



Appeal Decision

Site visit made on 7 October 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal Ref: APP/P2365/W/19/3228538

Six Foxes Farm, Jacksons Lane, Bispham L40 3SS

- 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 L Berry against the decision of West Lancashire Borough Council.
 - The application Ref 2018/1055/FUL, dated 4 October 2018, was refused by notice dated 23 January 2019.
 - The development proposed is the conversion of a building to create a residential dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of a building to create a residential dwelling at Six Foxes Farm, Jacksons Lane, Bispham L40 3SS in accordance with the terms of the application, Ref 2018/1055/FUL, dated 4 October 2018, subject to the conditions contained in the Schedule attached to this Decision.

Preliminary Matters

2. The main parties have agreed that the proposal would not represent inappropriate development in the Green Belt as defined in the National Planning Policy Framework (the Framework). I concur with that position.
3. The appellant contends that as the proposal satisfies Paragraph 146(d) of the Framework, Paragraphs 78 and 79 are not engaged as there is no cross reference between these paragraphs. Paragraph 146(d) relates to the re-use of buildings provided that the buildings are of permanent and substantial construction. Whilst this can include residential conversions, there is no restriction on the use of the building. Paragraphs 78 and 79 are specific to residential development.
4. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. This is distinctly separate to housing supply policies. Finding that a development is not inappropriate development in the Green Belt does not automatically mean that it is acceptable in terms of other planning issues, including housing supply issues.
5. Therefore, I do not find that the Council incorrectly applied policy by first assessing the proposal against the relevant Green Belt policies and then against the relevant housing policies.

Main Issue

6. In light of the above, the main issue is whether the proposal represents a suitable location for housing, having regard to local and national policy.

Reasons

7. The appeal building is a large, stone outbuilding comprising various rooms and two loose boxes. At the time of my site visit, the building was used for general domestic storage and the housing of a pony. The building is located within the wider grounds of the main dwelling, which also includes an extensive garden, a large area of hardstanding, a paddock and an outdoor riding arena. The distance between the building and the main dwelling is only short. On the opposite side of the lane are two properties at Bimson House.
8. In planning terms, the appeal site is situated outside any defined settlement boundary and falls within the open countryside, amongst scattered development comprising farmsteads and sporadic dwellings. Jacksons Lane is a narrow, unlit lane with no footways. Mawdesley is approximately 1.7 miles from the site and offers a range of services and facilities including a village store and post office, churches, pubs and schools. Parbold is approximately 2 miles from the site, which offers additional services and facilities, including a train station, a range of shops and a doctor's surgery. Furthermore, Cedar Farm is approximately 1.4 miles from the site, which comprises various shops and employment units.
9. Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 of the Framework states that planning policies and decisions should avoid development of isolated homes in the countryside unless one or more listed circumstances apply. There is no dispute between the main parties that the proposal does not satisfy any of these circumstances. However, these are only to be considered if the proposal is first found to be an "isolated home". The Court of Appeal judgment in *Braintree DC v. SoSCLG* [2018] EWCA Civ 610 held that "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, "isolated" in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand".
10. Therefore, the issue of "isolated" is not a consideration of the proximity of the site to services and facilities, but whether the proposed dwelling would be physically or functionally far away, or remote, from other places, buildings or people. Taking this approach, the proximity of the appeal building to the existing main dwelling, the two dwellings on the opposite side of the road and the surrounding scattering of other properties would not amount to the dwelling being considered far away or remote from a cluster of dwellings, which could reasonably be considered a settlement. Accordingly, I do not consider that the appeal proposal would result in an "isolated home" in the context of paragraph 79, and therefore there is no need for me to consider the circumstances that would justify allowing isolated homes.
11. Given the lack of footways or street lighting along Jacksons Lane, it is unlikely that occupants of the proposed dwelling would walk or cycle to nearby services and facilities, particular as these are located beyond what would normally be

considered as a reasonable walking distance. Therefore, occupants of the dwelling would likely be dependant on the use of a private car. However, Paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and states that this should be taken into account in both plan-making and decision-making. Whilst the proposal would likely result in an increase in the need for private cars, the site is only a short car journey from a wide range of services and facilities, including a train station. Therefore, in terms of rural locations, the site is relatively well served by a range of services and facilities, as well as employment opportunities. Whilst the development is for only one dwelling and therefore its effect would be limited, its occupants would nevertheless maintain, if not enhance, the vitality of the rural community.

12. Policy RS1 of the West Lancashire Borough Council Local Plan (LP) Development Plan Document 2013 restricts residential development outside settlement boundaries in the Green Belt to very limited affordable housing. The proposal is for an open market dwelling and therefore would conflict with Policy RS1. However, Policy RS1 is clearly more restrictive than the exceptions set out in the Paragraph 145 of the Framework, including limited infilling in villages, which does not necessarily mean those with a defined settlement boundary, the re-use of buildings, and limited infilling or the partial or complete redevelopment of previously developed land. There is no restriction within these exceptions that they must be for affordable housing only. As the LP predates the revised Framework and justification has not been provided for the more restrictive policy approach, I find that there is a conflict between Policy RS1 and Paragraph 146 of the Framework. Accordingly, I attach greater weight to the Framework.
13. I therefore find that the proposal would not represent an isolated home and whilst there would be reliance on the private car, this would only be for relatively short journeys and would not outweigh the positive contribution the proposal would make in maintaining the vitality of the rural community. As such, I find no conflict with the Framework.

Other Matters

14. I have been referred to various appeal decisions by each party. Whilst there are some similarities between these schemes and the proposal before me, the fact that some have been allowed and others dismissed highlights that each case must be determined on its own merits. Therefore, although these decisions are significant material considerations, they have not been determinative.

Conditions

15. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
16. For the avoidance of doubt, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. The Council refer to drawing no. 744/14A in their suggested condition. However, I have before me drawing no. 744/14B which corresponds more

accurately with the other drawings. I therefore have considered the proposal on the basis of 744/14B and have conditioned it as such.

17. In the interests of highway safety, a condition is necessary regarding parking provision.
18. In the interests of the character and appearance of the area, conditions are necessary regarding external materials and the retention of hedges, trees and the stock fencing.
19. In the interests of protecting the living conditions of the occupants of Six Foxes Farm, a condition is necessary regarding obscure glazing and restricted openings in the east elevation. For the same reason, a condition is necessary regarding the installation of the living screen panels, natural stone walls, terraces and steps.
20. In the interests of flood prevention, a condition is necessary regarding a foul drainage scheme and surface water system.
21. In the interests of safeguarding and enhancing biodiversity, conditions are necessary regarding ecological enhancements and measures to allow lateral movement through boundary treatments.
22. The National Planning Practice Guidance (NPPG) states that 'conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances'. The Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 places no restrictions on permitted development rights in Green Belts as it does with other designated areas such as National Parks. The fact that the GPDO places no restriction on dwellings within Green Belts suggests that development carried out under permitted development would not be inappropriate or harmful to its openness. The site being located within the Green Belt does not represent an exceptional circumstance envisaged by the NPPG. Furthermore, there is no evidence before me that in exercising these permitted development rights, the development would be unsightly or visual intrusive. Accordingly, the proposed conditions regarding permitted development rights, including those pertaining to enclosures, are not reasonable or necessary and therefore I have not imposed them.

Conclusion

23. For the reasons given above, the appeal is allowed.

Alexander Walker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 1:1250, 744/01, 744/02, 744/03, 744/04, 744/05, 744/10B, 744/11B, 744/13A and 744/14B.
- 3) The layout of the development shall include provision to enable vehicles to enter and leave the site in a forward gear and the vehicle turning space shall be laid out and be available for use before the development is brought into use and maintained thereafter for its intended use. The parking and turning areas shall be appropriately paved in materials to be submitted to and approved in writing by the local planning authority, but excluding tarmac and concrete for any new areas, and maintained as such thereafter.
- 4) No development shall take place until full details of any new external wall and roofing materials, including glazing, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall be maintained as such thereafter.
- 5) Prior to the first occupation of the hereby approved dwelling, all of the windows and glazing of the doors in the east elevation of the building shall be fitted with obscure glazing (Pilkington level 3 or equivalent, or above) and, unless required for purposes as an escape window, shall be non-opening and shall remain as such thereafter. If required for escape purposes, the windows shall be fitted with a restrictor mechanism to prevent the window opening more than 50mm during non-emergency situations and shall remain as such thereafter.
- 6) Prior to the first occupation of the hereby approved dwelling, details of a foul sewerage scheme shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first occupation of the hereby approved dwelling and shall thereafter be maintained as such.
- 7) Prior to the first occupation of the hereby approved dwelling, details of a surface water drainage scheme shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first occupation of the hereby approved dwelling and shall thereafter be maintained as such.
- 8) The existing hedges/trees and timber stock fencing shall be retained.
- 9) Details of the living screen panels and natural stone walls, terraces and steps as shown on drawing no 744/10B shall be submitted to and approved in writing by the local planning authority and the approved details shall be fully implemented prior to the first occupation of the hereby approved dwelling and shall remain as such thereafter.
- 10) The recommendations and ecological enhancements set out in section 5 of the 'Licensed Bat Survey and Assessment' report, dated September 2018, prepared by ERAP Ltd shall be implemented in full throughout the duration of all phases of the development, including site preparation and construction.
- 11) Both the existing and proposed boundary treatments shall include measures to allow for the lateral movement of wildlife both in and out

of all parts of the site. Such measures shall be implemented prior to the first occupation of the hereby approved dwelling and shall remain as such thereafter.