

## Planning Committee

21 March 2017

### Planning Appeal Decisions – February 2017

The following appeal decisions are submitted for the Committee's information and consideration. These decisions are helpful in understanding the manner in which the Planning Inspectorate views the implementation of local policies with regard to the Sunderland Unitary Development Plan 2004 and the National Planning Policy Framework – March 2012. Copies of all of the following decisions are available via public access.

<p>1.</p>	<p><b>Appeal Ref: APP/J4525/D/16/3163373</b> <b>15 Hornsey Crescent, Easington Lane, Houghton-Le-Spring DH5 0HH</b></p> <p>The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.</p> <ul style="list-style-type: none"><li>• The appeal is made by Mr Kevin Johnston against the decision of Sunderland City Council.</li><li>• The application Ref 16/01643/FUL, dated 5 September 2016, was refused by notice dated 1 November 2016.</li><li>• Delegated Decision: REFUSE</li><li>• The development proposed is 'Extension to the side of property with a front porch to form two bedrooms.'</li></ul> <p><u>Main Issue</u></p> <p>The main issue is the effect of the proposed development upon the character and appearance of the area.</p> <p><u>Reasons for Decision</u></p> <p>The appeal property is one of a pair of modest semi-detached houses located in a prominent position on the corner of Hornsey Crescent and Derwent Street.</p> <p>Although it is set at an angle facing the corner, the siting of the appeal property nevertheless respects the front building line of the houses on Derwent Street immediately to the north.</p>	<p><b>Dismissed</b></p>
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The appeal proposal would be 2 storeys high, and the ridge and eaves of the proposed gable roof would align with those of the existing house. At ground floor level the extension would project forward of the main front elevation by 1.5m, incorporating a new front porch, whilst at first floor level it would finish flush with the front elevation.

The proposed development would extend back in line with the existing rear elevation although, due to the tapering nature of the side boundary, the extension would be just over a metre wide at the rear. At the front however, the appeal proposal would increase the width of the house by more than 50%.

Due to its siting, scale and detailed design the proposed development would result in a bulky addition that would not appear subordinate to the existing house.

Furthermore, it would extend significantly beyond the established building line on Derwent Street and would therefore be extremely conspicuous within the street. For these reasons, the appeal proposal would create an unduly dominant and incongruous feature on this prominent corner plot.

#### Conclusion

The development would have a harmful effect upon the character and appearance of the area. As such, it would fail to comply with the design aims of Policy B2 of the UDP.

<p>2.</p>	<p><b>Appeal Ref: APP/J4525/W/16/3159550 Havannah Farm, Springwell Road, Springwell, Gateshead NE9 7YT</b></p> <ul style="list-style-type: none"> <li>• The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.</li> <li>• The appeal is made by Mr Jack Coupe against the decision of Sunderland City Council.</li>   <li>• The application Ref 15/02291/FUL, dated 11 November 2015, was refused by notice dated 3 May 2016.</li> <li>• Delegated Decision - REFUSE</li> <li>• The development proposed is new detached garage and conversion of existing garage to residential dwelling.</li> </ul> <p><u>Main Issues</u></p> <ul style="list-style-type: none"> <li>• Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);</li> <li>• The effect of the proposal on the openness of the Green Belt;</li> <li>• Whether acceptable living conditions would be provided for both future occupiers of the converted garage and occupiers of the adjacent dwellings at Havannah Farm and the Old Barn with particular regard to privacy.</li> <li>• Whether acceptable living conditions would be provided for future occupiers of the converted garage with particular regard to external amenity space.</li> <li>• Whether future occupiers would have acceptable access to services and facilities.</li> <li>• If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special</li> </ul>	<p><b>Dismissed</b></p>
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circumstances necessary to justify the development.

Reason for Decision

Paragraph 89 of the Framework establishes that new buildings within the Green Belt are inappropriate unless, amongst other things, it involves an extension of a building and that extension would not result in disproportionate additions over and above the size of the original building or, it comprises limited infilling or partial redevelopment of previously-developed land which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Framework paragraph 90 sets out that some other forms of development are not inappropriate, including the re-use of existing buildings provided that they are of permanent and substantial construction, preserve the openness of the Green Belt and would not conflict with the purposes of including land in the Green Belt.

The proposed conversion of the garage to a separate dwelling falls to be assessed against the provision of paragraph 90. Whilst there was no dispute that the existing building is of permanent and substantial construction, the Council had an issue in terms of openness, referring to proposed dormer windows and potential domestic paraphernalia. In dealing with the latter point first, since things such as washing lines and garden furniture are not part of the building itself, they are more to do with (in the Inspectors opinion) character and appearance, a quite separate matter to openness.

In relation to the dormer windows, again their impact in terms of character and appearance was a separate matter in this particular context.

However, in terms of the openness of the Green Belt, although the increase in volume and thus the size of the building as a consequence of the proposed dormers was considered to be modest, they would, nevertheless, mean that this part of the Green Belt would be marginally less open than it is at the moment, the concept of Green Belt openness not necessarily being confined to the footprint of a building (Inspectors opinion). As such, the Inspector considered that this element of the scheme would comprise inappropriate development in the Green Belt.

Consequential upon the proposed conversion was the erection of a replacement garage building. The appellant's position was that this element of the proposal constitutes an extension to the existing spread of buildings that would not amount to a disproportionate addition and did not, therefore, constitute inappropriate development. Contrary to this, the Council argued that the proposed replacement garage would constitute an outbuilding outside the curtilage of the farmhouse on a greenfield site. It stated that the proposal should not be regarded as an extension and accordingly would constitute inappropriate development.

The Council set out the planning history of the site, which was undisputed by the appellant. This confirmed that there have been various extensions undertaken to the original farmhouse and also that the existing garage subject to the current appeal was erected at some time since 1997.

The Inspector argued that depending on the relationship with the original dwelling, a detached outbuilding could be regarded as an extension to it for the purposes of considering compliance with Green Belt policy. The existing garage was directly linked to the side garden of the farmhouse by a series of steps and as such is closely physically related to the house. The Inspector considered it to constitute an extension to the dwelling in the context of Green Belt policy.

Whilst no dimensions of the original farmhouse were provided for comparative purposes, it was clear that it has been extended in the past. The submitted drawings showed that the proposed garage would be relatively large and capable of accommodating several vehicles. The annotated measurements indicated a footprint of some 13.277 x 7.125 metres, with a flat roof height of around 2.575 metres. The proposed garage was also linked via its roof terrace to the side garden area of the farmhouse and appeared to the Inspector to be an extension to the dwelling in the context of Green Belt policy.

Taking those previous extensions into account, including the garage to be converted, in addition to the new garage building proposed, the Inspector was in no doubt that the cumulative increase over and above the size of the original farmhouse was disproportionate. Even if he were to have considered the garage building

as limited infilling, its size means that there would be a material reduction in the openness of this part of the Green Belt. Either way, the building proposed comprises inappropriate development.

To conclude on this issue, the Inspector found that both elements of the proposal comprise inappropriate development in the Green Belt. There would be conflict, in this regard, with the provisions of the Framework.

#### Openness

As part of the assessment as to whether the scheme is inappropriate development or not, the Inspector has already assessed openness in relation to the proposed conversion, and in relation to the proposed garage under the criteria relating to infilling. Looking at the proposed garage as an extension, it would introduce a substantial building onto a part of the site that is currently free from built development. As a consequence, this part of the Green Belt would be less open than it is at present. The Inspector was mindful, in this regard that, as set out at paragraph 79 of the Framework, one of the essential characteristics of the Green Belt is its openness. He was also mindful that visual impact is implicitly part of the concept of openness. Notwithstanding that the garage would have a flat roof (with railings on top) and the presence of a mature boundary hedge, it would, nevertheless, be clearly visible from Springwell Road around the wide open access point to the site. From here the garage would interrupt views over open fields in a south-westerly direction. Accordingly it would have an adverse impact on the openness of the Green Belt in visual terms.

The appellant argued that it would be possible to park large vehicles on the site of the proposed garage which would result in a greater impact on openness. However it was the view of the Inspector that any such parking would be transient in nature and would not have the material impact on openness that a permanent building would. In any event such parking could still occur and be visible in other parts of the site if the garage were to be constructed.

The proposal would therefore be in conflict with the Framework insofar as it seeks to protect the openness of the Green Belt.

### Privacy

It was apparent from the Inspectors visit that the proposed converted dwelling would face habitable rooms at close range in the residential property known as the Old Barn, situated opposite the appeal site. Accordingly there would be a mutual loss of privacy for residents.

The Council drew attention to its Residential Design Guide Supplementary Planning Document 2008, which although not part of the development plan provides further guidance on the application of Policy B2 of the City Of Sunderland Unitary Development Plan 1998 (UDP). Amongst other things, it seeks to secure separation distances between main facing windows of some 21 metres. In the appellant's view, the farm complex location of the appeal site would justify a more relaxed approach to separation distances between dwellings which would not be expected to be comparable to those within a residential estate. The Inspector acknowledged that tighter relationships between existing buildings may be justified where specific public benefits may accrue from the development. However the appellant did not make a compelling case that the development would justify a more relaxed approach to privacy.

The Inspector was not convinced either that the use of obscure glazing in the ground floor windows facing the courtyard is a practical suggestion in that it would have an adverse effect on outlook for future occupiers. It was suggested that future occupiers could erect a 2 metres high wall or fence to minimise overlooking under permitted development rights. However, it is usual with conversion schemes such as this to remove permitted development rights. In any event, leaving it to the choice of future occupiers would not guarantee the privacy of the neighbours. Furthermore, without the details of such development, the Inspector was unable to assess whether this would be achievable or what the impact would be on the living conditions of residents or on the character and appearance of the complex as a whole.

The appellant made the point that the adjoining neighbours have not objected to the proposal. However, the absence of an objection does not necessarily equate to support. Notwithstanding this, the

Inspector has a statutory duty to consider the impact of development including on future neighbours, even when no specific objection from third parties has been forthcoming.

The dwelling proposed would also overlook the adjoining side garden and sun room of the 'host' dwelling, again compromising privacy. That property is occupied by the appellant and any shortcomings in this regard would be of his choice. Nevertheless, acceptable living conditions for future occupiers of the dwelling proposed and the host dwelling would not be provided given the intimate relationship between the two properties.

The Inspector concluded that the proposal would not result in acceptable living conditions for both future occupiers and existing residents in terms of privacy. The proposal would therefore be in conflict with Saved Policy B2 of the UDP and the Framework which seek to achieve acceptable standards of privacy and protect the living conditions of residents.

#### Living Conditions

The proposed converted garage is situated immediately adjacent to garden areas that are associated with the original farmhouse and which lie outside the site boundary. The appellant suggested that future occupiers would have access to a courtyard area at the front of the property for external amenity purposes. However, from the Inspectors visit it was apparent that the area in question is effectively a wide open thoroughfare over which vehicles would pass to gain access to the wider farm site. This area, which is lacking in greenery and is overlooked by the Old Barn would not provide an attractive or practical private external space for future residents. The Inspector concluded that the proposal would not provide acceptable living conditions for future occupiers in terms of access to external amenity space. This would conflict with the Framework objective of seeking a good standard of amenity for future occupants.

#### Access to Services

A roadside footway with streetlighting connects the site with the nearby village of Springwell which would make it possible to walk from one to the other in a relatively short time. Although the route would not be universally



regarded as convenient it does allow for an element of sustainable transport choice. However, whilst it is undisputed by the parties that Springwell contains some everyday facilities and services, the Council as part of its case refers to the nearest facilities being around 1 kilometre away from the site. The appellant has not challenged this point. Whilst there are bus stops in close proximity to the site the Inspector had not been provided with any details regarding service destinations or frequency.

From the information provided, on balance the Inspector considered that future occupiers would be in a relatively functionally isolated location and that they would be heavily dependent on private transport in order to gain access to a range of essential services. Accordingly residents would not have an acceptable standard of access to day to day services and facilities.

#### Other Considerations

In support of the appeal, the appellant draws attention to the absence of objections from statutory consultees, other than the Council's Network Management Team, who object to the prospect of four properties being served from a private access as opposed to a public highway. In relation to the highway comments, the Inspector noted that this was not a reason for refusal and, on the basis of the evidence before me and my own observations at the site visit, the Inspector was not persuaded that this arrangement would result in any harm in terms of highway safety. That said, the absence of objections, or the absence of harm, does not attract positive weight in the overall balance.

I note that whilst eleven letters of objection were received, none were from the occupiers of the dwellings within the complex here. However, that does not negate the concerns raised in the correspondence and, as noted above, the absence of any objection from nearby residents does not equate, necessarily, to support. As such, these matters are neutral in the planning balance.

The appellant also refers to pre-application discussions with the planning officer in which, the Inspector understands, there was no indication that the scheme might be unacceptable in terms of its Green Belt location. However, the Council maintains that no formal pre-application was made, suggesting that the email correspondence relied on by the appellant provides no

indication as to the acceptability of the proposal. The Inspector found no mention of the Green Belt in the correspondence and understood the appellant's frustration in this regard. That said, the correspondence does not state that the development proposed would necessarily be acceptable. In any event, it is well established that such advice is informal only and is not binding on formal consideration of an application by the Council. Again, that is not a consideration that carries any positive weight.

Green Belt Balance and Conclusion

The proposal comprises inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. There would also be a loss of openness. The Framework establishes that substantial weight is to be given to any harm to the Green Belt. In addition, I have found harm to the living conditions of existing residents and unacceptable living conditions for future occupiers.

For the appeal to succeed, the combined weight of other considerations must clearly outweigh the totality of the harm arising. The Inspector considered the other considerations put forward but concluded that they do not carry any positive weight. The substantial harm caused by the inappropriateness of the development proposed, and the unacceptable living conditions that would arise is not, therefore, clearly outweighed by other considerations. Accordingly, the very special circumstances necessary to justify the development have not been demonstrated. Thus, for the reasons given above, the Inspector concluded that the appeal should not succeed.

<p>3.</p>	<p><b>Appeal Ref: APP/J4525/W/16/3153157 Land at St Aidan's Terrace, West Herrington, Houghton le Spring DH4 4LZ</b></p> <ul style="list-style-type: none"> <li>• The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.</li> <li>• Delegated Decision – REFUSE</li> <li>• The appeal is made by Mrs Helen McCall against the decision of Sunderland City Council.</li> <li>• The application Ref 15/02148/OUT, dated 20 October 2015, was refused by notice dated 22 April 2016.</li> <li>• The development proposed is erection of single dwelling.</li> </ul> <p><u>Procedural Matters</u></p> <p>The application for the proposed development is in outline with all matters reserved. A plan has been submitted showing an indicative layout of the dwelling on the appeal site which the Inspector took to be for illustrative purposes only.</p> <p>Because of a dispute between the parties over whether the appeal site is or is not in the Green Belt it is necessary to set out my conclusions on this matter before turning to the decision itself as the conclusion on this informs the main issues.</p> <p>Based on the <i>Sunderland Unitary Development Plan</i> (UDP) Proposals Map the site is not shown as within the Green Belt and as a result of this the Council's appeal questionnaire also stated the site is not within the Green Belt. However the site was included within the Green Belt in the <i>Tyne and Wear Green Belt Local Plan 1985</i> (TWGBLP) and it was put to the Inspector that in preparing the UDP Proposals Map the site was mistakenly excluded from the Green Belt as a result of a drafting error.</p>	<p>Dismissed</p>
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The Inspector was referred to case law specifically *Fox Land and Property Ltd v SoS CLG [2015]*, and *R (Cherkley Campaign Ltd) v Mole Valley DC [2014]* as relevant to the matter. The former concludes that the Proposals Map of a Plan is not in itself policy, but illustrates detailed policies and assists in understanding the geographical areas to which policies relate. The latter case concludes that to fully understand planning policies, it is permissible to consider supporting text and other illustrative material. In that respect it has been put to me that the supporting text to the UDP makes clear both the extent of the Green Belt in the vicinity of the site in paragraph 22.83 and in general illustrative terms in Figure 11.2 and makes clear at paragraph 11.25 where the Green Belt boundary, established by the TWGBLP, is to be changed by the UDP.

With regard to the former the Inspector was not satisfied that the boundary description at paragraph 22.83 is sufficiently clear in itself to conclude that the site is intended to be in the Green Belt. However, notwithstanding the small scale of figure 11.2, the area east of West Herrington, including the appeal site, does seem to be within the Green Belt. It is also clear from the list of additions to and deletions from the Green Belt in paragraph 11.25 which areas are proposed to be changed and that the appeal site and its surroundings is not one of the proposed deletions from the Green Belt as defined in the TWGBLP in 1985. Therefore the Green Belt can be taken to include the appeal site as has been the case since 1985.

In reaching a decision on this matter the Inspector also had regard to the *National Planning Policy Framework* (the Framework) at paragraph 83 which makes it clear that once boundaries are defined they should only be changed exceptionally. No exceptional justification is presented through the UDP regarding boundary changes in the vicinity of the site.

Accordingly, unsatisfactory though the Proposals Map error is, the Inspector must consider all parts of the Development Plan when determining whether the site is or is not in the Green Belt. There is no evidence to support the view that there was any intention to amend the Green Belt as defined in the 1985 TWGBLP and to delete the site; nor any evidence of a process of review of the Green Belt in that area.

The appellant has referred me to the case of *Hundal v*

*South Bucks DC [2012]*, which established that where a Plan has been adopted without challenge all parties are entitled to proceed on the basis that the Plan has been lawfully adopted. Para 23 of the judgement quotes the then relevant PPG2, which states the importance of defining the Green Belt Boundary. The Inspector acknowledged that in the normal course of events it would be expected that the Proposals Map would be accurate. However, for the reasons above, the Inspector was not persuaded that the findings in the Hundal case bring me to any different conclusion. The Inspector was also referred to the fact that the Council, in preparing the local plan which will replace the UDP, is again considering whether to review the Green Belt boundary, including an area on the north side of Herrington Road. However this review process has not been completed and the fact that it may result in a future change to the Green Belt again did not lead him to a different conclusion with regard to the current status of the site.

The Inspector therefore continued with the determination on the basis that the site is within the Green Belt.

#### Main Issues

- Whether the proposal is inappropriate development in the Green Belt for the purposes of the Framework and development plan policy.
- The effect of the proposed development on the openness of the Green Belt.
- The effect of the proposed development on the character and appearance of Herrington Road and the countryside within the Green Belt.
- If the development is inappropriate 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 the development.

#### Reasons

The appeal site lies on the south side of Herrington Road in an open countryside setting just to the east of the ribbon of development in St Aidan's Terrace from which it is separated by a Public Right of Way. The triangular site forms part of a larger field parcel of grazing land extending southwards to Herrington Hill which is a Site of Special Scientific Interest. The site itself is relatively flat

but the land to the south rises gradually to Herrington Hill. Herrington Road is developed on its north side by The Stables - a small residential estate.

*Whether the proposal would be inappropriate development in the Green Belt*

Paragraphs 89 and 90 of the Framework establish the circumstances in which development in the Green Belt would not be inappropriate and which amongst other things includes limited infilling in villages. The tests to be applied in this case are whether the proposal would be in a village and whether the proposal would constitute limited infilling.

The site is outside the developed or built up area of West Herrington. Development on the south side of Herrington Road finishes at Mitford End, the last property in St Aidan's Terrace, which is separated from the site by trees, shrubs and the Public Right of Way. Infilling is normally taken to be the development of a small gap in an otherwise built up frontage. The development of a new dwelling in the location proposed would not meet this definition and would simply be development in an open countryside setting, albeit overlooked from development on the north side of Herrington Road. The proposal would be inappropriate development in the Green Belt, contrary to the Framework and UDP policy CN2 which establishes the Green Belt and its purposes and which, amongst other things, includes safeguarding the city's countryside from further encroachment. The proposal would also be contrary to UDP policy CN3 which restricts inappropriate development within the Green Belt consistent with the Framework.

*The effect of the proposal on the openness*

The Framework confirms that an essential characteristic of Green Belts is their openness. The construction of a new dwelling on the appeal site, by introducing new development into the Green Belt, would inevitably have a significant impact on its general openness.

The appeal site and associated grazing land connects open countryside across the south side of West Herrington. The fact that development continues on the north side of Herrington Road a little further to the east than is the case on the south side of the road, does not reduce the role the appeal site plays in contributing to openness.

*Character and appearance*

As stated above the appeal site forms part of an area of grazing land backed to the south by a mature tree belt framing the lower slopes of Herrington Hill. As such the countryside provides an attractive landscape setting to West Herrington.

Viewed from the approach to West Herrington from the East along Herrington Road the St Aidan's Terrace development is largely screened from view by trees and shrubs along the Public Right of Way particularly whilst the trees are in leaf and the appeal site forms part of undeveloped countryside. The introduction of a new dwelling into this setting would appear as an incongruous encroachment. Moreover the visual impact of the dwelling in views eastwards along Herrington Road leaving the village would be equally damaging by introducing development east of the Public Right of Way. The Inspector acknowledges the intention to design the property to be in keeping with the scale of development in St Aidan's Terrace but this would not overcome the harm to the open countryside setting.

It was put to the Inspector that the intention would be to landscape the south/south-eastern boundary of the appeal site and that the opportunity exists to enhance tree planting as part of the Great North Forest on land within the ownership of the appellant. However the Inspector was not persuaded that boundary landscaping would make any material difference at least for some considerable time given the open countryside setting. With regard to the opportunity to enhance the Great North Forest in accordance with UDP policies CN15 and CN16 no such specific proposal was put forward within the outline application.

The addition of a new house, even restricted in height, would impact significantly on local views and urbanise and change the character and appearance of the countryside setting to West Herrington. The presence of street lighting and The Stables development on the north side of the road does not of itself create an urban character warranting further development. As such the proposal would be contrary to UDP policies CN5 and B2 which, respectively, safeguard the visual amenity of the Green Belt and seek to ensure that the design of new development respects and enhances the best qualities of the locality.

*Other Considerations*

It was put to the Inspector that the proposal would bring social and economic benefit by adding to the provision of housing locally in a sustainable location and that the Council cannot demonstrate a 5 year supply of housing which is deliverable. Therefore in terms of paragraph 49 of the Framework the housing policies of the UDP should not be considered up to date and in these circumstances the presumption in favour of sustainable development applies and paragraph 14 of the Framework is engaged.

The Sunderland Strategic Housing Land Availability Assessment 2016, albeit in draft, indicates that in excess of 5 years' supply of deliverable and developable housing sites can be delivered between 2016 and 2021. No specific evidence has been submitted to support the appellant's assertion that there would be a shortfall. In any event even if there was a shortfall leading to an inability to demonstrate a 5 year supply, the footnote to paragraph 14 of the Framework makes it clear that this does not constitute a reason to set aside specific policies of the Framework indicating that development should be restricted (including those relating to the Green Belt).

Notwithstanding the modest social and economic benefits which could be secured from construction of an individual house, the Framework adopts a wide definition of sustainability. Indeed, it makes clear at paragraph 6 that regard must be had to the document as a whole in determining what the concept means in practice. Paragraph 8 of the Framework states that all economic, social and environmental gains should be sought jointly. In terms of paragraph 9 of the Framework, and for the reasons given above, the taking of an area of Green Belt countryside for development would not be a positive improvement in the quality of the built and natural environment. In this case, the proposal would not be sustainable development in the terms of the Framework.

The Inspector notes that some other aspects of the development which have been matters of concern to third parties, including access arrangements, traffic, and residential amenity have been deemed by the Council to be acceptable subject to control at the reserved matters stage through appropriate conditions. However planning appropriately for these aspects and ecological and contamination issues, which the Council also considers can be controlled by conditions, is a prerequisite of any proposed development and is therefore neutral in terms



	<p>of the weight that the Inspector can attach in favour of the development.</p> <p><u>Conclusion</u></p> <p>The Inspector concluded that the site is within the Green Belt and the proposal would be inappropriate development contrary to the Framework and the UDP. There would also be a loss of openness in the Green Belt and harm to the character and appearance of West Herrington and adjoining countryside. Together these factors constitute significant material harm to the Green Belt to which the Inspector attached substantial weight.</p> <p>For the reasons given above the 'other considerations' would be insufficient to clearly outweigh the harm to the Green Belt. Therefore the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. Accordingly the appeal should be dismissed.</p>	
<p>4.</p>	<p><b>Appeal Ref: APP/J4525/W/16/3162537 Land adjacent to 16 Queen Alexandra Road, Sunderland, Tyne and Wear Grid Ref Easting: 440470 Grid Ref Northing: 554763</b></p> <ul style="list-style-type: none"> <li>• The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.</li> <li>• The appeal is made by Mrs Lindsey Thompson against the decision of Sunderland City Council.</li> <li>• The application Ref 16/00440/FUL, dated 15 March 2016, was refused by notice dated 30 June 2016.</li> <li>• The development proposed is 'erection of 3 storey dwelling house and garage.'</li> <li>• Delegated Decision – REFUSE</li> </ul>	<p><b>Dismissed</b></p>

Procedural Matter

The address given on the application form is Queen Alexandra Road. However, it is clear from the submitted plans and appeal form that the appeal relates to land adjacent to 16 Queen Alexandra Road. The Inspector therefore took the full appeal site address from the appeal form rather than the application form.

Main Issue

The main issue is the effect of the proposed development upon the character and appearance and biodiversity of the area.

Reasons

The appeal site is open space located in a predominantly residential area on the north side of Queen Alexandra Road, a wide street with mature trees set in grass verges on both sides. The site is opposite the junction with the southern section of Woodstock Avenue. A public footpath leading to the northern section of Woodstock Avenue and the shops and services on Ryhope Road runs along the western boundary of the site. The houses on the northern section of Woodstock Avenue overlook the road and the public footpath, and have a strong front building line set behind front gardens with low boundaries. The 4 early mature cherry trees and well maintained grass give the appeal site a verdant appearance and the low timber fence along its western and southern boundaries allows views across it, thus providing an attractive setting to the pedestrian route and making a positive contribution to the street scene of both Queen Alexandra Road and the northern section of Woodstock Avenue.

The proposed development would be a substantial detached 2 storey house with accommodation in the roof and an attached single garage to the eastern elevation.

The infill development at 20 Queen Alexandra Road to the west of the appeal site is located to ensure that the side gable does not extend forward of the front south west corner of the house at 32 Woodstock Avenue, immediately to the north, thereby respecting the building line along the street. By contrast, the side and much of the rear elevation of the proposed dwelling would project significantly forward of the front building line formed by the semi-detached pair of houses at 17 and 19

Woodstock Avenue to the north east of the appeal site. This would have the effect of closing what is currently an attractive open vista from both the north and south, and the development would effectively turn its back on Woodstock Avenue contrary to the prevailing urban form.

The submitted plans indicate that a 1.8m high fence would be erected along approximately 14m of the boundary with the public footpath. Although this fence would be of a similar height to the side boundaries of the adjacent houses at Nos 16 and 19, it would not reflect the open nature of the existing front boundaries along the public footpath and Woodstock Avenue, and would further exacerbate the enclosing effect of the proposed development identified above. As such, it would reduce the attractiveness and appeal of the public realm and pedestrian environment.

All the existing trees on the site would be removed. The submitted tree survey and arboricultural assessment conclude that, with the exception of tree T3 in the south east corner of the site, the trees are in good condition and provide landscape amenity to the immediate area. Although replacements are shown on the submitted drawings they would not be of the same size as the existing trees and, due to the considerable footprint of the proposed dwelling, would be set in a much smaller area. Consequently the proposed development would significantly reduce the contribution the site makes to the landscape quality of the street scene.

The arboricultural assessment states that the trees on the appeal site do not provide the features required by roosting bats. However, no investigations or desk based studies have been carried out. The Inspector noted that the Council validated the application without an ecology survey, and that the Council's delegated report does not make reference to any consultation response from an ecology specialist. Notwithstanding this, although the appeal site is located in a residential area, it is nevertheless within a wildlife corridor and therefore the loss of the trees and the development of a significant part of the site could have an adverse effect upon biodiversity. Based upon the limited evidence before me, the Inspector was not satisfied that the appeal scheme would put in place adequate measures to avoid or mitigate potential adverse effects upon biodiversity.

The appellant states that the appeal site is in private ownership and could, under permitted development

rights, be enclosed by a 2m high wall or fence. It is further stated that, because the site is not in a Conservation Area and they are not subject to a Tree Preservation Order, the trees could be removed without consent. However, there are no details before me to show in what way the site could be enclosed without the need to apply for planning permission. Furthermore, the Inspector had no substantive evidence to indicate that the site would be enclosed in such a way or that the trees would be removed should the appeal be dismissed. The Inspector therefore attached very little weight to these matters.

The Inspectors attention was drawn to a newly built detached house to the south of the appeal site. I have not been provided with details of the planning history of this scheme. However, based upon the submitted evidence, whilst the development may be similar in design and scale to the appeal proposal it differs considerably in terms of its situation. Whereas the appeal site is located in a prominent position adjacent to a road and public footpath, the other site is surrounded by buildings and has no road frontage and is therefore far less conspicuous. As such, the circumstances of that scheme are not directly comparable with the proposed development and therefore I have afforded it limited weight. In any event, the Inspector must determine the appeal on its own merits.

Overall, the siting, scale and design of the appeal proposal would fail to respect the established development pattern in the surrounding area and would appear as an excessively dominant, oppressive and incongruous feature when viewed from Queen Alexandra Road, both the northern and southern sections of Woodstock Avenue and the public footpath that bounds the site. Also, the loss of the open space and trees would significantly erode the spacious and verdant nature of the site, and would potentially result in the loss of habitat.

For the reasons set out above, the Inspector concluded that the proposed development would have a harmful effect upon the character and appearance of the area and could have a harmful effect upon the biodiversity of the area. As such, it would conflict with the design, landscape and nature conservation aims of UDP Policies B2, B3, CN17, CN18, CN22, CN23 and R1.

The first reason for refusal set out on the Council's decision notice cites conflict with UDP Policies H1 and H8 which relate to new housing development and windfall

sites. UDP Policy H1 sets out a number of criteria for the provision and location of new housing and seeks to secure the re-use of vacant and derelict land wherever possible, in accordance with the 8th core planning principle set out in paragraph 17 of the Framework. UDP Policy H8 stipulates that proposals for housing development on windfall sites must normally be in accord with other policies and proposals of the development plan. The appeal site is not previously developed land and the proposed development would fail to accord with a number of development plan policies as set out above. As such, the Inspector found that the appeal proposal would also conflict with the aims of Policies H1 and H8 of the UDP in these regards.

The Council made reference to conflict with UDP Policy EN10 in the second reason for refusal set out on the decision notice. However, the Inspector noted that this policy states that, where the plan does not indicate any proposals for change, the existing pattern of land use is intended to remain and that proposals for development in such areas will need to be compatible with the principal use of the neighbourhood. The appeal site is located in a predominantly residential area and the proposed development is a house. The Inspector therefore did not find conflict with UDP Policy EN10.

In addition to the development plan policies referred to above, the Inspector had regard to the presumption in favour of sustainable development set out in paragraph 14 of the Framework, to the core planning principles which the Framework sets out in paragraph 17 and to the policy aims in respect of building a strong, competitive economy, promoting sustainable transport, delivering a wide choice of high quality homes, requiring good design, promoting healthy communities and conserving and enhancing the natural environment set out in Parts 1, 4, 6, 7, 8 and 11 of the Framework.

For the reasons set out above, the proposed development would not create a high quality built environment and would fail to protect and enhance the natural environment as required by the social and environmental roles set out in paragraph 7 of the Framework. The three dimensions of sustainable development are mutually dependent, and the Inspector considered that the conflict with the social and environmental dimensions would outweigh any positive contributions the appeal proposal would make towards the economic dimension through the provision of an

additional dwelling house in a residential area within walking distance of shops, services and public transport facilities. As such, the proposal would not constitute sustainable development when assessed against the policies contained within the Framework as a whole.

Other Matters

The appeal site has a pedestrian access gate on the western boundary with the public footpath. During the site visit the Inspector did not observe anyone using the site, although the representations from local residents were noted which state that it is used by local children for informal play. However, there is a large recreational play area located within walking distance of the appeal site on Westheath Avenue. As such, the appeal proposal would not significantly reduce the opportunities for informal recreation in the local area. Nevertheless, this relatively minor matter did not persuade the Inspector to find the appeal scheme acceptable overall.

Conclusion

For the reasons given above, and having regard to all other matters raised, the Inspector concluded that the appeal should be dismissed.