensure a suitable end product it used. Conversely blue slate roofing is sought. This would not reflect the prominent material in the area, stone slate, and appear incongruous. Policies BE1, BE2, and PLP24 require new development to be in keeping with surrounding development, including materials and the proposal would fail this requirement.

The proposal would also have an urbanising impact on the site and would unacceptably consolidate the sporadic built development in the area. This would be harmful to the character and appearance of the area. Furthermore, the proposal would be contrary to three of the five purposes of green belts, which is to safeguard the countryside from encroachment, specifically '*to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*'. These adverse effects would add to the harm already identified by Paragraphs 87 and 88.

Whether the harm by reason of 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

No very special circumstances have been provided by the applicant, however the Design and Access Statement makes reference to 'climate change mitigation'. This indicates that the building would be built in full accordance with Building Regulations. This does not weigh in favour of the proposal, and is a standard. Reference is also made to 'as far as possible' source location material, which would reduce the carbon footprint, and that waste materials will be recycled. This is not considered a very special circumstance.

Conclusion

Whilst the council is unable to demonstrate a 5-year supply of housing sites, in this case specific policies in the NPPF indicate that development should be restricted. The proposal would be inappropriate development in the Green Belt by definition and would cause further harm to the Green Belt's openness and permanence.

As per the NPPF substantial weight is given to harm to the Green Belt. It is not considered that there are any very special circumstances which clearly outweigh the harm to the Green Belt. The proposal is contrary to policy D13 of the UDP and Chapter 9 of the NPPF, Therefore the principle of development is considered unacceptable.

2 – Impact on residential amenity

Policy D2 of the UDP and NPPF paragraph 17 seek to protect residential amenity. Policy BE12 sets out the normally recommended minimum distances between habitable room windows. While an outline application scale, appearance and layout are considerations and therefore a detailed assessment of the proposal's impact can be undertaken.

Across New Hey Road is no.919. The separation distance is in excess of 25.0m and is deemed sufficient to prevent concerns over a harmful impact on amenity. To the rear of the site are nos. 1 and 2 More Pleasant. These dwellings are in excess of 28.0m from the dwelling, with this separation distance likewise considered sufficient to prevent concerns of a harmful impact upon residential amenity.

The adjacent public house, The Commercial, has two first floor windows facing the site, at a separation distance of 10.0m to the dwelling. It is presumed that the first floor hosts a flat (i.e. landlords flat), as is typical for rural pubs. Nonetheless, the two windows are small in scale, and appear to serve a single room which also benefits from a window on the rear elevation. Therefore the dwelling would not result in material harm to the amenity of occupiers through overbearing or overshadowing. It is noted that the dwelling would have a non-habitable room (bathroom) window facing towards The

Commercial. It is considered necessary, for the privacy of occupiers, to condition this window to be obscurely glazed.

Consideration must also be given to the amenity of future users. The dwelling is considered an acceptable size for the number of bedrooms, which includes the garden space. Each habitable room would be served by windows which provide a suitable outlook and level of natural light. However the site is adjacent to two potential noise pollutants; the public house and New Hey Road. It is noted that the pub has an outside drinking area, which would be difficult to mitigate against, however it is small in scale and not anticipated to be a significant issue. Notwithstanding this E.V. Health have requested a condition for a noise mitigation report to be provided, to address noise from both the public house and road. This is considered necessary and reasonable, in accordance with EP4, PLP52 and Chapter 11 of the NPPF.

In summary officers are satisfied that, subject to condition, the proposal would neither harm the amenity of nearby residents and that future residents would have a suitable level of amenity, in accordance with Policy EP4, PLP24, PLP52 and Paragraph 17 and Chapter 11 of the NPPF.

3 – Impact on highway safety

Access and layout are considerations. The proposal has demonstrated that the site can accommodate sufficient parking for a four-bed sized dwelling. Furthermore on-site turning is shown.

New Hey Road, while a 40mph road, is very straight and would allow for appropriate sightlines. These can be secured to be retained via condition. Numerous dwellings emerge onto New Hey Road, some without the benefit of on-site turning. The addition of one additional dwelling is not considered detrimental to the safe and efficient operation of the highway.

The proposal is not anticipated to prejudice the safe and efficient operation of the highway, in accordance with Policies T10 and PLP21.

4 – Other matters

4.1 – Air quality

In accordance with Chapter 11 of the NPPF and Policies PLP21, PLP24 and PLP51, if minded to approve, a condition is to be imposed requiring the provision of an appropriate number of electric vehicle charging points. This is in the interest of mitigating the impact of the development on air quality and supporting the use of low carbon forms of transport. This would also accord with the West Yorkshire Low Emissions Strategy.

4.2 – Impact on adjacent protected tree

During the course of this application the mature sycamore tree has gained a TPO as it is considered to be of high public amenity value. To lose the mature

tree would also be contrary to NE9 and PLP33. K.C. Trees have objected to the proposal, as no Arboricultural Survey and Impact Assessment have been provided, therefore the proposal's impact upon the tree is unknown. Given the proximity of the proposed dwelling to the tree's crown spread, it is reasonable to assume there would be some form of impact/.

Given the concerns expressed in regards to the Green Belt it is considered unreasonable to request that an Arboricultural Survey and Impact assessment be provided. While an outline application, as layout is a consideration this information is considered necessary to support the proposal. Without this information the proposal is in breach of Policy NE9 and PLP33.

5 – Representations

Three representations have been received which are assessed below along with a response:

- The proposal would erode and harm the Green Belt around Outlane.

Response: As set out section 1 above the impact of the development on the Green Belt has been assessed in detail.

- Future residents would complain about the adjacent public house, from noise and parking. This would harm the business.

Response: The application has been assessed by Environmental Services and a detailed assessment is set out in section 2 above.

- Insufficient local facilities, namely schools, doctors and dentists.

Response: These comments are noted however for a single dwelling there are no direct concerns with this development. The wider principle of development has been considered in section 1.

- New Hey Road is used as a 'race track', with there being numerous accidents in the area. This concern is exacerbated by the M62, poor weather conditions and by the increase in bicycle users.
- The new access would be opposite the driveway for no.982, making it more difficult to emerge from their own driveway.

Response: The access arrangements have been assessed in 3 above and is considered to be acceptable.

- There is a tree on site, which the application makes no reference to.

Response: This tree has now been protected by TPO and assessment has been made in 4.2.

6 – Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration. Specific policies in terms of Green Belt, design, trees and amenity in the UDP, draft Local Plan and NPPF indicate development of this nature should be restricted.

Recommendation: Refuse

Application Number: 2018/60/90939/W
Decision Authorisation: Delegated Powers
Officer Recommendation: Refuse

Reason(s) for Refuse

1. The application site is located within the designated Green Belt, whereby, as set out in the National Planning Policy Framework, most development, subject to certain exceptions, is regarded as inappropriate. Policy D13 of the Kirklees Unitary Development Plan and paragraph 89 of the National Planning Policy Framework sets out when 'infill' development in the Green Belt may be acceptable. However, the site is not considered to be within an existing settlement as required by Policy D13 or within a village as required by the National Planning Policy Framework. The proposed dwelling would therefore constitute inappropriate development in the Green Belt. Furthermore the dwelling would harm the openness of the Green Belt resulting in further consolidation of sporadic ribbon development and through the use of blue stone slate, a material not appropriate within this area. There are no very special circumstances to justify the development that would clearly outweigh the harm caused to the Green Belt by reason of its inappropriateness and any other harm. The proposal is contrary to Policies BE1, BE2 and D13 of the Kirklees Unitary Development Plan, Policy PLP24 and 59 of the Kirklees Publication Draft Local Plan and Chapters 7 and 9 of the National Planning Policy Framework.

2. The application has failed to demonstrate that the proposal would not cause harm, or the loss of, the mature Sycamore on site. The Sycamore is deemed to provide a positive impact on local amenity and benefits from a Tree Preservation Order. Furthermore the harm or loss of the tree would be contrary to Policy NE9 of the Kirklees Unitary Development Plan and PLP33 of the Kirklees Publication Draft Local Plan.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Supporting Information	Design and Access Planning Statement		23.03.2018
Grouped Plans and Elevations	2467-18-01	Rev. A	23.03.2018

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

Given the nature of the proposal, seeking inappropriate development in the Green Belt, officers did not consider there to be any amendments or

negotiations which could overcome their concerns. As such officers resolved to refuse the application.

Report Dated: 18.05.2018