



Appeal Decision

Site visit made on 7 July 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 29th July 2020

Appeal Ref: APP/P2365/W/20/3248411

Narrow Lane Barn, Narrow Lane, Clieves Hill, Aughton, Lancashire L39 8RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Steven against the decision of West Lancashire Borough Council.
 - The application Ref 2019/1128/OUT, dated 04 November 2019, was refused by notice dated 09 January 2020.
 - The development proposed is outline removal of existing B8 commercial warehouse, to be replaced with 2 number detached dwellings with reserved matters; appearance and landscaping to follow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline, with details of access, layout and scale to be considered at this stage.
3. The appeal site is in the Green Belt. Paragraph 143 of the National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a limited number of exceptions.
4. The parties agree that the proposal meets the exception set out at Paragraph 145g) of the Framework relating to limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development. Therefore, the proposal would be not inappropriate development in the Green Belt. I see no reason to disagree. In the absence of any harm to the Green Belt, I do not need to consider whether or not very special circumstances exist.

Main Issues

5. Therefore, the main issues in the appeal are:
 - i) Whether the location is suitable for new residential development, having regard to policies for the supply of housing and employment premises;
 - ii) Whether the proposal would provide an adequate standard of living for future residential occupiers;

- iii) The effect of the proposal on heritage assets; and
- iv) The effect of the proposal on biodiversity.

Reasons

The suitability of the site for residential development

6. The appeal site is a former agricultural building near to the junction of Narrow Lane and Cut Lane, close to Narrow Lane Barn and Narrow Lane Farm, which are residential dwellings. It is in a sparsely developed area of countryside approximately 1.6km from the nearest settlement of Halsall and approximately 4km by road from the outskirts of Ormskirk.
7. Policy GN1 of the West Lancashire Local Plan 2012-2027 Development Plan Document Adopted October 2013 (the LP) sets out the Council's approach to development. Outside of the settlement boundaries, proposals in the Green Belt will be assessed against national planning policy and any relevant LP policies. In this regard, Policy RS1 of the LP permits limited affordable housing where it cannot be accommodated outside the Green Belt.
8. As set out above, the proposal would accord with the policies in the Framework that protect the Green Belt. However, the dwellings would have 4 bedrooms and they would be market housing. The proposal would not meet the exception relating to affordable housing in the Green Belt.
9. There are no services and facilities in proximity to the appeal site and the need to travel would not be minimised. Halsall is further than could be considered a short or convenient walk. The intervening rural roads are narrow in places, with no footways and no street lighting. They are not therefore conducive to walking to access services. Halsall is within cycling distance of the appeal site, although it is unlikely that any significant proportion of daily journeys would be made by cycle. The location does not appear to be accessible by public transport.
10. The Framework acknowledges that sustainable transport solutions will vary between urban and rural areas. However, there would be no realistic opportunities for future occupiers to meet their daily needs by sustainable forms of transport. They would be heavily reliant on private car journeys. On the basis that the dwellings would be suitable to be occupied by large families, there would be a significant increase in vehicle movements in this location.
11. Paragraph 79 of the Framework seeks to avoid the development of isolated homes in the countryside unless it meets any one of a number of specific criteria. In this regard, I am aware of the High Court Judgement¹ relating to the interpretation of paragraph 55 as was, now number 79, of the Framework. In this case, the proposal would not be remote from residential properties. It would not be spatially isolated and it would not result in the creation of isolated homes in the countryside, which the Framework seeks to avoid. Nevertheless, the scheme would be remote by virtue of the distance from services and facilities and the reliance on private car journeys.
12. Permission was granted in 2018 for the change of use of the appeal building from agriculture to B8 use storage and distribution. Notwithstanding that the premises are occupied on a short-term tenancy basis, the evidence indicates that the building has

¹ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

been in continuous use since 2018. Therefore, the proposal would result in the loss of an occupied employment site in a rural area where such opportunities are limited.

13. There is reference to a structural survey of the building that found high level water ingress such as would be expected to result in timber decay and steel corrosion. However, the survey report has not been provided and there is no substantive evidence relating to rental income or likely repair costs to demonstrate that the maintenance of the building would not be commercially viable. I accept that there are constraints to the redevelopment of the site, including the age and design of the building, parking and access arrangements and proximity of neighbouring residential uses. Nevertheless, it has not been demonstrated that the building is unsuitable for an ongoing viable employment use.
14. Therefore, the location is not suitable for new residential development. The proposal would conflict with Policies GN1 and RS1 of the LP in relation to housing in the Green Belt. It would not result in the creation of isolated homes in the countryside and it would not therefore conflict with Paragraph 79 of the Framework. Nevertheless, it would conflict with the sustainable development and rural housing aims of the Framework. There would be conflict with Policies EC2 and GN4 of the LP in relation to the protection of the employment use of existing employment sites, including those in B8 use, unless there is robust justification for the loss.

Living conditions of future occupiers

15. The proposal would be well separated from neighbouring properties, such that there would be no close overlooking between windows, nor loss of light or outlook. However, the proposal would be in close proximity to the stable building in the grounds of Narrow Lane Barn. The evidence indicates that the building includes 4 individual stables and a double garage, with door openings facing away from the appeal site. On this basis, future occupiers of the scheme could be adversely affected by noise and odours arising from the stables.
16. I accept that the stables have not been used for the keeping of horses for several years and the appellant does not intend to keep horses in the future. However, there is nothing before me to indicate that future occupiers of Narrow Lane Barn could not keep horses in the future if they were minded to.
17. The appellant's family, who intend to occupy the dwellings, are accustomed to rural noise and odours. However, the proposed market dwellings could be occupied in future by persons unrelated to the appellant. Moreover, given the nature of farming activities, I consider that any agricultural noise and disturbance on the surrounding land would in any case differ in frequency, intensity and duration from that arising from the keeping of horses.
18. Therefore, the proposal would not provide an adequate standard of living conditions for future occupiers, with particular regard to noise and odour. It would conflict with the residential amenity aims of Policy GN3 of the LP and the Design Guide SPD.

Heritage Assets

19. Policy EN4 of the LP sets out that non-designated heritage assets which have a particular local importance or character will be identified by a Local List which will be adopted by the Council, updated periodically and available to view on its website. The evidence before me indicates that the List of Locally Important Buildings was last updated during 2014-2015.

20. Narrow Lane Barn is a traditional barn that has been converted to residential use. It has been in existence since at least 1842 and it is an historic building that retains many original features. However, it is not listed as a Locally Important Building and the Council did not identify it as a heritage asset during pre-application discussions in 2017. Therefore, while the appellant did not submit a heritage statement with the application, it appears that he had little reason to suspect that one would be required.
21. Nevertheless, the Local List is not a closed list and new buildings can be added, and existing buildings removed, at the time of the periodic reviews. In this respect, there is nothing before me to indicate that Narrow Lane Barn has either been considered for inclusion on the list and discounted or, if it was proposed for consideration at the next periodic review, that it would not be subsequently included on the Local List.
22. The Framework states that effects on the significance of a non-designated heritage asset should be taken into account, and that a balanced judgement will be required having regard to the scale of any harm and the significance of the asset. The setting of a heritage asset is defined as the surroundings in which the asset is experienced, within which elements may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral.
23. Therefore, on the grounds that there is uncertainty as to whether or not Narrow Lane Barn should be considered a heritage asset, I have adopted a precautionary approach. In this regard, although the proposal would not result in any direct impacts on Narrow Lane Barn, by virtue of its proximity it could affect the setting of the historic building.
24. The existing appeal building is an overly large and contemporary structure, with corrugated walls and roof and roller shutter doors. It dominates and it does not relate well to the more modest traditional former barn. Consequently, it is a discordant feature that detracts from the ability to appreciate Narrow Lane Barn and it does not make a positive contribution to local distinctiveness or a strong sense of place.
25. In contrast, and notwithstanding that appearance would be a reserved matter, the proposal would result in a reduction in the bulk of built development and an increase in openness, particularly towards the front of the site. It would therefore allow a better appreciation of Narrow Lane Barn. On this basis, the proposal would have a neutral, and possibly a positive, effect on the setting of the neighbouring historic barn.
26. Therefore, the proposal would not result in significant harm to the setting of Narrow Lane Barn. It therefore follows that it would not harm a non-designated heritage asset. Consequently, the proposal would not conflict with the historic environment protection aims of Policy EN4 of the LP or the Framework.

Impacts on biodiversity

27. My attention has been drawn to an earlier ecological survey that found evidence of roosting and breeding barn owls in the building during 2017 and 2018. While the parties agree that the earlier survey is out of date, the appellant has not provided an updated survey carried out by a suitably qualified and experienced professional, together with any necessary mitigation proposals. This is not a matter that can be dealt with by planning condition.

28. Barn owl is listed under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and therefore it receives additional legal protections. While the proposal would include a pole mounted nest box near to one of the dwellings, it has not been demonstrated that this would be adequate to avoid impacts on nesting barn owls. The proposal fails to demonstrate that significant adverse effects on biodiversity would either be avoided, adequately mitigated or as a last resort compensated.
29. Therefore, the proposal would result in significant harm to biodiversity. It would conflict with the aims of Policy EN2 of the LP. There is no evidence before me to indicate that the proposal would affect a habitats site (which include Special Protection Areas and Special Areas of Conservation). However, while it would not therefore conflict with Paragraph 177 of the Framework, it would conflict with the biodiversity conservation aims of the Framework including Paragraph 175.

Other Considerations

30. Evidence has been submitted in respect of the personal circumstances of the appellant's family. Section 149 of the Equality Act 2010 sets out that the particular medical conditions are a protected characteristic for the purposes of the Act. In reaching my decision, it is necessary for me to have regard to the Public Sector Equality Duty contained in the Act. This includes having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it, including by taking steps to meet the needs of such persons that are different from the needs of persons who do not share the relevant protected characteristic.
31. The scheme would enable a degree of independent living for the appellant's son and therefore it would be a significant benefit to the appellant and his family. However, the proposal would not be a modest dwelling designed to meet the particular needs of the appellant's son, rather it would be 2 substantially large market dwellings. On this basis, I am not persuaded that there are no alternatives to the proposal that could deliver similar benefits without conflict with the development plan. Consequently, although I am sympathetic to the appellant's situation, this is a matter which must carry limited weight in my assessment of the scheme.
32. The Framework encourages the effective use of land for housing, including brownfield land within settlements and under-utilised land and buildings. Irrespective that the appeal site is previously developed land, it is not within a settlement and the proposal does not demonstrate that it would be a more effective use of the site or that it would contribute to meeting an identified need for housing. Therefore, this carries limited weight in favour of the scheme.
33. On the basis of the evidence, the proposal would not result in harm to the character and appearance of the area. It would not be detrimental to highway safety and the access and parking arrangements are satisfactory. There would be no unacceptable risk of flooding and matters relating to drainage could be addressed by planning condition. These are requirements of the development plan and they therefore carry neutral weight.
34. The Strategic Housing Land Availability Assessment (the SHLAA) that informed the LP found that a release of Green Belt land would be required to ensure a 5 year housing supply (5YHLS). However, the SHLAA is several years old and there is nothing before me to indicate that the Council cannot currently demonstrate a 5YHLS. Moreover, the Framework states that Green Belt boundaries should only be altered through the preparation or updating of plans, taking into account the need to promote sustainable

patterns of development. Therefore, this does not provide a justification for the proposal.

35. Two dwellings would in any case make a minimal contribution to the supply of housing in the area. There would be limited economic benefits, particularly in the short-term during construction. There would be limited economic support for services and facilities in nearby towns and villages and there would be limited benefits in terms of its contribution to the vitality of rural communities.
36. Schemes have been permitted elsewhere in the area, including change of use of former agricultural buildings to residential units and a replacement farmhouse. However, on the basis of the evidence, neither of the schemes referred to appears directly comparable to the appeal scheme. I note the suggestion that permitted development rights in relation to a change of use from B8 use to C3 use illustrate the acceptability of such changes of use in most cases. However, there is nothing before me to demonstrate that the permitted development rights would apply in this case and therefore this does not weigh in favour of the proposal.

Planning Balance

37. The absence of harm in relation to the character and appearance of the area, including the setting of Narrow Lane Barn, the safe operation of the highway and flood risk are matters that carry neutral weight.
38. There would be minimal benefits arising from the contribution to the supply of housing. There would be limited economic and social benefits arising from 2 dwellings in a sparsely populated rural location.
39. There would be moderate harm as a result of the conflict with the Council's aims for housing in the Green Belt outside of settlements. The loss of the employment site, the adverse effects on the living conditions of future occupiers, and the harm to biodiversity are harms that weigh moderately against the scheme.
40. The location is not close to services and facilities and the need to travel would not be minimised. The proposal would not promote sustainable forms of transport and future occupiers would be reliant on private car journeys. The proposal would not therefore support the aims of the Framework in relation to healthy lifestyles and climate change adaptations. Therefore the location is a factor that carries moderate negative weight.

Conclusion

41. For the reasons set out above, the proposal would conflict with the development plan and there are no material considerations that would provide an overriding reason to set aside the provisions of the development plan.
42. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR