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Planning & Development Consultants

Mr Steven Warsop

Land to rear of Greenland Cottage, High Hoyland Lane, High Hoyland, Barnsley

Appeal made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission for 1 no. self-build dwellings and associated works

Local Authority Reference 2023/0880

WRITTEN APPEAL STATEMENT

Mr Steven Warsop

Land to rear of Greenland Cottage, High Hoyland Lane, High Hoyland, Barnsley

Written Appeal Statement

Date: 01 July 2024

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1.0 INTRODUCTION

1.1 This Appeal (Written Representations) is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission for 1 no. Self-Build Residential Dwelling and associated works

1.2 The Appeal is made by Mr Steven Warsop ("the Appellant") against the decision of Barnsley Metropolitan Borough Council ("the LPA").

1.3 The planning application ("the Application") Ref. 2023/0880, dated 26 October 2023, was refused by notice dated 29 February 2024.

1.4 The notice references 4 no. Reasons for Refusal (RfR), as follows. A copy of the application decision notice is provided in Appendix 1.

1) *The site lies within the Green Belt as defined on the approved Barnsley Local Plan Policies map wherein Local Plan Policy GB1 reflects national policy guidance and restricts new development other than in a closed list of exceptions or where very special circumstances are demonstrated. The proposed new dwelling is not infilling in a village in the Green Belt and is considered to constitute inappropriate development contrary to policy and harmful to the Green Belt as set out in NPPF at paragraphs 152 and 153. Furthermore, the application has not demonstrated very special circumstances that would clearly outweigh both the harm to the Green Belt by inappropriateness and the other harms resulting from the proposal.*

2) *The design of the proposed three storey dwelling lacks detailing to reduce the impact of the height and mass of the building and results in a design which has a height, massing and vertical emphasis which would be incongruent in the street scene which is characterised by one and two storey houses. In addition, the proposed integral double garage is over dominant of the front elevation, results in an unsatisfactory appearance of the proposed dwelling and is contrary to the guidance in the SPD Design of Housing Development. Overall, the design is considered to result in a dwelling which would have an unacceptable appearance in the street scene, contrary to Local Plan Policy D1 and the SPD Design of Housing Development.*

3) *The proposed development is not located in a sustainable location, with access to local facilities, services, shopping and work almost certainly to be by private car for*

any occupiers. This is not in accordance with the sustainable transport objectives of Local Plan Policy T3 or the NPPF to promote walking, cycling and public transport use.

4) *The application is not supported by appropriate evidence to demonstrate that the proposal will not have an adverse impact on protected species on and in the vicinity of the application site and accordingly is in conflict with Local Plan Policy BIO1 and the SPD Biodiversity and Geodiversity.*

1.5 It is the Appellants intention to provide additional information to the LPA in order to address RfR 4. The Appellant will look to engage further with the LPA once the Appeal has been validated and registered.

Location and Site Description

1.6 Locational details and a detailed description of the Appeal Site is provided at Chapter 2 of the Planning Case Report (PCR) (see Paragraphs 2.1 to 2.4).

Planning History

1.7 The most relevant planning history is set out at Chapter 3 (see Paragraph 3.1) of the PCR.

Proposed Development

1.8 A detailed description of the proposed development and the design evolution is set out at Chapter 4 (see Paragraphs 4.1 to 4.21) of the PCR.

Planning Policy

1.9 The whole purpose and intention of the planning system is to enable the development of appropriate sites which are sustainable as defined by the National Planning Policy Framework ("the Framework") (2021) and in particular as set out at Paragraph 8.

1.10 The duty in Section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the Development Plan.

1.11 A comprehensive Planning Policy position is provided at Chapter 5 of the PCR; the development plan comprises the following documents: -

- Barnsley Local Plan (adopted January 2019) (LP).

1.12 The following LP policies are referred to in the 4 no. RfR: -

- **Policy GB1 – Protection of Greenbelt;**
- **Policy D1 - High Quality Design and Place Making;**
- **Policy T3 – New Development and Sustainable Travel; and,**
- **Policy BI01 - Biodiversity and Geodiversity.**

1.13 National Policy Guidance is provided by the National Planning Policy Framework ("the Framework"). National policy is a factor that is required, as a matter of law, to be taken into account. It is recognised that the LP was adopted having regard for the provisions of the Framework. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. Paragraph 11 of the Framework identifies how this presumption is to be applied in making decisions on individual applications. The Framework is clearly a significant material consideration.

1.14 The following Framework paragraphs are directly referred to in the 4 no. RfR: -

- **Paragraph 152** - Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- **Paragraph 153** - When considering any planning application, local planning authorities should ensure that substantial weight is 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.

1.15 The Planning Practice Guidance (PPG) provide more detailed guidance on a range of matters relevant to this proposal.

Supplementary Planning Documents

1.16 The following supplementary planning documents (SPD) are referred to in RfR2 and RfR4 respectively: -

- Design of Housing Development (July 2023); and,
- Biodiversity and Geodiversity (May 2019).

Supporting Documentation

1.17 For the avoidance of doubt the documentation which comprises this appeal, and supports this Statement, is clearly set out on the Planning Appeal forms.

1.18 To assist the Inspector the Appellants will be mainly be referring to the following documents:

- Legal Opinion (prepared by Walton and Co);
- Planning Statement – all appendices are preceded with a ref. PS; and,
- Letter to Helen Willows – all appendices are preceded with ref. Willows.

2.0 THE APPEAL CASE

2.1 In making a robust case for grant of full planning permission the most practicable approach is to address each RfR in the order shown on the notice.

RfR1

2.2 The Framework set out the relevant national policy in this regard. Paragraph 149 of the Framework sets out several exceptions that are not considered to be inappropriate in the Green Belt. The paragraph 149 exceptions represent 'a closed list'[1]. A proposal will therefore need to fall within one of these exceptions in order not to require justification through very special circumstances[2].

2.3 The exceptions including amongst other things, 149 e) where the construction of new buildings constitutes "limited infilling in villages". Case law[7] has determined that where development is found to be 'not inappropriate' when applying paragraphs 149 or 150 of the Framework, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. **In view of this, there is no need for the Council to consider the effect of the development on the openness of the Green Belt** (our emphasis) except where the test is explicitly referred to in the supporting text.

2.4 Where a site is judged to be infill within a village it is not necessary to justify any impact on openness[3].

2.5 In order to fall within the exception at paragraph 149(e) of the Framework, two separate points must be satisfied: -

(i) the relevant site must be located in a village; and

(ii) the proposed development should constitute 'limited infilling'.

2.6 There are no definitions of a 'village' or 'limited infilling' in either the LP or the Framework. The application of the matters raised in points (i) and (ii) above to any development scheme therefore involves the exercise of planning judgments by a planning decision-maker, having

[1] Timmins and Lymm v Gedling [2015]All ER 170

[2] Paragraph 147 of the Framework

[3] APP/P0240/W/17/3185864 and Lee Valley Regional Park Authority v Epping Forst District Council [2015] EWHC 1471 (Admin) and Lee Valley Regional Park

had regard to all relevant factual circumstances. However, previous court judgments and appeal decisions provide useful guidance as to how each of these issues ought to be approached.

2.7 It would seem to be uncontroversial that High Hoyland is a 'village' for the purposes of paragraph 149 of the Framework. In fact, the LP Settlement Hierarchy confirms this by identifying High Hoyland as a village.

Urban Fabric

2.8 There has however been historical inconsistency as to whether the Site is located within High Hoyland village. These inconsistencies appear to stem from the settlement boundary demarcations for High Hoyland shown on the Council's Policies Map, the relevant extract of which can be seen at **PS Appendix 1**. Specifically, the part of the settlement to the north-east of the junction of Bank End Lane and High Hoyland Lane is denoted on the Policies Map as 'Urban Fabric' (an area of no specific policy designation), and is not washed over by Green Belt. Previous decisions relating to the Site have therefore proceeded on the basis that the village boundaries reflect the Urban Fabric delineation shown on the policies map, and exclude any areas of washed over Green Belt.

2.9 Indeed, in a report prepared by the Council's planning officer ("the Officer's Report") in respect of a previously submitted application seeking approval for construction of a dwelling on the Site (application reference 2018/0380) ("the Previous Application"), and which was refused by the authority on the basis that the Site was outside of High Hoyland (see **PS Appendix 2**), the Officer confirms that this conclusion was based on the fact that ***"the main settlement is defined as that part of the village located in Urban Fabric…the proposed development sits outside of this area weakening the case that the proposed (sic) could be described as limited infill in a village".*** The report also refers to a 2014 Appeal Decision[4] relating to a separate site in High Hoyland in support of this position, a copy of which is enclosed at **Appendix 3**) ("the 2014 Appeal Decision"). That decision makes the same argument to that discussed in the Officer's Report, with paragraph 6 stating that the development plan (at that time the Core Strategy) and saved policies of the former Barnsley UDP, which have since been superseded by the LP) regards the relevant site as being outside of the village because it does not fall within the 'Urban Fabric' area shown on the Policies Map.

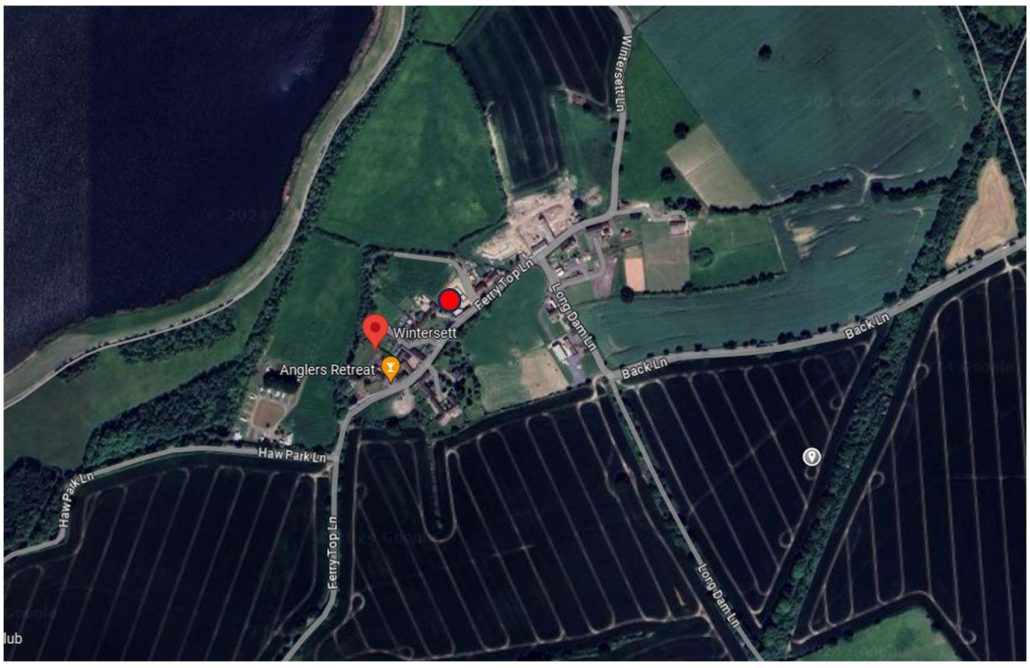
2.10 Since the 2014 Appeal Decision was issued, the courts have made clear that settlement boundaries or delineations on policies maps should not be determinative in themselves when

[4] Appeal Ref: APP/R4408/A/14/2225500 – Bank End Lane, High Hoyland, Barnsley

establishing the extent of a village for Green Belt policy purposes. The issue of "limited infilling" in the Green Belt was considered in the case of Julian Wood v SSCLG and Gravesham Borough Council[5] ("Julian Wood"). This case turned on the Inspector's assessment of whether or not the site was in the village boundary. It was common ground in this case that whether or not a proposed development constituted limited infilling in the village for the purpose of Paragraph 89 (now Paragraph 149) was a question of planning judgement for the Inspector and the Inspector's answer to that question ***"would depend upon his assessment of the position on the ground."***

2.11 It was also common ground in the case of Julian Wood ***"that while a village boundary as defined in the Local Plan would be a relevant consideration, it would not necessarily be determinative, particularly in circumstances where the boundary as defined did not afford the Inspector's assessment of the extent of the village on the ground."***

2.12 The specific issue has also been picked at Wintersett[6] (see **PS Appendix 19**). Wintersett is linear settlement within the administrative boundaries of Wakefield Metropolitan District Council (see image below). The site is idented with a red circle.



[5] Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195
[6] APP/X4725/W/20/3252232 – Wintersett Farm Court – Ferry Top Lane., Wintersett

2.13 Wintersett was not identified as a settlement with infill boundaries or indeed a village. However, the Inspector still determined at Paragraph 19 that ***"whilst Wintersett is not identified as a village in the Council's settlement appraisal, or in the planning policies derived from this, this is not in itself determinative and whether a site is within a village must be based on the ground"***.

2.14 The Inspector at Paragraph 20 and 21 respectively said that ***"due to the number of dwellings and the physical extent of the settlement, which, although spread out along Ferry Top Lane and Wintersett Lane, is not unduly dispersed, when viewed on the ground it could reasonably described as a village, albeit a small one and therefore the Appeal site is clearly within the settlement and is situated between two groups of buildings…the proposed development would be small in scale and result in a continuation of the existing build form of the village."***

2.15 On the basis the Inspector needed to firstly ascertain whether Wintersett was a hamlet or a village, the Councils position in this case is incomprehensible when High Hoyland has already been identified as a village in the Barnsley Local Plan.

2.16 Paragraph 5.10 of the LP expressly recognises this fact (see below), stating that the extent of any village settlement ***"will be a matter of interpretation on a case-by-case basis"***. Settlement boundaries identified on the Policies Map are not therefore ***"intended to be interpreted as defining development limits"*** given that there are areas of Green Belt between existing localities in some places.

> **5.10** The Policies Map shows settlement boundaries for Urban Barnsley and the Principal Towns, which illustrate their geographical areas as 'places'. These are not intended to be interpreted as defining development limits as in some cases there are areas of Green Belt between localities. For villages the extent of the settlement will be a matter of interpretation on a case by case basis.

2.17 The 2014 Appeal Decision's reliance upon the settlement boundaries delineated in the Council's policies map when identifying the extent of High Hoyland village is understandable given that appeal pre-dated the court judgment referred to above. That appeal was also considered against the authority's previous Unitary Development Plan document, rather than the LP. The legal and policy context to this issue is now different to that which existed at the time of the 2014 Appeal Decision.

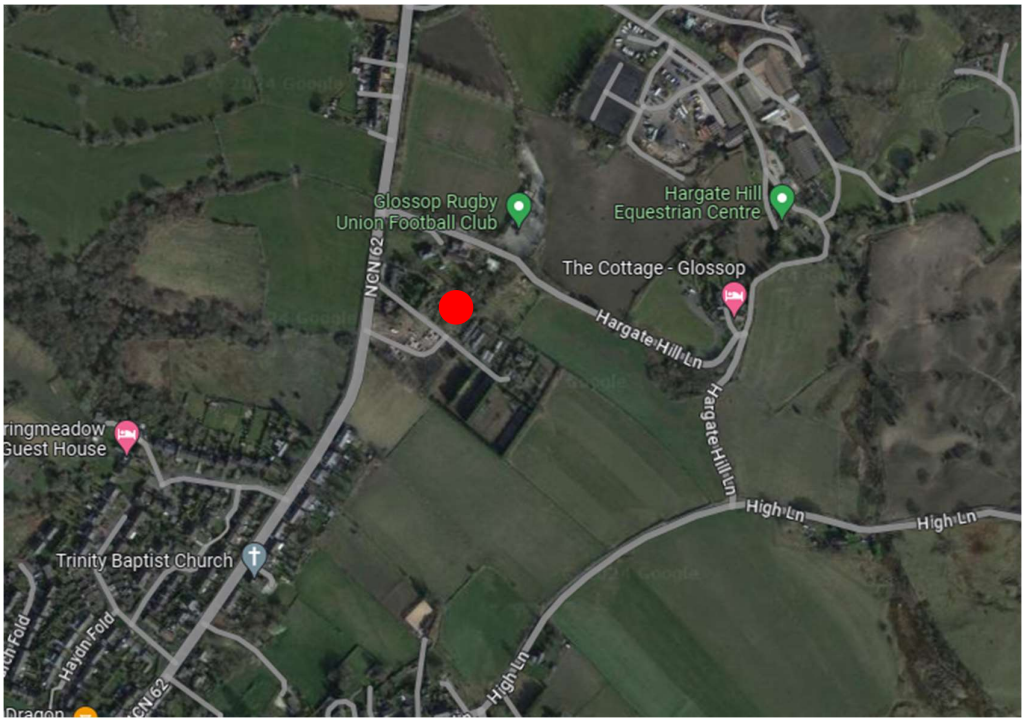
2.18 The previous application was also the subject of an Appeal[7] (reference 3247092) ("the Previous Appeal"), the decision letter for which is enclosed at **PS Appendix 4** ("the 2020 Appeal Decision"). It is important to note that the case in favour of that development was not primarily argued on the basis that it constituted limited infill within a village. Paragraph 6 of the 2020 Appeal Decision confirms this fact, noting that ***"the appellant has not expressly suggested that the proposal would not amount to inappropriate development in the Green Belt"***. Rather, the appeal case was largely presented on the basis that the design quality of the house would outweigh any harm to the Green Belt.

2.19 As such, there would appear to have been very little (if any) evidence before the previous Inspectors with regards to the extent of High Hoyland village. Indeed, paragraph 8 of the 2020 Appeal Decision suggests that the only written evidence available to the Inspector in considering this issue was the 2014 Appeal Decision. Clearly the Inspectors in determining the 2014 and 2020 appeals could have arrived at an entirely different conclusions on the extent of High Hoyland village had they been provided with additional information indicating that the village boundaries extended beyond the junctions of High Hoyland Lane and Bank End Lane.

2.20 Looking at the aerial photographs at PS **Appendix 5**, the Site does not read on the ground as falling within an undeveloped open area. Rather, the Site and its immediate environs form part of a wider area of built form in visual terms. This is a similar situation to that considered by an Inspector at Charlesworth[8] (see **PS Appendix 20**). In this case the Inspector allowed an Appeal on a site that was described as (see Paragraph 8) lying ***"within its more loosely developed fringes…"*** (see image below)***.*** The Inspector eventually concluded that ***"the proposed dwellings would be set between existing built form and would infill as gap between existing dwellings and farm buildings.***

2.21 There are comparisons to be drawn between the Charlesworth decision and the position presented as part of this Appeal. The site at Charlesworth is identified with a red circle on the image below.

[7] Appeal; Ref: APP/R4408/W/20/3247092 – Land to the Rear of Greenland Cottage. High Hoyland Lane
[8] APP/H1033/W/23/3317979 – Charlesworth Nursery and Garden Centre, Glossop Road, Charlesworth



2.22 Spatially, and as can be seen from the maps enclosed at **PS Appendix 1** and **PS Appendix 5**, the developed area to the south-west of the Bank End Lane and High Hoyland Lane junction that is washed over by Green Belt forms a continuum of built form when viewed in conjunction with the 'Urban Fabric' village area denoted on the policies map. There are no clear and obvious physical features that separate these two areas. Rather, the indentation morphology of both areas align with one-another in providing a consistent linear settlement pattern. It would appear that 16 no. dwellings are located within the part of the settlement washed over with Green Belt, and which would not be regarded as forming part of the village on the basis of the conclusions reached by the 2014 and 2020 Appeal Decisions. That is a significant number in the context of a settlement that is understood to accommodate 55 no. households (which includes the 16 no. dwellings washed over by Green Belt).

2.23 The following table set out evidence which will be material to any future decision making.

Table 2.1 – Other Material Matters

Indicator	Commentary
Settlement Hierarchy	High Hoyland is identified as a 'village' in the settlement hierarchy at paragraph 5.9 of the LP, and has its own parish meeting.

	Correspondence between the Applicant and the Council's Head of Elections (see **PS Appendix 6**) reveals that there are 55 households on the Council's electoral register with a High Hoyland address (which includes the 16 no. dwellings washed over by Green Belt), with the settlement also noted as having a population of approximately 125 persons as at 2021[9]. The village incorporates a public house, is served by public transport services, and historically had its own places of worship. It therefore satisfies the natural definition of a 'village' in that it consists of a group of houses and associated buildings in a rural area.
Pre-Application Response (2017/ENQ/00162)	This Pre-App Response (see **PS Appendix 7**) from Hannah Andrew (then Senior Planning Officer writing on behalf of the Head of Planning) in relation to the planning application which subsequently submitted for permission under planning application ref 2018/0380 states: - The key extract from the Pre-App Response is: *"The site is located on a plot of land between a row of terraces known as Greenland and The Mount. There are houses to the rear, albeit these are located some distance from the proposed with a wooded area between (which the applicants have informed me forms part of the curtilage of The Mount). I have also looked at the historic mapping and there does appear to have been buildings located here in the past, as per the discussion on site.* ***In this respect the proposed may be considered as infill development."***
Cherry Tree Pub	Paragraph 7 of the 2020 Appeal Decision comments that the *"main village lies some distance from the Site"*. However, the Site is only 300 metres (approximately) and less than 5 minutes' walk from The Cherry Tree Public House, bus stops, and notice board facilities that the 2014 Appeal Decision noted as being *"the main focus of the village"* which the settlement is *"primarily*

[9] High Hoyland Parish Website

	concentrated around". ***It is important to note that both the site and existing properties on Upper Field Lane (currently Urban Fabric) in the eastern side of the village are located equidistant from the Cherry Tree Pub.*** The annotated map at **Appendix 8** shows the proximity between the Site and The Cherry Tree Public House for ease of reference.
High Hoyland Methodist Chapel	Facilities serving the village and local community have been historically sited in the Site's immediate vicinity and within the part of the settlement designated as Green Belt. The former High Hoyland Methodist Chapel (now a private residence having been converted in the 1990's) was constructed in 1890 and is located on High Hoyland Lane to the north-east of the Site. It is therefore clear that buildings along High Hoyland Lane have formed an important part of the village's social evolution and identity. It is also noted that street lighting and telecommunications paraphernalia extends along High Hoyland Lane well beyond the Site, providing a continuous linkage to the remainder of High Hoyland village on the ground. Indeed, the village street lighting extend to as far as Deffer House, which is the final property located along High Hoyland Lane, way beyond the site.
Planning Application 2022/0960	The planning officer's report for a recently approved residential extension at 1-2 Greenland Cottage (reference 2022/0960) ("the 2022 Officer's Report") (**PS Appendix 9**), which expressly acknowledges that the property is **"located within the village of High Hoyland"**. This Site is located immediately to the north of the property, and there are no features on the ground that would explain how the Council could consider the property to fall within the village boundary, but the Site to fall outside of it for these purposes.
Head of Elections	The Council's Head of Elections at **PS Appendix 6** also confirms that the authority regards properties situated along High Hoyland Lane as having a High Hoyland address for electoral purposes. It is also clear from the 2020 Appeal Decision and 2022 Officer's Report that High Hoyland Parish Meeting is consulted upon

	planning proposals beyond the 'Urban Fabric' boundaries identified in the policies map. As such, the Council seemingly progresses administrative matters affecting the Site on the basis that it falls within the village, both for planning purposes in the context of other regimes. We also note that third party data and gazetteer publishers regard the Site as falling within High Hoyland on the basis of Ordnance Survey (**see PS Appendix 10**) mapping and wider considerations[10].
Electoral Services	A letter recently received from Barnsley Electoral Services (dated 28 July 2023) also confirms the Site address as being in High Hoyland (see **PS Appendix 11**)
Official Correspondence	Various items of official correspondence, including utility bills, addressed to 1-2 Greenland in High Hoyland are attached at **PS Appendix 12** and serve to demonstrate that the property is considered as being in High Hoyland.
Signage	A carved boundary marker stone referencing 'High Hoyland' is located to the west of the Site. It would be nonsensical to suggest that properties surrounding or in the case of this Site "located beyond the carved stone" are not part of the High Hoyland.
Street Lighting	High Hoyland is served by a unique set of street lights. These street lights extend from the centre of the village along High Hoyland Lane and well beyond the Site. As a result even in the hours of darkness properties located beyond the 'Urban Fabric' of the village area denoted on the policies map are still physically and visually part of High Hoyland.

2.24 Additional evidence is provided in a letter which was sent to the case officer on 17 May 2024. This letter is supported by **Willows Appendix 1** to **Willows Appendix 19**.

2.25 There is therefore a good basis (in fact, indisputable evidence) upon which to conclude that the Site is located within High Hoyland village, notwithstanding the conclusions of the 2014 and

[10] For example, GetThe Data .com and Streetlist.com, with maps identifying the extent of their understanding of High Hoyland village enclosed at **PS Appendix 10**

2020 Appeal Decisions. The Council has effectively acknowledged that the Site is within High Hoyland village, when determining other applications (**see PS Appendix 13 – also see snip below**), and has recognised that development beyond a primary village 'cluster' can still form part of a village when applying Green Belt policy[11]. The at Howbrook is identified with a red circle on the image below.

A village boundary has not been identified in the adopted UDP plan or Local Plan. The main development is clustered around Carr Head Road with further dwellings and development along Hollinberry Lane. The site itself has a frontage and existing access onto Hollinberry Lane and has residential properties to the West, East and South. On these facts and, given the scale of the development, It is considered that this proposal would comprise limited infilling in a village and would not be inappropriate development. The site is similar in some

ways to the application for 4 dwellings at Huthwaite Lane, near Thurgoland (application reference 2014/1240). In that instance the development was within the village of Huthwaite which itself does not have a defined village boundary. It was accepted in that application that as the development had a frontage onto a main road and had housing on at least two sides that it could be classed as limited infill within a village. Whilst it is acknowledged that the two sites are different they do display similar characteristics and as such it is considered that a similar classification of limited infilling can apply to this site in Howbrook. Accordingly, it is unnecessary to consider whether very special circumstances exist to justify the development.



[11] See for example, the Officers Report for application reference 2016/1513 in which it was acknowledged that "further dwellings" sited along an adjoining highway outside of the 'main development' associated with the settlement still fell within the village boundary (**PS Appendix 13**)

2.26 Establishing the extent of a village in planning terms clearly requires consideration of matters beyond policy designations, and the boundaries of High Hoyland should not be identified solely by reference to policy designations. Indeed, the boundaries of other villages in the Council's administrative area would plainly not be identified purely by reference to the extent of identified 'Urban Fabric' in the LP. For example, the village of Hoylandswaine[12] includes significant areas of built development along Barnsley Road and Skinpit Lane (including the Lord Nelson public house) that are washed over by Green Belt and outside of the 'Urban Fabric', but which are nonetheless part of the 'village' for these purposes.

2.27 No criticism is made of the 2014 and 2020 Appeal Decisions given that they fell to be decided by reference to the evidence submitted as part of those proceedings. The evidence submitted in respect of this issue in both appeals was less than detailed, particularly given that the previous application and associated appeal were progressed on the basis of a design-quality argument rather than as an 'infill' case. However, consideration of relevant factors on the ground suggests that the village boundary ought to encompass land washed over with Green Belt and which is outside of the Urban Fabric shown on the Policies Map. Indeed, the Council accepted that the Site's immediate locality falls within the High Hoyland village boundary in its recent determination of application reference 2022/0960.

2.28 Whether a proposal constitutes 'limited infilling' is a matter of planning judgment for a decisionmaker. There is no definition of the term in the Framework, and although the LP contains a definition of 'Infill Development', that term is used in the context of other policies rather than Green Belt matters. A view must therefore be formed in light of the facts, although the courts have indicated that a conclusion on this issue will typically be formed following consideration of *"the nature and size of the development, the location of the Site, and its relationship to other existing development adjoining it and adjacent to it"*[13].

2.29 The proposed development in this instance would involve the construction of a single dwelling. It is therefore a small-scale project that should naturally be regarded as 'limited' for these purposes. As can be seen from the aerial photographs and maps at **PS Appendix 5**, the Site's vicinity is characterised by neighbouring residential development and its associated curtilage. The Greenland Cottages properties are located to the west of the site, with the approved annex associated with 1-2 Greenland Cottage to the south of the Site expected to be developed imminently pursuant to planning permission reference 2022/0960. A neighbouring residential property known as 'the Mount' is located to the north-east of the Site, with its garden and

[12] See Policies Map Extract at **PS Appendix 14**
[13] R (Tate) vs Northumberland County Council [2018] EWCA Civ 1519

driveway running adjacent to the Site's eastern boundary. Garage buildings and structures associated with The Mount are located within the vegetation forming that property's boundary with the site and a garden area which extents around the site to the north.

2.30 The 2020 Appeal Decision concluded that the construction of a dwelling on the Site would not constitute infill on the basis that the building would not occupy *"an existing clear gap between the existing properties"* and as surrounding dwellings ***"do not read as being directly adjacent to the site as a result of vegetation to the north and west"***. However, it has been determined in separate appeal decisions (**see PS Appendix 4**) that 'infill' should not necessarily be confined to the infill of a gap in an otherwise built-up frontage, but can extend to development within the context of a wider group of buildings[14]. Similarly (**see PS Appendix 15**), such decisions[15] have noted that 'infilling' suggests development of land surrounded by existing development on at least 2 no. sides within reasonable proximity, rather than requiring built form along each and every border. Paragraph 13 of APP/W/4223/W/19/3227776 (**see PS Appendix 16**) states: -

> ***"whereas 'infilling' suggests the development of land that is surrounded by existing development on at least 2 sides within reasonable proximity, the requirement for such infilling to be 'limited' requires consideration of both the development site and the scale and form of the proposed development"***

2.31 The aerial photographs and maps at **PS Appendix 5** show how the proposed development would be positioned within the wider collective of buildings in the vicinity. As was the case with the historic cottages that once occupied this site prior to their demolition. The proposed development would adjoin long-established residential plots to the east and south/west, and occupy a vacant space within the contextual grain of the surrounding built form. The Site is bordered by 'previously developed land' for the purposes of the Framework on all sides and does not abut any agricultural land or other uses that might otherwise affect the surrounding character of the area. The Site's positioning within the street scene and the vegetation to its northern and eastern boundaries provide an obvious gap in spatial terms. Indeed, the Site has historically been developed and accommodated substantial built form, as can be seen from the enclosed historical map extract from 1893 (**PS Appendix 17**). Beyond the immediate vegetation forming the northern boundary are substantial detached residential properties, with generous domestic curtilages. It is worth noting that the owners of "The Mount" still utilise a garage, which

[14] See for example, Appeal Ref: APP/R4408/W/20/3247092 at PS **Appendix 4**, endorsed in the recent Appeal Decision APP/W4223/W/22/3299298 (**PS Appendix 15**)
[15] Appeal Ref: APP/W4223/W/19/3227776 – Hawthorn Cottage, Lee Side, Kiln Green, Diggle, Oldham (**PS Appendix 16**)

is located on the northern side of the shared boundary for domestic purposes (storing garden tools, garden tractor and other ancillary items). As can be seen from the Maps at **PS Appendix 18**, the Site is regarded in land use and spatial terms as forming part of a wider area characterised by development.

2.32 Paragraph 10 of the 2020 Appeal Decision suggests that the Site ought not to be regarded as 'infill' land on the basis that its frontage is set back from High Hoyland Lane. However, the concept of infilling does not expressly require plots to abut a public highway, and the appeal decisions identified above indicate that a broader view should be taken in considering a site's relationship to its wider context. In any event, the Site directly adjoins an access which connects to the public highway, and which serves the Greenland Cottages. The proposed dwelling would be sited between established residential land uses, with the broader area also predominantly characterised by residential use.

2.33 This is clearly an 'infill' site and therefore it is not necessary to justify any impact on openness. That said any development is expected to retain and enhance the character and distinctiveness of the individual Landscape Character area in which it is located. Identifying landscape effects is arrived at by combining separate judgement about the sensitivity of any landscape receptor with the magnitude of the proposed change.

2.34 In this case the sensitivity to change is assessed as low /medium and the magnitude of change is assessed to be moderate. Subsequently the assessment of overall landscape effects on the Site and its immediate setting landscape receptor is assessed to be moderate.

2.35 The nature for the landscape effects is assessed to be beneficial due to the removal of elements which detract from both the landscape and scenic quality of the landscape, and are uncharacteristic of the local area. The addition of a new dwelling of a site specific design, which responds to the local landscape and is partially enveloped by a former quarry will reinforce these elements of the historic landscape in the immediate area.

2.36 In summary the overall landscape effects of the proposed dwelling are considered to be moderate beneficial and therefore fully compliant with the provisions of LP Policy LC1.

RFR2

2.37 Design has been cited as the second reason for refusal (RfR). The application was validated on 16 October 2023. Frustratingly, design comments were only received on 28 February 2024 (see **Willows Appendix 15**) approximately 14 weeks after the validation date. These timescales only came to light following a freedom of information request and therefore the

appellant was not given an opportunity to revise the plans or rebut the Councils positions. The application was determined a day late on the 29 February 2024. It is disappointing that the Council made no attempt to discuss matters of design with my client; but instead, simply included it as a RfR. From the outset my client has sought to be proactive and would have been willing to discuss and consider possible minor revisions had that option been made available to the appellant.

2.38 Our architect, Peter Dimberline (RIBA) has prepared a note, addressing the Councils comments and concerns, this letter is attached for the Inspectors attention (**see Willows Appendix 16**). The architect was also involved in the redesign of 'The Mount' (the neighbouring property) and has confirmed (contrary to Council Officer design comments) that three storey properties exist locally (see **Willows Appendix 17**) and further "The Mount" sits at a much higher level than the appeal site (see **Willows Appendix 18**).

RFR3

2.39 Sustainability is cited as the third reason for refusal (RfR). High Hoyland is identifies as a 'Village' in the BLP. The BLP (Paragraph 5.58) is clear that *"some limited development is identified in these villages;"* accordingly, land (SL28) has been safeguarded at the junction of Upper Field Lane and Church Lane (see **PS Appendix 1**).

2.40 Measuring 0.8 hectares this site is capable of delivering circa. 25 no. dwellings. Clearly, if High Hoyland was not capable supporting additional population then the BLP and the evidence supporting the BLP would have not sought to safeguard land for future residential development. The Appellant is proposing to build a single self-build infill plot; number of similar applications (all in rural locations and not forming part of a village) have recently been approved (see list below) within the administrative boundaries of Barnsley. Whilst my client accepts each site needs to be considered on its own merit, these locations all share similar characteristics and consequently there needs to be a certain level of consistency within the decision making process.

LPA – Application References

- 2023/0581;
- 2022/0819;
- 2021/0456;
- 2020/0648;
- 2020/0427;

- 2020/0175;
- 2019/1485; and,
- 2019/1249.

2.41 Turning our attention to matters relating to the footpath. Whilst the Appellant accepts there is no longer a tarmac path running along High Hoyland Lane; there is a wide maintained grass verge, which historically was originally tarmac path. As a result of Council cut backs this path has regenerated itself and returned to grass. Other similar situations exist elsewhere within the village most notably on Upper Field Lane were the bus stop sits within the grass verge and is not directly served by a footpath. Importantly there has been no accidents or injuries reported along the section of road from the application site and its junction with Bank End Lane.

RfR4

2.42 Protected species are cited as the fourth RfR. Since the receipt of the decision notice the Appellant has been in constant dialogue with the Council re. bats and great crested newts. Consequently, electronic correspondence from the Council has been submitted as part of this Appeal confirming the Council has no issues with great crested newts. The Appellant has also revised the submitted drawings to reinstate the existing outbuilding to ensure there is no harm to bats (should they be present). For the Inspectors information the revised plans are referenced in section 6 (b) of the Appeal documents as follows: -

- Proposed Dwellings Details (2023/01/03 Rev A); and,
- Revised Site Plan and Section (2023/01/02 Rev A)

2.43 As a consequence of the above the Appellant expects RfR4 to be removed as a RfR.

3.0 SUMMARY AND CONCLUSIONS

3.1 The Framework introduced a presumption in favour of sustainable development. The policies set out in the Framework taken as a whole constitute the Government's view of what sustainable development means in practice.

3.2 A site visit will enable the Inspector to formally assess the "position on the ground", however informed by the supporting evidence such as the 2017 pre-application advice (**PS Appendix 7)** and the Julian Wood and Wintersett (**PS Appendix 19**) decisions it would be difficult to conclude that this is not an infill site, in terms of its spatial setting and relationship to the surrounding area.

3.3 The sustainable benefits associated with developing this windfall site are considered to outweigh any adverse impact. The proposal has been assessed against relevant policies in the development plan and other material considerations. Subject to the implementation of and adherence to suitably worded planning conditions, it is considered that the proposed development would constitute sustainable development.

3.4 In this context and on the basis of the compelling evidence presented in this appeal statement affirming that this infill site is within the village of High Hoyland, this proposal for the construction of 1 no. **self-build** dwelling undoubtedly amounts to development constituting limited infilling within a village, and as a result it would not be inappropriate development in the Green Belt. There are no material considerations to indicate that a decision should be taken other than in accordance with the LP and Framework, accordingly this appeal should be allowed.