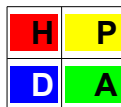


**Proposed replacement dwelling at Kirklees Valley Farm, Lower Kirklees
Street, Tottington BB8 3NY.
(Resubmission)**

Planning Statement

Amended 5 June 2023



June 2023

Prepared by Hartley Planning and Development Associates Ltd

Introduction

Application is made for the replacement of an existing dwelling at the above address.

The site is within the Green Belt

This is a second application following an earlier dismissal on appeal, albeit for a different site on the same landholding and with new justification.

On 2 September 2021 under ref:66959, a Lawful Development Certificate was issued by the local planning authority (LPA) confirming that the former caravan on the site, by reason of its attachment to the ground and its long use for residential purposes, was legally defined as a dwelling (Class C3).

The dwelling is limited in its size for its occupation by Mr and Mrs Briggs and their son and is poorly insulated .

For these reasons a detached cabin style dwelling has been brought onto the site and positioned next to the former caravan (now defined as a dwelling).

The applicant has purchased it while it was available to buy, in the knowledge that the dwelling the subject of the LDC, is very insulated and cramped, providing not ideal accommodation for the applicant, his wife and young son.

Application ref: 67532 was submitted for its retention but was refused on 21 December 2021 and the subsequent appeal (APP/T4210/W/22/3290022) was dismissed on 3 August 2022.

The appealed application was based on the exception to Green Belt policy which permits the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.

However, the Inspector concluded that ‘ *the massing of the new dwelling would be materially larger than the one it replaces because of the increase in volume, footprint and massing*’ .

A second reason upon which the appeal was based related to a further exception to Green Belt policy which allows the ‘ *partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on openness of the Green Belt than the existing development*’.

However, again the Inspector concluded that the proposal would have a greater impact on the openness of the Green Belt than the existing development, even though ‘ *views of the proposed development would be extremely limited from public vantage points. This is because of the surrounding vegetation, trees and entrance gates*’.

The Inspector also considered the impact upon the character and appearance of the area and concluded that ‘ *I am satisfied that the proposed development , including hardstanding and domestic paraphernalia, would not cause harm to the character and appearance of the surrounding area, including the character of the Green Belt*’.

Overall, the Inspector concluded that ‘ *despite the merits of the proposal*’, it would cause ‘ *a moderate loss to the openness of the Green Belt*’.

The current application aims to address the reasons for the dismissal of the earlier submission.

Main issues

The main issues are (i) whether or not the proposal would be inappropriate development in the Green Belt including its effect on openness; (ii) the effect of the proposal upon the character and appearance of the area and (iii) if the proposal is inappropriate development in the Green Belt, 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 development.

Whether inappropriate development

Saved Policy OL1/2 of the Bury Unitary Development Plan 1997 (UDP) states that the construction of new buildings in the Green Belt are inappropriate development, unless it is for the following purpose (amongst other exceptions).

The same is stated in the National Planning Policy Framework 2021 (the Framework).

The Framework permits, as an exception and at paragraph 149(g): -

'g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development';

The application site includes a single storey stable block which was constructed several years ago. In fact, under application No 55562, planning approval was granted on 31 October 2012 for what was described as *'Replacement timber stables/work shed/greenhouse and installation of play equipment to be used as an environmental education community project'.*

On 18 February 2015, under application No 312, Planning permission was granted for the retention of the stable block and the construction of an associated menage, and where a legal start has been made for the latter.

The Framework defines previously developed land in its glossary as: -

'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the

whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds’.

The application is clearly not in agricultural use nor is it in a built up area; it is therefore previously developed land. Moreover, the stable block has clearly existed for many years and is a permanent structure.

The stable block has a length of 22.35m by 3.27m (73.1m²) with a height of 2.4m (175m³)

In comparison, the proposed replacement dwelling has a footprint of 61m² and a volume of 189m³.

The proposal is to demolish the stable block and to remove the existing former caravan (now classed as a dwelling).The net result would be a reduction both in square footage and in volume terms of structures on the land and in the Green Belt.

	Length	Width	height	M2	M3
Stable block to be demolished	22.35	3.27	2.4	73.1	175
Exg dwg. to be removed (discounting the removal of the attached lean-to)	5	3.4	2.6	17	45
Total				90.1	220
New dwg.	10	6.35	3.62	63.5	189

Net effect				-27	-31
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Therefore, in terms of the reduction in both floor area and also volume, the proposed development would accord with paragraph 149(g) of the Framework.

But openness is not to be defined by volumes and areas alone. In the case of *Turner v Secretary of State for Communities and Local Government and ANONR* (2016) the judge concludes at paragraph 14 that the concept of openness of the green belt is not narrowly limited to a volumetric approach. *The word openness is open textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case'*

(Paragraph 15) *'The question of visual impact is implicitly part of the concept of "openness of the Green Belt" as a matter of the natural meaning of the language used in para. 89 of the NPPF'.*

The visual impact of the existing building and the site in general adversely affects the Green Belt. As Turner concluded and as quoted above, *"the question of visual impact is implicitly part of the concept of "openness of the Green Belt".*

The proposed development would lead to a visual improvement to the site by the removal of the stable block and existing dwelling , both of which are showing signs of disrepair, and by a general improvement of the site by associated landscaping.

In addition, the Inspector, when determining the earlier appeal proposal, concluded that the proposed development, albeit it in a slightly different position on the site, *'would not cause harm to the character and appearance of the surrounding area, including the character of the Green Belt'*. She also noted that *'the replacement dwelling would not be substantially taller'* .

Thus, with the demolition of the stable block and the existing dwelling(former caravan) there would actually be a slight improvement to the openness of the Green Belt. As the Inspector has already concluded, it would not adversely affect the character and appearance of the area, and the height of the replacement building would not be substantially greater than the building which it would replace. It would be similar in height to that of the stable block to be demolished.

As the site is previously developed land, the proposed development would not be inappropriate development in the Green Belt and would accord with policies OL1/2 and OL5/2 of the UDP, SPD8 and the Framework.

Character and appearance

The Inspector concluded that, because of the vegetation surrounding the site and the presence of a gated entrance there would be no harm to the character and appearance of the area.

The proposed development would not require excavations in order to provide links to utilities including foul drainage and an electricity supply as the existing provisions would continue to be used.

Therefore, as the Inspector previously concluded *'it would not conflict with Policy EN1/1 of the UDP which states that development will not be permitted where proposals would have a detrimental effect on the visual amenity both within, or viewed from, areas of environmental interest such as the Green Belt or the river valleys. In this regard, it would also not conflict with SPD8 which provides advice on how the character of the Green Belt is maintained and where possible, improved'*.

Other Matters

Nationally Described Space Standards and Building Regulations

The proposed replacement dwelling is of a size at 63m² that is little larger than the minimum of the Nationally Described Space Standards 2015 (NDSS) for a two bedroom /3 person dwelling, set at 61m². Even though the LPA has not yet adopted the NDSS, as contained in the draft Greater Manchester Plan, the Inspector did afford the matter some weight, as she did with regard to Building Regulations regarding minimum heights of dwellings. Equally, she gave consideration to the Human Rights Act, Protocol 1, Article 1 (protection of property) and Article 8 (right for respect for private and family life).

While the Inspector concluded that 'on balance', these matters were insufficient to outweigh the harm which she found to the openness of the Green Belt, they were considered as important in the overall planning balance.

In the case of the current application, made on the basis of a different proposal, these matters support the fact that it would not be inappropriate in the Green Belt and would also improve the character and appearance of the area.

Access

The existing access along lower Kirklees Street would continue to be used and which currently serves the existing approved dwelling on the site as well as to the stables block.

Lower Kirklees Street is an unadopted lane which is used by vehicular traffic by, amongst others, fishermen visiting the ponds lower down the lane. It also serves as a public footpath.

The red edge of the application form has been drawn to its boundary (It is not necessary for the red edge to be drawn to meet an adopted road, but just to a public highway)

The proposed replacement dwelling is already on the site and so there would be no disruption to existing traffic on the lane, nor to its surface.

As the application is for the replacement of an existing dwelling, there would be no intensification of the use of the lane

Fire protection

The Fire Officer is concerned to ensure that the proposed site and building dwelling can be reached by a fire engine.

Access to the site is along lower Kirklees Lane, which while being a single track unmade access, is passable with a fire engine. After all, this is the way in which the proposed replacement cabin, measuring some 10m by 6.35m, was brought onto the site.

The proposed building would be some 120 metres from the adopted road at the junction of Lower Kirklees and Beryl Avenue.

There is a large pond immediately in front of the proposed dwelling, some 70 metres away. It has a Karcher high pressure pump in it with a pipe leading to the dwelling site.

In addition, the existing dwelling has a mains water supply and it would be possible to install a domestic sprinkler system. If absolutely necessary (bearing in mind the other issues for safeguarding against fire) we would accept the following condition: -

Within 12 months of the development hereby approved, a sprinkler/misting system to meet the requirements of BS 9251:2014 or other subsequent standard that meets the requirements of Greater Manchester Fire and Rescue Service and deemed suitable to overcome the site's emergency access deficiencies, shall be installed in the dwelling hereby approved and shall thereafter be maintained at all times.

Reason. In the interests of fire safety and to ensure the safe and satisfactory development of the site and for its future occupiers pursuant to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/2 - The

Layout of New Residential Development and EN1/2 - Townscape and Built Design.

Conclusion and the planning balance

The proposal would not result in an additional dwelling.

It would not be inappropriate in the Green Belt, by reason of being the redevelopment of previous developed land and which would increase the openness of the Green Belt.

It would enhance the character and appearance of the area by reason of the removal of existing structures, and by the landscaping of the site.

Other matters, including an appropriate minimum size for a family dwelling and Human Rights considerations add weight to the factors in favour of the proposal.

Therefore, we consider that overall, the weight is in favour of the proposed development.