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## Appeal Decision

Site visit made on 29 August 2017

**by Siobhan Watson BA(Hons) MCD MRTPI**

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

**Decision date: 12 September 2017**

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**Appeal Ref: APP/H1033/W/17/3175975**

**Wilshaw, Whitehough Head Lane, Whitehough, SK23 6EJ**

- 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 Scott Richardson against the decision of High Peak Borough Council.
  - The application Ref HPK/2016/0536, dated 16 September 2016, was refused by notice dated 10 March 2017.
  - The development proposed is a new dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The appeal site is within the Green Belt so the main issues are:
  - whether the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework) including the effect upon the openness of the Green Belt;
  - whether the dwelling would be sustainable;
  - whether the proposal would preserve or enhance the character or appearance of the Chinley Conservation Area; and
  - if the proposal is found to be inappropriate development, 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 required to justify the development.

### Reasons

*Whether or not the proposed development would represent inappropriate development*

3. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
4. Paragraph 89 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt unless it falls within various specific exceptions. Paragraph 89 of the Framework gives two of these

exceptions, in the fifth bullet point, as “limited infilling in villages”; and in the sixth bullet point as “limited infilling or the partial or complete redevelopment of previously developed sites ... 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.”

5. Policy EQ3 of the High Peak Local Plan (LP) indicates that an infill site is a small gap capable of accommodating no more than 2 dwellings of a similar size and scale to the surrounding dwellings in an otherwise continuously built frontage. The proposed dwelling would not be within a continuously built frontage because, although it would be next to “Wilshaw” on one side, it would have fields to the other side. It would not fill a gap. Therefore, it is my judgement that it cannot be classed as “limited infilling”. Consequently, the proposed development would not fall within the exception in the fifth bullet point of Paragraph 89.
6. I now turn to the sixth bullet point of Paragraph 89. There is an existing garage and hardstanding on the site and there is no dispute that the land is previously developed. However, the proposed two-storey dwelling would be a more substantial building than the garage to be removed. Therefore, the increased amount of building on the site would result in the proposed development having a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Therefore, the proposal would not fall within the exception in the sixth bullet point of Paragraph 89.
7. I therefore conclude that the proposal would represent inappropriate development within the Green Belt and would be contrary to Paragraph 89 of the Framework and to LP Policies S2, S6 and EQ4 which seek to protect the Green Belt from inappropriate development. Paragraph 88 of the Framework says that substantial weight should be given to any harm to the Green Belt.
8. I note the appellant’s comments in respect of Policy H2 of the Chapel-en-le-Frith Neighbourhood Development Plan 2013-2028 Referendum Version (The emerging NP) which indicates that permission will be granted for residential development of fewer than 6 units on infill and redevelopment sites within the built up area. As I have found that the development would be inappropriate in the Green Belt, I do not consider that the site constitutes a “redevelopment site” and therefore, emerging NP Policy H2 does not support the proposal.

### *Sustainability*

9. In its third reason for refusal, the Council says that the proposal would not accord with LP policies H1, H2, S1 and S1a or with Policy H1 of the emerging NP and therefore the development would not be sustainable. These policies are widely diverse in their aims and objectives and, whilst I appreciate that the site is not allocated for housing, the Council has not specified how the proposal would conflict with these policies. I am therefore unable to conclude on them but as I am dismissing the appeal anyway, there is no benefit in me pursuing this matter.

### *Conservation Area*

10. The site is within the Chinley Conservation Area which is characterised by stone buildings of a mixture of size and style. The proposed dwelling, due to its

simple rectangular design and use of natural materials would be characteristic of the surrounding dwellings. In terms of style, I am of the opinion that the dwelling would fit in with the nearby buildings.

11. The Council is concerned that the proposed development would harm trees which are protected by a Tree Preservation Order, in particular, a beech and a lime. This is because of potential level changes, and the surfacing and widening of an existing access.
12. BS5837 indicates that permanent hard surfacing should not exceed 20% of the root protection area but the Council's assessment is that about 50% of the root protection area would be affected. However, the appellant contends that the proposed surface would not damage the tree roots. This is because it would be a "Celweb" No-dig 3 dimensional cellular confinement system which is a permeable tree root protection block paving system which should allow oxygen and moisture to the roots.
13. The level change would be some distance from the trees. I consider that had I been allowing the appeal, further details of the levels and tree protection measures, if necessary, could have been controlled by a condition.
14. I therefore conclude that the proposal would preserve the character and appearance of the Chinley Conservation Area. Consequently, I find no conflict with LP policies EQ2, EQ3, EQ6 and EQ9 which seek to protect trees, the landscape and the historic character of an area.
15. The Council has referred to Paragraph 118 of the Framework which indicates that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees. However, the trees are neither veteran nor part of ancient woodland and I have nothing to convince me that they are an irreplaceable habitat.

#### *Other Considerations and Green Belt Balance*

16. The proposal would constitute inappropriate development in the Green Belt. Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
17. There is nothing to clearly outweigh the substantial harm that would arise as a result of the development. The very special circumstances necessary to justify the proposal do not therefore exist.

#### **Conclusion**

18. For the reasons set out above, I therefore conclude that the proposal is unacceptable and the appeal is dismissed.

*Siobhan Watson*

INSPECTOR