

**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: 2018/60/92832/E

Site Address: Woodley, 10, Busker Lane, Skelmanthorpe,
Huddersfield, HD8 9EP

Description: Outline application for erection of detached dwelling

Recommending Officer: Emma Thompson

DECISION - REFUSE

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 13-Sep-2019

Officer Report

Site Description

Woodley, 10 Busker Lane, Skelmanthorpe, Huddersfield

The application site forms a large area of front garden to the dwelling known as Woodley/10 Busker Lane. The area of land is located between existing dwellings and Busker Lane. The garden is well maintained with driveway access running thorough it. There are a number of bushes within the site but no trees of any note.

The site frontage features a stone wall with curved feature wall set back forming the driveway access.

The area is characterised by large detached dwellings set within substantial garden areas within an open rural setting.

Description of Proposal

Outline application for the erection of detached dwelling

Outline planning permission is sought for the erection of a detached dwelling in the front garden of Woodley. Layout and access are included within the application for consideration.

History of negotiations/amendments received

The agent was contacted to advise that the proposal could not be supported in principle.

Relevant Planning History

2005/95157 (Land adjacent to Winder House)

Erection of detached dwelling, detached double garage, potting shed and formation of swimming pool

- The agent cites application 2005/95157 as precedent for the approval of infill development in this location. The application quoted was the reserved matters application pursuant to outline permission 2005/92610, (incorrectly assessed at the time against policy D2, thereby deemed to be unallocated), which itself was a renewal for outline permissions granted in 2002, 1999, 1995, 1992, 1989 and 1986. When permission was originally granted in 1986 the policy relating to infill development in the green belt allowed for "new dwellings on infill sites within existing groups or hamlets outside the main villages, where the site does not extend outside the limits of the group" (Denby Dale/Kirkburton Local Plan - Skelmanthorpe village plan approved August 1984). Based on the policy at the time of the original application the site was therefore deemed to lie outside the village of Skelmanthorpe. However, in the

circumstances, I do not think that this example can be given any weight in the consideration of this new application.

Other applications on the site:

2003/91046 – Erection of leisure pool – approved

87/00511 – Breakfast room/conservatory/entrance & cloaks extensions/dormer to form shower room/replace existing flat roof with pitch form games room – approve

Applications adjacent to the site:

88/02019 – erection of detached dwelling with detached garage – approved (8a)

87/00285 – outline application for erection of dwelling - approved

Representations

Final publicity date Expires: 5th November 2019

- No representations received

Denby Dale Parish Council comments – No objections subject to Green Belt regulations and suitability of materials.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- KC Highways DM – revised details required
- KC Planning Policy – Object
- The Coal Authority – No objections

Policy

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is Green Belt on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and economy

- **LP20** – Sustainable travel
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP28** - Drainage
- **LP30** – Biodiversity and geodiversity
- **LP33** – Trees
- **LP48** – community facilities and services.
- **LP52** – Protection and improvement of environment
- **LP53** – Contaminated and unstable land
- **LP59** – Brownfield sites in the Green Belt

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 2** – Achieving sustainable development
- Chapter 5** - Delivering a sufficient supply of homes
- Chapter 6** – Building a strong, competitive economy
- Chapter 8** – Promoting Healthy and Safe Communities
- Chapter 9** – Promoting sustainable transport
- Chapter 11** – Making efficient use of land
- Chapter 12** – Achieving well designed places
- Chapter 13 – Green Belts
- Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15** – Conserving and enhancing the natural environment

Assessment

Principle:

Paragraph 145 of NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the green belt. One exception to this general presumption is 'limited infilling in villages'. Neither NPPF nor NPPG give any definition of what constitutes limited infilling or a village and each case must be judged on its merits, based on the situation on the ground at the time of the application.

The first issue to consider therefore is whether the application site is within a village for the purposes of NPPF paragraph 145. The Council is not disputing

that Skelmanthorpe is a village as it is a sizable inset settlement with a good range of services. The issue to consider therefore is whether the application site is *within* the village for the purposes of green belt policy. Neither green belt boundaries nor settlement boundaries can be relied upon for this judgement so an assessment must be made of the location of the site relative to Skelmanthorpe and the character of its surroundings. Busker Lane runs west/east between Skelmanthorpe and Scissett and is overwashed by the green belt. The application site lies just a little under halfway between the two villages. East of Skelmanthorpe, Busker Lane is characterised by a very low density line of detached properties on the south side of the road, which are well set back from the road frontage. Towards Scissett is a former school site where there is permission for redevelopment for a care home. The north side of the road is almost entirely undeveloped with open fields fronting the road for most of its length. As Busker Lane leaves Skelmanthorpe east of the Windmill Public House, it becomes increasingly undeveloped and this is especially so east of the bend where the footway on the south side of the road disappears and the deep front gardens give the road frontage a very open character. The Council does not agree with the applicant that there is no distinct break in built form. West of the public house within Skelmanthorpe the built form is very urban in character with much higher density housing set on the road frontages. East of the public house there is a distinct break in built form provided by the bowling green, as well as a distinct change of character. The application site is therefore considered to fall within a transitional 'urban fringe' landscape rather than being within the village of Skelmanthorpe for the purposes of NPPF paragraph 145. The proposal cannot therefore be considered to be infill development in the green belt.

Should the application site be deemed to be within the village however, it must also constitute 'limited infilling' if it is to be appropriate development in the green belt. Local Plan policy LP59 defines infill plots as development in a small gaps between existing buildings on a brownfield site. What constitutes a small gap will be judged on a case by case basis and will depend on the circumstances on the ground at the time of the application. The new building must be proposed on a brownfield site and will not apply to small gaps between separate brownfield sites.

The application site comprises the front garden of Woodley, a large detached property set well back from the road frontage. The site is 0.13ha in size which at a standard density of 35 dwellings per ha could accommodate between 4 and 5 houses. The site is therefore too large to be considered as an infill plot. Nor is it considered that the site is within existing built form as specified by LP59. The application site is the front garden of the house, and while no's. 1 and 3 East Fold are more forward towards the road frontage than Woodley, the new house would extend that pattern, not be within it. Nor can the road frontage be described as built up, as the existing houses are set a very long way back with gardens fronting the road. The site has open fields to the front and a large garden to the west so cannot be said to be largely surrounded by development.

Purposes of including land in the green belt

This application must also be considered in the context of the purposes of the green belt, one of which is to prevent towns from merging. The green belt in this location overwashes Busker Lane in order to retain the existing degree of separation between Skelmanthorpe and Scissett. A large new house in the location proposed would introduce new built form where none currently exists, and as the new house would be closer to the road frontage than the existing house the impact on openness would be significant. The application is therefore considered to be contrary to the role and function of the green belt and the purposes of including land within it. As such the erection of a dwelling in the position proposed would significantly impact on openness contrary to Local Plan Policy LP59.

Visual Amenity:

Chapter 12 of the NPPF emphasises the importance of good design. Paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Decisions should ensure that developments are visually attractive, sympathetic to local character and history and establish a strong sense of place (paragraph 127).

The layout of buildings should respect any character the area may have. New development should also respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area.

The application is not accompanied by any details of the scale or design. Local Plan policy LP24 states that development should respect the local character and use traditional materials with the Policy justification text in paragraph 11.4 advising that in the Green Belt *“Development in the Green Belt should wherever possible ensure the use of vernacular building styles and traditional materials and that surface and boundary treatments are sensitive to their setting.”*

It is possible that a dwelling could be designed so as to be in character with surrounding development however, the introduction of a new building where shown would result in an incongruous feature into this open green belt setting thereby harming the character and openness.

The development would not meet the aims of chapter 12 of the NPPF by detracting rather than enhancing the surrounding area contrary to Local Plan Policies LP2 and LP24 of the Local Plan.

Residential Amenity:

The site is a large front garden area associated with Woodley/10 Busker Lane. The footprint proposed is shown to the north of residential buildings and as such, notwithstanding the above, a dwelling could be designed to an

appropriate scale so as to avoid any detrimental impact on existing nearby occupant.

The application includes access and layout for consideration only and therefore the proposed scale and design is not being considered or approved at this stage. However, it is considered that a satisfactory layout could be achieved on this site which would protect the privacy and residential amenity of both existing and future occupants in accordance with Policy LP24. This is without prejudice to the principle being unacceptable.

Highways:

The application is requesting permission siting and access with all other matters reserved. As such, other than the footprint, no details of the property size have been supplied.

At this outline stage, Highways DM would wish to see improvements to the access to allow vehicles to pass each other where it serves more than one dwelling; a minimum width of 4.5m would be required.

Currently, the sight-lines from the access are substandard, and, given the proposed intensification of use of this site, KC Highways DM would advise that these are improved to the guideline splays set out in Manual for Streets, namely 2.4m x 43m. It is likely this could be achieved by lowering the existing walls and planting nothing taller than 1.0m within 2m of the carriageway edge, then being retained in perpetuity by condition.

It is apparent that there is ample opportunity for adequate off-street parking to be created, but any full application should include parking and turning provision in line with current standards. In this instance the application fails to show adequate visibility and widening and as such is contrary to Local Plan Policy LP21 and LP22.

As these matters are considered to be resolvable, a reason for refusal has not been included in the decision.

Other:

Coal Mining Legacy:

The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Coal Mining Risk Assessment which accompanies the planning application.

The report author has reviewed the available geological and coal mining information and has concluded that there is a risk from past coal mining activity and recommends that intrusive site investigations are undertaken to establish the exact situation in respect of coal mining legacy issues on the site. For clarity these investigations should include boreholes to an adequate

depth to properly establish the ground conditions on the site and whether any shallow coal workings are present. It should be noted that these boreholes may need to be up to 30m depth.

The report author has identified the risk of ground gas migration, however, it is necessary to submit a scheme of monitoring and/or remedial measures to ensure that the risks associated with ground gas have been mitigated as part of the development.

The intrusive site investigations should be designed to ensure that they are adequate to properly assess the ground conditions on the site in order to establish the exaction situation in respect of coal mining legacy and the potential risks posed to the development by past coal mining activity. The nature and extent of the intrusive site investigations should be agreed with the Permitting Section of the Coal Authority as part of the permissions process. The findings of the intrusive site investigations should inform any remedial measures which may be required.

These follow up phases of investigation and remediation are necessary to demonstrate that the application site is safe, stable and suitable for development as required by the National Planning Policy Framework, paragraphs 178-179.

Air Quality:

The development has been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance. The size of the development is less than that of prescribed values set out in this document, which is why it is regarded as a minor development.

In order to mitigate impact on air quality and in accordance with the West Yorkshire Low Emissions Strategy Policies LP24 and LP51 of the Local Plan development proposals such as this should aim to include sustainable transport methods. As such, this development should encourage the use of ultra-low emission vehicles such as electric vehicles. A condition would be appropriate in relation to this matter.

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.

Decision Authorisation - Delegated Powers

Application Number: 2019/92832

Officer Recommendation: REFUSE

Reason for Refusal

1. The application site is located within the designated Green Belt in the Kirklees Local Plan whereby, as set out in the National Planning Policy Framework (NPPF), the construction of new buildings, subject to certain exceptions, is regarded as inappropriate development. The proposed dwelling is considered not to meet either criteria (e) or (g) of paragraph 145 of the NPPF or Policy LP59 of the Kirklees Local Plan as the application site is not considered to be located within a village, nor is the plot deemed to be within a continuously built up frontage, and the proposed dwelling would have a greater impact on the openness of the Green Belt than the existing development. As such the erection of a dwelling on this site would constitute inappropriate development in the Green Belt which is by definition harmful to the Green Belt. No very special circumstances exist that clearly outweigh the harm this development would cause to the Green by reason of inappropriateness, and other harm resulting from the proposal. The proposed development is contrary to Policy LP59 of the Kirklees Local Plan and Chapter 13 of the NPPF.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Planning, Design and Access Statement	HPS Storrie Planning		14th September 2018
Location Plan, Existing and Proposed block plans	2016-11 01		14th September 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 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. The applicant was approached regarding concerns to the application but wished it to be determined on the basis of the submitted scheme. For the reason set out in the reason for refusal the development would not improve the environmental conditions of the area.

Report Dated: 11th September 2019

