



## Appeal Decision

Site Visit made on 26 October 2021

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2021

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Appeal Ref: APP/Z4718/W/21/3279690

Elysium Barn, Cophurst Road, Cartworth Moor, Holmfirth HD9 2TS

- 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 & Mrs TJ & SD Kirk against the decision of Kirklees Metropolitan Council.
  - The application Ref 2019/62/93134/W, dated 17 January 2020, was refused by notice dated 29 January 2021.
  - The development proposed is described on the application form as **'existing barn alterations and change of use to leisure holiday let'**.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have taken into account the revised National Planning Policy Framework (the Framework), as published on 20 July 2021. Any reference to the Framework below is consequently a reference to this latest revised version.

### Main Issues

3. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect upon the openness of the Green Belt;
  - the effect of the proposal on the character and appearance of the area;
  - whether or not the appeal site is a suitable location for the development proposed;
  - whether the 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.

### Reasons

#### *Whether Inappropriate Development*

4. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are openness and permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. Paragraph 150 lists forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include at 150. d) the re-use of buildings, provided that the buildings are of permanent and substantial construction.
6. Policy LP60 of the Kirklees Local Plan (2019) (the KLP) similarly supports the re-use of buildings and the requirement that buildings are of permanent and substantial construction. The policy also requires proposals to meet a number of design criteria, some of which could affect openness including a requirement that schemes do not introduce incongruous domestic or urban characteristics into the landscape, through the treatment of outside areas such as means of access and car parking, curtilages and other enclosures and ancillary or curtilage buildings.
7. The justification to the policy guides that proposals which intensify use or extend an existing footprint to the extent that openness is compromised will not normally be permitted. A detrimental effect on openness and tranquillity, including through the intensification of use of access roads and other outside space, will also not normally be permitted. I accept there is no specific reference to such features in paragraph 150 of the Framework. Nevertheless as a matter of logic they may affect openness in practice.
8. It is common ground between the parties that the proposal would involve the re-use of a building that is of permanent and substantial construction. As such, in order to determine whether the proposal would be inappropriate development I am required to consider the effect on openness.
9. There would be no extensions or other additions to the footprint of the existing building. However, it is proposed to create a parking and turning area with bin storage and access from Copthurst Road to the west side of the building, with a further enclosed '**external sitting area**' to the east. Both areas would have direct access from the proposed holiday let. These areas would be enclosed by a timber post and rail fence.
10. There is an existing small lightweight enclosure to the west side of the building, although this is open to the field on one side. The land to the east of the building is open with no enclosure. The enclosure of these two areas with a post and rail fence will inevitably reduce openness and the area around the building will be less open than it is at present. That would be the case both physically, by virtue of laying some form of surfacing in what is presently natural land, and visually by creating subdivided parcels of land within the landscape (which here is principally open and expansive as reasoned above).
11. Furthermore, the activity in the spaces around the building for parking, refuse storage and sitting out would be likely to be much more intensive than that arising from the existing agricultural use, even when taking into account the intended operation as a holiday let. It would also be likely to lead to parked vehicles, stored refuse, and seating being located in these areas which would also impinge on its visual openness compared to the existing situation. The reduced openness would be readily experienced by those walking along Copthurst Road (a public right of way) and in wider landscape views.
12. For the above reasons, I conclude that the proposal would not preserve the openness of the Green Belt and would fail to safeguard the countryside from

encroachment. The proposal therefore does not fall within the forms of development at paragraph 150 of the Framework and as such is inappropriate development in the Green Belt. For the same reasons, the proposal conflicts with Policy LP60 of the KLP. Similarly, there would be conflict with Policy LP58 of the KLP which seeks to avoid the change of use to garden in the Green Belt except in very special circumstances.

### *Character and Appearance*

13. The appeal site lies within a field of rough grass in an upland landscape with an overtly wild and natural appearance. I accept that permanent fixtures within the parking area and sitting out area may be more limited due to the intended holiday use as opposed to a permanently occupied dwelling. However, their creation would inevitably result in the introduction of domestic and urban characteristics into the landscape arising from hardsurfacing, refuse storage, outdoor seating, the maintenance of the grass, other planting, and other such domestic paraphernalia. These characteristics would be clearly viewed as incongruous with the landscape setting in views from the adjacent public right of way. Furthermore, many of these characteristics are unlikely to be capable of being controlled through planning conditions.
14. Although the areas that would be enclosed would be reasonably modest in size, the change of use that would occur would result in moderate harm to the character and appearance of the area and the surrounding landscape and as such would conflict with Policies LP58 and LP60 of the KLP. The proposal would also conflict with paragraph 80 of the Framework which only supports the re-use of buildings in isolated locations where development would enhance its immediate setting, notwithstanding that I turn to location subsequently.

### *Suitability of Location*

15. The appeal site, situated on a hillside in an isolated countryside location, is remote from services and facilities. Future occupants would therefore be reliant on the private car to access these. Nonetheless, the appellant is seeking to operate the proposed dwelling as a holiday let. In this regard I am mindful that the Framework is supportive of sustainable rural tourism, whilst paragraph 105 states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Occupation for holiday letting purposes could be controlled by a suitably worded condition restricting permanent occupation.
16. Nonetheless, access to the site is via a substantial length of unsurfaced road that is steeply sloping in places. The surface is rough and potholed in sections. Access by standard vehicles at any time of the year is likely to be challenging, particularly for drivers not familiar with the road, as is likely to be the case for holidaymakers accessing the dwelling. Given the altitude of the barn and its position on a north facing slope it is likely to be susceptible to periods of inclement weather, including ice and snow. Such weather conditions would make access to the building very difficult for future occupants during these periods. I note that this was the concern of Inspectors who dealt with two previous appeal decisions<sup>1</sup> that sought prior approval<sup>2</sup> for conversion of the

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<sup>1</sup> APP/Z4718/W/17/3170589 and APP/Z4718/W/19/3220953

<sup>2</sup> under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

building to a dwelling. Both appeals were dismissed, in part due to the above issue.

17. In order to overcome this issue, the appellant is suggesting a planning condition limiting occupation to 44 weeks in a year, preventing occupation for 8 weeks in January and February. This would leave only 16 days of snow **throughout the open months and only 8 days with 'Snow Lying at 0900 UTC'** based on the Met Office figures provided. However, on that basis the holiday let would still operate at times when snowfall is expected to occur. Although I accept that the winter months are a quieter season for holiday lets, on the basis of the figure provided, snow and ice would still be likely to severely inconvenience numerous guests staying in the holiday let as well as other visitors required to service the holiday let such as cleaners, delivery drivers and maintenance staff. Furthermore, I share the concerns of previous Inspectors and the Council that the Met Office figures provided are for Holmfirth and may not account for potentially different levels of snowfall that could be expected at the high altitude of the appeal site. Weather is unpredictable.
18. Whilst snowfall itself does not make a road impassable, this is a long length of unsurfaced sloping road with low levels of traffic and is not regularly gritted. The potential for inclement weather, coupled with the state of the access and its remote location, and altitude mean that the site is particularly inaccessible, or would be particularly inaccessible at certain times of year, by standard vehicles.
19. For the above reasons, I am not satisfied that the proposed dwelling could be accessed safely and effectively by all users and this issue could not be overcome by imposing an associated condition. I therefore conclude that the appeal site would not represent a suitable location for the proposed development and as such would conflict with Policies LP20, LP21 and LP24 of the KLP and the provisions of the Framework, which, amongst other things, seek to ensure new developments are provided with a safe and suitable access.

#### *Other Considerations*

20. I accept that the proposal would support local tourism and, given the small scale of the proposal, there would be minor economic benefits to the local area arising from the occupation as a holiday let. Furthermore, employment benefits would also arise from the construction, cleaning and maintenance of the holiday let. However, these benefits are comparatively minor and as such carry limited weight.

#### Planning Balance and Conclusion

21. The proposed development would be inappropriate development in the Green Belt and would harm openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also be harmful to the character and appearance of the area and would not represent a suitable location for the proposed development. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
22. Given the substantial weight to be given to Green Belt harm combined with the other identified harm, relative to the modest benefits of the proposed scheme, the harm that would arise would not be clearly outweighed by the

other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist.

23. I have considered all other matters raised but none outweigh the conclusions I have reached. For the reasons set out above, I dismiss the appeal.

*Paul Martinson*

INSPECTOR