

PLANNING APPEAL
STATEMENT OF CASE
s78 of the Town and country Planning Act (1990)

Location	Adj to 323/325 Dunford Road, Hade Edge, Holmfirth, HD9 2RT.
application	Demolition of Dilapidated Outbuildings and Erection of Detached Dwelling.
date	July 2023.
application Number	2023/62/90893/W
appellant	Mr & Mrs J Dalton.
Ref	Kirklees Council

ARCHITECTURE | PLANNING | DESIGN

Malkin Farm
Brow Lane
Holmfirth
HD9 2RJ

INTRODUCTION

This appeal statement has been prepared by Paul Matthews Bsc (Hons) C.Build E MCABE of Paul Matthews ARCHITECTURAL Ltd, on behalf of the appellants.

REASONS FOR REFUSAL ([DECISION NOTICE 2023/62/90893/W](#) DATED 06-Jun-2023)

1. The majority of the proposed application site is located upon land designated “Safeguarded Land” in the Kirklees Local Plan, which aims to protect land designated as such from development during the Local Plan period. Given that the proposal is for a new dwelling it would fail to comply with LP6 of the Kirklees Local Plan by introducing development onto “Safeguarded Land” that does not constitute any of exceptions listed within the policy.

2. The proposed development, by virtue of its size, scale, massing and appearance on a small plot would present an incongruous and contrived form of development that would fail to sympathetically integrate with existing development in the locality and which would result in the overdevelopment of the site. The proposal would therefore cause detrimental harm to the visual amenities of the locality and character of the area, contrary to Policies LP1, LP2, LP11 and LP24(a) of the Kirklees Local Plan, Policy 2 of the Holme Valley Neighbourhood Development Plan, Principles 2, 5, 6 and 15 of the Council’s adopted Housebuilders Design Guide SPD, and policies within Chapter 12 of the National Planning Policy Framework.

3. The proposed development, by reason of the limited extent of outdoor amenity space, would provide a poor standard of amenity to future occupiers. Therefore, the development would be contrary to the aims of National Planning Policy Framework Chapter 12, Principle 17 of Housebuilders Design Guide SPD and Policy LP24b of the Kirklees Local Plan.

APPELLANTS CASE/ASSESSMENT

Reason for refusal point 1

The appellant feels an unfair and unreasonable decision has been made on this particular application.

Whilst it is not disputed that part of the application site is allocated as safeguarded land, it is all domestic curtilage. The site area, redline location plan, amounts to 117.4m²/0.01 hectares. The area shown as safeguarded on the Kirklees Local plan (Refer to Appendix A for local plan extract) amounts to 75.5m²/0.0075 hectares.

All of this land, the application site, is longstanding established domestic curtilage associated with No 325 Dunford Road, NB 325 & 327 was formerly two dwellings but knocked into one dwelling many, many years ago as council records (council tax) could confirm.

The domestic curtilage has a series of substantial and permanent domestic outbuildings/stores sited on it along with the old and dilapidated detached garage.

The established use, as domestic curtilage, was confirmed by the Kirklees planning case officers report on the previous/recent [2022/62/92067/W](#) planning application.

This, above mentioned, previous planning application proposed to remove the existing outbuildings, stores and garage, to extend the property and build a detached garage on the site (in the area of safeguarded land).

This previous application was approved on 5th September 2022.

The case officer report on the above referenced 2022/62/92067/W application/approval stated *“In this instance, the area of land subject to safeguarded land already occupies a domestic garage and outbuildings associated and within the curtilage of the host dwelling. It is therefore not considered that to replace these outbuildings with one building which would not be habitable living accommodation, as existing, would prejudice the possibility of long term development on the safeguarded land. The use of the land would not change from existing and therefore would remain protected. As such. It is considered that the proposal would comply with LP6 of the Kirklees Local Plan”* The major/significant difference we see in this garage being habitable or not is privacy issues that could impact on the development of the adjacent bulk of safeguarded land. Considering the wider constraints, particularly the habitable rear elevations of No 325 & 323 we contend that the habitable windows within the proposed dwelling would impact on the development potential of the adjacent safeguarded land.

It is also worthy to note the large protected sycamore tree sited just 17meters to the east of the rear elevation of the proposed dwelling. The root protection area of this tree will no doubt impact on the development layout of the adjoining safeguarded land.

We consider the inclusion of the established domestic curtilage within the larger area of safeguarded land as unusual.

Notwithstanding the designation as safeguarded land we assess the planning policy with regards to safeguarded land.

Other Local Planning Authorities have classed safeguarded land as *“undeveloped areas, often substantial in size, are protected from other forms of development to ensure that they are available to be used for development in the longer term, should the need arise”*

The extant planning approval for the detached garage presents the use of this land for inclusion within future development.

The NPPF (National Planning Policy Framework) states;

143. When defining Green Belt boundaries, plans should:

a) ensure consistency with the development plan's strategy for meeting identified requirements for sustainable development;

b) not include land which it is unnecessary to keep permanently open;

c) where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;

d) make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development;

e) be able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period; and

f) define boundaries clearly, using physical features that are readily recognisable and likely to be permanent.

**** Bold and underline is Author emphasis.***

The whole of the application site is unallocated and not adjacent nor adjoining Green Belt land.

The site has extant planning consent for development, specifically on the safeguarded part of the land for the erection of a large (6 x 7.5m) double detached garage, no conditions were placed on the planning approval for this to ensure the continued association with the adjacent property. The proposed detached garage, we contend, is permanent development.

The Kirklees Local Plan covers safeguarded land at section 6.5, policy LP6 (Safeguarded land (land to be safeguarded for potential future development)).

The policy justification for this policy states;

Policy justification

6.28 The identification of safeguarded land ensures that Green Belt boundaries will last beyond the end of the Local Plan period. This is in accordance with national planning policies which states the intention for Green Belt boundaries to have permanence in the long term.

6.29 Safeguarded land is identified as land to be protected from development during the Local Plan period but to be considered for development through a review of the Local Plan. Although development will not generally be appropriate on safeguarded land, it is recognised that not all development will prejudice the function and the value of the land. It will therefore, be appropriate to permit development required in connection with established uses, or change of use to an alternative open land use or to temporary uses which would not prejudice the possibility of development after the plan is reviewed, nor is detrimental to the character of the site and its surroundings.

6.30 The consideration of the permanent development of safeguarded land, such as for housing or employment, will only occur through a change to the allocation through a review of the Local Plan.

During a Local Plan review, the reassessment of safeguarded land will involve determining for each site whether in the prevailing circumstances there is a case for releasing some or all of the land for development, or whether it should be maintained as safeguarded land until the next review of the plan. This reassessment will need to consider the principles of sustainable development and specific constraints to development, such as impact on heritage assets.

6.31 The plan provides safeguarded land to accommodate approximately 2300 dwellings (assuming the same indicative housing densities of 35 dwellings per hectare used in the plan). The plan also provides for approximately 2900 dwellings to be delivered on sites post the plan period(17) . This equates to a total of approximately 5200 dwellings of safeguarded land/flexibility, equivalent to approximately 26% of the land identified in housing allocations or almost 17% of the objectively assessed need for homes.

Delivery and implementation *6.32 This policy will be implemented by ensuring that proposals for development on safeguarded land meet the policy requirements and do not prejudice the longer term permanent development of these sites. The effectiveness of the policy will be monitored through recording the loss of safeguarded land to permanent development through the Annual Monitoring Report.*

Links with strategic objectives

- *Protect and enhance the characteristics of the built, natural and historic environment, and local distinctiveness which contribute to the character of Kirklees, including the South Pennine Moors, Moorland fringe and the area's industrial heritage.*
- *Promote the re-use of existing buildings and the use of brownfield land to meet development needs and support the regeneration of areas.*

Supporting evidence

- *Strategic Housing Market Assessment (SHMA)*
- *Green Belt Review*

As noted above the application site does not abut any greenbelt boundaries and will have negligible impact on the Green Belt within the Village of Hade Edge.

The policy justification does state *“it is recognised that not all development will prejudice the function and the value of the land. It will therefore, be appropriate to permit development required in connection with established uses, or change of use to an alternative open land use or to temporary uses which would not prejudice the possibility of development after the plan is reviewed, nor is detrimental to the character of the site and its surroundings.”* Whilst the extant permission for the garage could be considered as development with an established use, the adjacent dwelling, we also contend the proposals to create a dwelling, C3 planning use class does not create a situation that could ***prejudice the possibility of development after the plan is reviewed.***

We also contend the proposed development actually enhances the immediate locality and in particular the street scene, the principal public viewpoint with the removal of the dilapidated and unsightly existing structures and the development of a small dwelling using locally sourced and natural materials. This is sustainable development that has no negative impact on heritage assets (designated or undesignated).

The delivery and implementation states *“This policy will be implemented by ensuring that proposals for development on safeguarded land meet the policy requirements and do not prejudice the longer term permanent development of these sites. The effectiveness of the policy will be monitored through recording the loss of safeguarded land to permanent development through the Annual Monitoring Report.”*. We contend this application for a small dwelling does not ***“prejudice the longer term permanent development of these sites”***

The land is in totally separate ownership and has no impact on access to the adjacent safeguarded land.

Various factors will dictate and determine the residential development of the safeguarded land (space about dwelling standards, access, the large protected trees, etc, etc) we don't consider the acceptance of this application will cause detriment to the future development potential.

Reason for refusal point 2

We also consider the Kirklees Planning case officers assessment; *by virtue of its size, scale, massing and appearance on a small plot would present an incongruous and contrived form of development that would fail to sympathetically integrate with existing development in the locality and which would result in the overdevelopment of the site.* Is subjective and inaccurate.

The proposal is to create a small dwelling for the appellants son. The site is small as is the dwelling, along with the provision of amenity space. All relative and in proportion to each other.

During the course of the planning application the case officer declared in an email that the design was inappropriate with the roof at 90degrees to the roofs of the adjacent dwellings. We pointed out that this is a regular theme within the village both on older historical dwellings, but also more modern new builds and the very recent residential development just to the South of the application site. We explained the justification behind this, reiterating our submitted planning statement, and stressing the South facing roof slope would be ideal for Solar to comply with other planning policy and create a dwelling fit for the future with a low carbon footprint.

One could suggest that the extant approval for the erection of the detached garage being of single storey appearance with a gap between the house and garage results in a *form of development that would fail to sympathetically integrate with existing development in the locality* as reference by the case officer?

We draw a comparison to a neighbouring property, 311 & 313 Dunford Road. A couple of totally separate properties, on small very plots;



Accepted, the above properties are historical but there are also newer residential properties, within the village of Hade Edge, that are also small and on small plots that one could suggest *present an incongruous and contrived form of development that would fail to sympathetically integrate with existing development in the locality.*

The google earth street view screen shot below is what we are referring to as potentially being considered *incongruous and contrived form of development that would fail to sympathetically integrate with existing development in the locality*, which was farm workers cottages with sporadic farmsteads scattered around the village.



The applicant, having grown up in the village of Hade Edge, respects the character and charm of the older properties and wanted to follow this theme as opposed to the more modern estate type properties that have been developed over recent years but to also create an energy efficient dwelling for his son.

Whilst we were willing to discuss amending and changing the roof arrangement, to potentially follow that of the adjacent property, foregoing the proposed solar array, the Kirklees planning case officer considered the design, as a whole, as unacceptable but couldn't explain why.

As the plans and overall submission indicates, the design reflects the locality and follows the historical pattern. Natural reclaimed stone was specified for the walling, stone cills and heads to openings with stone corbels and water tabling to the stone slate roof. A feature 'blocked up' opening was proposed to the side South facing elevation to prevent solar gain/overheating but to provide a feature and break up the mass of stonework when travelling North down Dunford Road. These types of blocked opening feature in the village on historical properties, a throw back to the window tax system introduced in 1696! Indeed some of the very recent new builds on Boshaw View also feature blocked up openings.

We contend that the existing buildings on site, the historical stone outbuildings, store and timber/asbestos detached garage all present an incongruous and unsightly form of development which we have the opportunity to enhance with this application.

We fail to agree that *“The proposed development, by virtue of its size, scale, massing and appearance on a small plot would present an incongruous and contrived form of development that would fail to sympathetically integrate with existing development in the locality and which would result in the overdevelopment of the site.”*

Reason for refusal point 3

We also consider the Kirklees planning case officers assessment of the proposal; *The proposed development, by reason of the limited extent of outdoor amenity space, would provide a poor standard of amenity to future occupiers.* Is subjective and inaccurate.

The property is a small one bed dwelling, it complies with the national space standards as clearly referenced on the submitted plans, provides an off street parking space (that the local authority highways planner has accepted/supported) and also has domestic curtilage/amenity space predominantly to the side and rear.

The outdoor amenity space measures just over 36m² (excluding the parking area). This amenity space includes the bin store area, the 1.5m patio/path to the rear and the 6.7 x 2.5m south facing garden area. We contend this is proportionate to a one bedroomed property and does not present a poor standard of amenity to future occupiers.

Indeed the Kirklees planning case officer admitted that there are no set ratios, proportions or sizes of amenity space requirements and all are considered on their own merits.

The google earth street view screen shot, on page 7, indicates a modern new build on Bayfield Close, the one bed flats/apartments on this development have an allocated tarmac parking space but no other external amenity space whatsoever.

Conversion of former textile mills in the district feature many 1, 2 & 3 bed properties with no external amenity space.

The Kirklees Housebuilders' Design Guide SPD (Supplementary Planning Document) was referred to in the preparation of the proposals.

•Principle 17 of this document states – *All new houses should have adequate access to private outdoor amenity space that is functional and proportionate to the size of the dwelling and the character and context of the site.*

We consider that the proposed property has a suitable external amenity space commensurate with other properties in the close proximity.

Furthermore, considering the rural location, proximity of the public recreational playing field and local network of bridleways, footpaths and unrestricted open access moorland, we contend the proposed amenity provision is acceptable.

CONCLUSION

The appellant, having grown up in the village of Hade Edge, almost 50 years, wishes to stress that visually, the proposals have been very carefully considered to retain and reflect the character and charm of the historical properties within the village.

The style and design of the proposed dwelling assessed against the existing buildings on site provides a significantly more attractive and coherent scheme/appearance.

The property will be sustainable by having a very high level of thermal insulation with several other inclusions to provide a very efficient dwelling (grey water/water harvesting, air source heat pump, solar, EVCP). This assists in a positive effort to reduce the carbon footprint.

Functionally, the proposed dwelling presents an opportunity for the appellants son to continue to live in the village he was born in, Hade Edge, as opposed to being outpriced and forced to move out of the area. In future when he potentially moves on it will then present a similar opportunity as a low cost (based upon size), low consumption dwelling for others for years to come.

Therefore, for the reasons set out above, it is respectfully requested that this appeal is allowed.

The appellants have no objections to the imposition of any necessary conditions by the Inspector, including the removal of permitted development rights for the proposed dwelling.

APPENDIX A
LOCAL PLAN EXTRACT

