



Appeal Decision

Site Visit made on 15 June 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2021

Appeal Ref: APP/V4250/W/20/3258450

Land to south of 116 East Lancashire Road, Lowton, Warrington WA3 1LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Joe Murphy against the decision of Wigan Metropolitan Borough Council.
 - The application Ref A/20/89282/PIP, dated 8 June 2020, was refused by notice dated 18 August 2020.
 - The development proposed is demolition of existing buildings and erection of up to 9 dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Joe Murphy against the decision of Wigan Metropolitan Borough Council which is the subject of a separate decision.

Procedural Matters

3. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
5. A decision notice was issued by the Council on the 18 August 2020, the Council provided evidence that an extension of time was agreed between the parties. As such, I have no substantive evidence to the contrary that the '*Local Planning Authority*' failed to determine the application within the agreed time period, as set out within the legislation². The Council dealt with the appeal on this basis and so shall I.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615: Revision date: 15 06 2018

² The Town and Country Planning (Development Management Procedure Order) (England) Order 2015 as amended.

Main Issues

6. The main issues are whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development, with particular regard to:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - If the development is inappropriate within the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal

Reasons

7. It has been brought to my attention that not all the site falls within the Green Belt. I have been provided with the proposals map; it would appear that this refers to a relatively small area where the residential property of No.116 is, the access and part of the stable block at the North. However, given the amount of residential development proposed, I consider that the appeal site falls within the Green Belt and I have dealt with the appeal on this basis.

Inappropriate development

8. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. The exceptions are set out in paragraph 145 of the Framework, and include (g) limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in a continuing use which would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to the openness of the Green Belt where development would contribute to meeting an identified affordable housing need.
10. Policy CP8 of the Wigan Local Plan Core Strategy, Development Plan Document, 2013 (CS) sets out that development within the Green Belt will only be allowed in accordance with national planning policy, including redevelopment at previously developed, brownfield sites in the Green Belt.
11. The appeal site is an area of land situated to the rear of dwellings along East Lancashire Road with access taken between No.'s 114 and 116. The site consists of single storey blocks of stables directly to the north, manège, portacabins, kennels/animal housing, equipment, vehicles and various storage of building materials including timber. Towards the south and east are fields used for equestrian activities.

12. The appeal site has an established mixed lawful use³ for Class B2 and B8, including the buying and selling of horses and equipment, the buying/selling/repair of motor vehicles and associated compounds, the selling and storing timber, the storage of construction/demolition materials and storage of vehicles. However, simply because a site contains structures that would meet the definition of PDL does not mean that the whole site should be considered as such and vice versa. The appellant has referred to case law⁴, however in this case, the Council acknowledge that stables were considered to be permanent structures. As such, there is no disagreement from both parties that the site would fall within the definition of the Framework and constitutes PDL.
13. Therefore, as set out above, the Framework makes provision for the redevelopment of PDL, which would not have a greater impact on openness of the Green Belt than the existing development. The proposals would not be for affordable housing. As such, my conclusions on the next issue, its effect on Green Belt openness, will determine whether the development is inappropriate.

Openness

14. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, which can also have a visual and spatial element. Having regard to the judgement⁵, openness is the counterpart of urban sprawl and is also linked to the purposes of the Green Belt, it does not imply freedom from any form of development, the visual qualities of the land may be an aspect of the planning judgement in applying broad policy concepts. At this stage, there are no detailed plans before me for consideration.
15. As I observed at the time of my site visit, various activities were taking place, but there is evidently hardstanding and materials stored openly across the site. However, the portacabins and other temporary buildings/animal housing and materials could be moved from the site and there was limited machinery or vehicles in sight, I appreciate that vehicle movement changes throughout the day, but these are all moveable elements and are not permanent.
16. In comparison, the proposed amount of dwellings, given that this would be up to nine, would occupy and spread out across the majority of the appeal site, occupying a greater footprint than existing permanent buildings, on areas of the land which are currently not occupied by any substantial built form including hardstanding. The amount of dwellings would be highly visible within the immediate and wider landscape in regard to its locational context, resulting in a demonstrable loss of openness, compared to the existing site.
17. Furthermore, the potential of up to nine dwellings with associated new parking areas, new hardstanding areas and domestic curtilages with associated paraphernalia would have a significant adverse impact on openness. Whilst the site is immediately enclosed by gates / fencing / vegetation / hedgerows it would still be visible from public views across the fields and at the site

³ Certificate of lawfulness of existing Use or development Under Section 191, Application A/19/87755/LUCE

⁴ *R (Lee Valley Regional Park Authority) v Broxbourne Borough Council*, January 2015 EWHC 185 (Admin)

⁵ *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant)* [2020] UKSC 3

entrance. Given the proposal is for built form of up to a significant number of dwellings, it would be clearly discernible in those views.

18. For the reasons given above, the proposed development would harm the openness of the Green Belt, it would have a greater impact on the openness of the Green Belt than the existing development in both visual and spatial terms. The scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above. I conclude the proposal would be contrary to Policy CP8 of the CS. As the appeal scheme would not meet any of the exceptions in paragraph 145 of the Framework, it would constitute inappropriate development in the Green Belt.

Other Considerations

19. The appellant considers that the application should have been determined on the basis of redevelopment of hard surfaces, and buildings and the established lawful use and the technical details would follow later. My attention has been drawn to a High Court Case in Gravesham of which the appellant considers draws a similarity of irrationality on the amount of hardstanding, however I have not been provided with any full details of that case.
20. Nevertheless, the scope of a permission in principle consent is for the 'in principle' matters, including the location and land use of the site which is within the Green Belt and from the evidence before me the indication of the maximum amount of development to be provided is set out. I have had regard to the topography plan, but this merely identifies the quantitative amount of existing areas of hardstanding, of which the site is not completely covered with.
21. Furthermore, it does not distinguish between buildings of permanent or temporary form or in any comparison to a dwelling, its curtilage and any associated domestic paraphernalia. Moreover, I am not persuaded by the 'example' figures as there is no substantive evidence to support those, or technical detail of how the example figure was reached within the site context.
22. Therefore, in coming to my decision, I do not consider that it is irrational for the conclusion of proposals on the basis of the maximum amount of development proposed, particularly as there is no minimum range identified. In my opinion this would be the logical way of assessing the impact of the proposals on its location within the Green Belt. Under the Regulations⁶, the requirement is to ensure the amount of development sought by the applicant is made clear on the decision notice. In this case, it does not appear to show a minimum range but Article 5A of the Regulations does not place a positive duty on the decision-maker to specify any alternative range to that applied for. Neither, does it specify the requirement for plans other than that identify the land to which the application relates (Article 5D).
23. I acknowledge that local authorities cannot list the information they require for applications for permission in principle in the same way they can for applications of planning permission, and it is not necessarily appropriate to refuse an application on this alone in the absence of certain detail. The PPG⁷ sets out that an applicant can volunteer additional information to support decision-making, in particular give more certainty about how many dwellings

⁶ The Town and Country Planning (Permission in Principle) Order 2017

⁷ Paragraph: 043 Reference ID: 58-043-20170728; Revision date: 28 07 2017

the site is capable of supporting and whether mitigation of likely impacts is possible.

24. Nonetheless, I am not satisfied from the evidence or the contention that taking account of the amount of development, the maximum range of up to nine houses would be just confined to the built areas of the site, particularly as this would just be the stable blocks at the north western corner or the identified concrete areas, whether this be larger plots or bungalows. Moreover, in any event I must have regard to the provisions of the development plan and any other material considerations, such as the Framework. As such, I afford little weight to this consideration.
25. The appellant considers the locality of the site is unacceptable in regard to the proximity of residential properties. I acknowledge that the site makes some negative visual contribution to the existing nearby residential locality with the equine use, portable cabins, machinery, vehicles and associated day to day operations of the commercial use. I also recognise that the current use of the site is of a mixed nature, and that the LDC does not place any such conditions or restrictions on limiting such uses on the site.
26. However, in regard to noise and disturbances, including comings and goings, I observed at the time of my site visit that the adjacent highway East Lancashire Road is a continuously busy dual carriageway on both sides with traffic flowing. The highway is immediately adjacent to the frontage of those properties, as such, this would likely already cause some disturbance to those residential occupiers nearby.
27. Moreover, I have not seen any substantive evidence that there have been issues with the site in regard to the location or nature of the business and the living conditions of existing nearby occupiers, including any complaints. There is also other mechanism for the Council to consider noise, disturbance and other activities, if they became a nuisance other than that of what was on the LDC. Therefore, although this is a 'fallback', a real prospect that if the appeal fails, the use would continue, these considerations, would have a neutral effect in the location proposed and therefore, does not weigh in favour or against the proposal in this case.
28. I have had regard to the appeal decisions⁸ both the appellant and the Council have brought to my attention. The evidence submitted with regard to these is limited. As such I cannot be sure that they represent a direct parallel to the appeal proposal, although there are some similarities to permission in principle within the Green Belt. However, I note that there were also other considerations, including housing land supply issues, limited infilling in villages, amount of development and site-specific matters.
29. The appellant also refers to other developments which have been allowed, from this evidence, it appears the site at Harrogate was included in the Council's brownfield land register and the amount of development is lower than the proposal before me. I have therefore given these considerations limited weight. In any event, the appeal needs to be determined on its individual merits on the basis of the evidence before me.

⁸ 3254484, 3241571, 3252294, 3227441, 3235749, 3220067

30. The proposed development would contribute up to nine dwellings towards the overall housing supply, be within a sustainable location for accessibility to local services, facilities and shops. These benefits, when combined with the economic benefits associated with the construction and social aspects of future activity of the occupants of such a development, attracts moderate weight in favour of the proposal.

Conclusion

31. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness, which gives rise to additional harm and would have a greater impact on the openness of the Green Belt than the existing development. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
32. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt and the other harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
33. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
34. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR