

**TITLE OF REPORT:** Planning Appeals

**REPORT OF:** Anneliese Hutchinson, Service Director, Development,  
Transport and Public Protection

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### **Purpose of the Report**

1. To advise the Committee of new appeals received and to report the decisions of the Secretary of State received during the report period.

### **New Appeals**

2. There has been **one** new appeal lodged since the last committee:

DC/18/01153/HHA - Park House, Strathmore Road, Rowlands Gill  
Demolition of existing detached garage and rear conservatory. Two storey side and rear extension with internal alteration. Amendments to front entrance porch (amended plans received 15.01.19)  
This application was a delegated decision refused on 6 March 2019

### **Appeal Decisions**

3. There has been **one** new appeal decision received since the last Committee:

DC/18/00486/FUL - Site At Rear Of Garage And Substation Adj Meadow View, Woodside, Ryton  
Erection of two bedroom dormer sustainable eco home  
This application was a delegated decision refused on 10 July 2018  
Appeal dismissed 17 April 2019

Details of the decision can be found in **Appendix 2**.

### **Appeal Costs**

4. There have been no appeal cost decisions

### **Outstanding Appeals**

5. Details of outstanding appeals can be found in **Appendix 3**.

### **Recommendation**

6. It is recommended that the Committee note the report

**Contact: Emma Lucas Ext: 3747**

**FINANCIAL IMPLICATIONS**

Nil

**RISK MANAGEMENT IMPLICATIONS**

Nil

**HUMAN RESOURCES IMPLICATIONS**

Nil

**EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**CRIME AND DISORDER IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

Nil

**HUMAN RIGHTS IMPLICATIONS**

The subject matter of the report touches upon two human rights issues:

The right of an individual to a fair trial; and  
The right to peaceful enjoyment of property

As far as the first issue is concerned the planning appeal regime is outside of the Council's control being administered by the First Secretary of State. The Committee will have addressed the second issue as part of the development control process.

**WARD IMPLICATIONS**

Various wards have decisions affecting them in Appendix 3.

**BACKGROUND INFORMATION**

Start letters and decision letters from the Planning Inspectorate



The Planning Inspectorate

## Appeal Decision

Site visit made on 25 March 2019

by **Graeme Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 April 2019

**Appeal Ref: APP/H4505/W/19/3220001**

**site to rear of garage and substation adjacent to Meadow View, Woodside, Ryton**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Colin Johnston against the decision of Gateshead Council.
- The application Ref DC/18/00486/FUL, dated 15 May 2018, was refused by notice dated 10 July 2018.
- The development proposed is erection of 2 bedroom dormer bedroom sustainable eco home.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Since the Council made its decision, but prior to the submission of this appeal, a revised version of the National Planning Policy Framework (the revised Framework) was published. Both parties have had the opportunity in their submissions to comment upon the revised Framework in relation to their respective cases but continue to refer to the paragraph numbers of the previous iteration of the Framework. However, I am satisfied that the revised Framework's approach to development in the Green Belt is sufficiently consistent with that of the previous version. I have determined the appeal accordingly and on the basis of the revised Framework.

### Main Issues

3. The main issues are:
  - Whether the proposed development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework<sup>1</sup> and any relevant development plan policies;
  - Whether the appeal site is an appropriate location for housing, having regard to the Framework and any relevant development plan policies;
  - The effect of the proposed development on highway safety; and
  - If it is inappropriate development, whether 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.

<sup>1</sup> Published February 2019

## Reasons

### *Whether inappropriate*

4. Policy CS19 of the Core Strategy and Urban Core Plan (CSUCP) states that the Green Belt<sup>2</sup> will be protected in accordance with national policy to prevent the merging of settlements, noting amongst other scenarios, the merging of villages with each other, to safeguard the countryside from encroachment and to check unrestricted urban sprawl. I am satisfied that the provisions of CSUCP policy CS19 are consistent with the revised Framework's approach to development within the Green Belt in terms of the five stated purposes of Green Belts<sup>3</sup>.
5. The Framework goes on to state<sup>4</sup> that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt. Such proposals should not be approved except in very special circumstances and substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist *'unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'*<sup>5</sup>.
6. The construction of new buildings within the Green Belt should be regarded as inappropriate unless they fall within one of the exceptions set out at paragraph 145 of the revised Framework. Although both parties refer to, and quote from, various paragraphs of the previous version of the Framework, I am satisfied that the provisions set out therein are sufficiently consistent with those of the revised Framework.
7. The appellant does not directly refute the Council's statement that the proposal would not satisfy any of the exceptions set out within paragraphs 89 or 90 of the previous version of the Framework. The exception, previously set out as the 6<sup>th</sup> bullet point of paragraph 89 regarding limited infilling or the partial or complete redevelopment of previously developed sites, is highlighted in bold within the appellant's Grounds of Appeal (GoFA). The equivalent provision is set out at paragraph 145(g) of the revised Framework and is broadly consistent with the previous version in terms of its approach to limited infilling or partial or complete redevelopment of previously developed land.
8. The appeal site is an area of open space, laid to closely cut and maintained lawn, with a detached single garage located in a prominent position at the corner of Bank Top and Gingle Lane. The garage itself is a modest single storey structure with a dual-pitched roof. It is one of a small number of modestly-sized detached buildings grouped close to each other on the inside of this junction. Although the buildings have different functions they are, however, modest structures of a domestic scale.
9. The site, with a mix of low timber paling fence and hedges as boundaries to the north and east, rises gradually towards the gardens of a short terrace of residential properties on Meadow View and shares the domestic character and appearance of those gardens, although it is not clear whether this area of lawn is associated with any of those dwellings; the appellant describes the site as a

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<sup>2</sup> Tyne and Wear Green Belt

<sup>3</sup> Paragraph 134

<sup>4</sup> Paragraph 144

<sup>5</sup> Paragraph 145

'lawn without a house'. That seems to me to be a reasonably accurate description of the character and appearance of the appeal site.

10. It has been argued that the site previously accommodated houses, as part of a former farmstead, and garages, with a map extract<sup>6</sup> purporting to show buildings within the appeal site and its immediate environs. Whilst that may well have been the case, other than the existing detached garage that is presently within the site, there were no other indications or evidence of buildings being present within the appeal site.
11. The proposed dwelling would, despite suggestions to the contrary, be a considerably larger building than the existing detached garage in all quantifiable measures. The proposal would entail the removal of the existing garage and so it would constitute the redevelopment of previously developed land. However, I am not persuaded that in doing so the proposed dwelling would not have a greater impact on the openness of the Green Belt.
12. Although the proposed dwelling would be sited away from the existing garage's prominent position on the inside of the open junction of Bank Top and Gingle Lane, it would not be any less prominent. Moreover, its siting would close the currently open gap between the existing small cluster of buildings adjacent to Gingle Lane and the appeal site boundary on the far side of the plot. Thus, the incongruous form and scale of the proposed dwelling, and its positioning within the plot closing off a significant proportion of the gap across a narrow part of the site, would have a significantly greater, and thus harmful, impact on the openness of the site than the existing building does.
13. It has not been argued that the proposal would benefit from any other exception provided by paragraphs 145 or 146 of the revised Framework<sup>7</sup>. I agree and, as such, conclude that the proposed development would constitute inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt.
14. The revised Framework sets out the five purposes of Green Belts which remain unchanged from the previous Framework. The appellant questions the value of the Green Belt designation at Ryton Woodside, but it is not the purpose of a s78 appeal to reassess the value or purpose of designated Green Belt. The proposal would introduce a larger built structure in a location not entirely occupied by an existing, smaller structure. The extensive footprint area, siting and positioning of the dwelling and its relationship with Bank Top and Gingle Lane would have a significant urbanising effect on the rural character and appearance of the site and the surrounding area. It would also close off a visual gap provided by the existing open, lawned area, thus rendering it 'not free from development', a point acknowledged by the appellant. This would give rise to a significant physical and visual incursion into the open countryside that would inevitably and harmfully lead to a loss of openness.
15. The proposal would thus also be inconsistent with the fundamental purposes of the Green Belt in that it would encroach into the countryside. The proposal would also reduce the degree of separation between the loose, sporadic cluster of buildings around the appeal site from the terraces on Woodside Lane. This would also be inconsistent with the purpose of preventing sprawl and merging

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<sup>6</sup> Figure 7 – Appellant's Grounds of Appeal

<sup>7</sup> Or the corresponding paragraphs 89 or 90 of the previous Framework



of settlements. For the reasons set out therefore, the proposed dwelling would be inappropriate development in the Green Belt which, by definition, would be harmful to the Green Belt. The proposal would be contrary to the Green Belt protection aims of CSUCP policy CS19 and the revised Framework.

#### *Location*

16. The appeal site lies clearly detached from the terraces and clusters of built development along Woodside Lane. It is typical of the immediately surrounding area where there are small sporadic clusters of buildings lying in a rural setting. They are surrounded by open countryside where rolling open fields separates them from other in both physical and visual terms, from other similar such small clusters of buildings and dwellings.
17. The site is not an isolated one however, despite being beyond any defined settlement extent. The short terrace of houses at Meadow View and the detached bungalow opposite are situated close to the appeal site, whilst it is only a very short walk to Woodside Lane and the terrace of properties on the western side of the road opposite the junction with Bank Top. I observed during my visit to the site that busses regularly passed the junction with Bank Top, and I also saw that the pavement alongside Woodside Lane provided a good basis for walking the albeit lengthy routes to services and facilities in Greenside and Ryton.
18. Neither of the policies referred to in the second of the Council's reasons, CSUCP policy CS15 or ENV3, specifically refer to the location of development. However, whilst I do not consider the proposed dwelling to be particularly isolated, it does not lie within or form part of a clearly defined settlement and instead lies in a rural, open countryside setting. It would not, I conclude, benefit from the support afforded by paragraph 79 of the revised Framework.

#### *Highway safety*

19. The appellant contends that matters relating to the demonstration of an appropriate visibility could be appropriately dealt with by way of condition. Whilst I agree that that might be appropriate in certain circumstances, I concur with the Council's view that to do so in this instance would not. The proposed point of access from Bank Top would be located immediately adjacent to the site's side boundary. The roadside verge is narrow and neighbouring land immediately adjoins the appeal site and it has not been demonstrated that the appellant has any control over the boundary treatment beyond this corner of the site. I cannot therefore be satisfied that the proposal could secure an appropriate or safe connection to the local highway network as required by CSUCP policy CS13(3)(iii).
20. I accept, as do the Council, that the proposal would not be a significant generator of traffic. However, I am not persuaded that that alone is sufficient to persuade me that the failure to adequately demonstrate satisfactory visibility splays at the proposed new entrance would not cause harm to highway safety.

#### *Other considerations*

21. It is stated that the proposed dwelling would incorporate 'sustainability' features such as sustainable construction methods and materials to Passivhaus standards, a green roof and solar and p.v. panels for hot water and the generation of electricity. This is commendable and carries some weight.

However, it would not alter or alleviate the adverse effects of the proposal on the Green Belt.

22. The proposal would deliver an additional dwelling and make a very limited contribution to the supply of new homes, and also in terms of economic and social benefits. I have also noted the appellant's personal aspirations and family history regarding residency in the area for a number of generations. The latter factor does not carry any planning weight in support of the appeal, whilst I can only afford the former limited weight.
23. The appellant's Grounds of Appeal refers to a number of previous 'nearby developments' in addition to Green Belt deletions in and around nearby Ryton to facilitate the development of a large number of dwellings. I do not however have any further details before me of these examples, nor is it clear where they are in relation to the appeal proposal. I cannot be certain therefore of whether they provide a direct comparison to the appeal proposal but, on the evidence, I give these factors little weight.
24. The Council do not object to the proposal in terms of its design or effect on the living conditions of either existing occupiers of nearby residential properties, or future occupiers of the proposed dwelling. The appellant concludes by stating that the removal of the existing garage and the development of the site would improve the streetscene. I disagree. I find no visual harm arising from the existing structure, which is entirely consistent with the informal, rural nature of the existing cluster of buildings. This, together with an absence of harm in these other respects does not weigh in support of the proposal.

### **Conclusion**

25. I have concluded that the proposal would be inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt. Central to the conclusion regarding inappropriate development is that the proposal would also result in a loss of openness. The proposal would also be inconsistent with the aims of the Green Belt, particularly safeguarding the countryside from encroachment and the merging of settlements. Furthermore, it has not been adequately demonstrated that the proposal could secure a safe connection to the local highway network.
26. As I am required to do so by paragraph 144 of the revised Framework, I give substantial weight to the harm to the Green Belt. Paragraph 144 goes on to state that the 'very special circumstances' required to approve inappropriate development will not exist unless the potential harm to the Green Belt by reason or inappropriateness, and any other harm, is clearly outweighed by other considerations. For the reasons I have set out, these other considerations do not outweigh the Green Belt harm, and other harm, and as a consequence very special circumstances do not exist. The proposal development would be contrary to the Green Belt and highway safety aims of CSUCP policies CS19 and CS13 and the revised Framework.
27. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Graeme Robbie*

INSPECTOR

## APPENDIX 3

### OUTSTANDING APPEALS

<b>Planning Application No</b>	<b>Appeal Site (Ward)</b>	<b>Subject</b>	<b>Appeal Type</b>	<b>Appeal Status</b>
DC/18/00440/TPO	9 Axwell Park Road Axwell Park Blaydon NE21 5NR	Felling of one Sycamore tree in garden of 9 Axwell Park Road.	Written	Appeal in Progress
<b>DC/18/00486/FUL</b>	<b>Site At Rear Of Garage And Substation Adj Meadow View, Woodside, Ryton</b>	<b>Erection of two bedroom dormer sustainable eco home</b>	<b>Written</b>	<b>Appeal Dismissed</b>
DC/18/00727/OUT	Grazing Land At Beda Hills West Of Woodside Walk Rowlands Gill	Erection of four bedroom house	Written	Appeal in Progress
DC/18/00822/FUL	The Dairy South Farm NE11 0ET	Erection of animal shelter (revised application).	Written	Appeal in Progress
DC/18/00958/TPO	Woodlands Derwent Avenue Rowlands Gill NE39 1BZ	Tree works at Woodlands, Derwent Avenue, Rowlands Gill	Written	Appeal in Progress
<b>DC/18/01153/HHA</b>	<b>Park House Strathmore Road Rowlands Gill</b>	<b>Demolition of existing detached garage and rear conservatory. Two storey side and rear extension with internal alteration. Amendments to front entrance porch (amended plans received 15.01.19)</b>	<b>Written</b>	<b>Appeal in Progress</b>