



Appeal Decision

Site visit made on 12 October 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2021

Appeal Ref: APP/P2365/W/21/3277187

59 Banks Road, Banks, Southport, Lancashire, PR9 8JL

- 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 Shaun Lea against the decision of West Lancashire Borough Council.
 - The application Ref 2020/0879/FUL, dated 12 November 2020, was refused by notice dated 17 December 2020.
 - The development proposed is described as "*retrospective application for various external works*".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The subsisting lawful use of the land is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. In this regard, it is open to the appellant to apply to have this matter determined under section 191 of the Act, and such an application would be unaffected by my determination of this appeal.
3. The proposal has already been implemented and the appeal is therefore retrospective in nature.

Main Issues

4. The main issues are:
 - (a) Whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') and development plan policy;
 - (b) The effect of the proposal on the openness of the Green Belt;
 - (c) The effect of the proposal on the character and appearance of the area;
 - (d) The effect of the proposal on the ecology of the site; and
 - (e) If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development in Green Belt

5. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is the redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
6. It is common ground that the appeal site previously contained stable buildings. However, there is no information before me regarding the size of these buildings, either in terms of their floorspace, footprint, or built volume. It is therefore unclear whether the current proposal has had a greater impact on the openness of the Green Belt than this previous development. Moreover, it is unclear whether the stable buildings were still standing prior to the construction of the current proposal. In this regard, the Council state that they had long since been demolished. If that were the case, then there would have been no existing buildings to replace. Based on the available information, I am unable to conclude that the development meets the relevant exception at Paragraph 149 g) of the Framework.
7. For the above reasons, I conclude that the proposal would be inappropriate development in the Green Belt. It would therefore be contrary to guidance in the Framework relating to Green Belts.

Openness

8. The development has introduced structures with a significant built volume and footprint that are clearly visible in the surrounding area. It is also unclear whether these structures replaced any existing buildings. Based on the available evidence, I consider that the proposal has failed to preserve the openness of the Green Belt. In this regard, the Framework advises at Paragraph 137 that openness is an essential characteristic of Green Belts.

Character and appearance

9. The proposal includes a section of 2.5 metre high fencing that is set back from the road. This encloses a relatively small area of land to the side of the host dwelling, and it is of a style that is consistent with nearby boundary fencing. It is also seen in the context of the timber boundary fencing to the front and side of it. In these circumstances, I consider the fencing to be broadly sympathetic to the character and appearance of the area.
10. Separately, the proposed steel container is a large, bulky feature in a prominent position next to the road. It has a utilitarian appearance and is seen in the context of an open rural backdrop to the rear, which exacerbates its incongruity. Whilst it is partially obscured by a boundary hedge, it is still visible, and this screening will reduce in the winter months when the hedge has shed its leaves. In my view, it is a discordant feature within the street.
11. For the above reasons, I conclude that the proposed steel container significantly harms the character and appearance of the area. It is therefore contrary to Policy GN3 of the West Lancashire Local Plan (2013) and guidance contained in the Design Guide SPD (2008). This policy and guidance seek to

ensure, amongst other things, that new development is of high quality design that is appropriate in terms of its siting, scale, and use of materials.

Ecology

12. Policy EN2 of the West Lancashire Local Plan (2013) states that where there is reason to suspect that there may be priority species, or their habitat, a survey should be submitted assessing the presence of such species. In this case, no such survey has been provided. However, it is unclear why the Council consider that there is a reasonable likelihood that such species or habitats will be present at this site. In this regard, no information has been provided regarding any designations that apply to this or adjoining land, or any species or habitats that are considered likely to be present. I am therefore unable to assess whether such surveys are necessary. However, as I am dismissing the appeal on other grounds, this matter is not determinative in this case.
13. Separately, it has been put to me that this matter could be dealt with by a condition requiring survey work to be undertaken. However, Circular 06/2005 states that it *"...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"* (Paragraph 99). The Circular further advises that surveys should only be required by condition in *"exceptional circumstances"*.

Other considerations

14. It is asserted that the appeal site is within the residential curtilage of No 59 Banks Road, and that much of the proposal would therefore be allowable under permitted development rights. However, the Council state that both the original planning permission for 59 Banks Road (Ref 8/75/551), and the 1974 Ordinance Survey Map, identify this land as being separate from the dwelling. Whilst it is asserted that the construction of stable buildings brought this land into its residential curtilage, it is not clear from the information before me whether that is the case. In this regard, it is unclear whether these stables were incidental or ancillary to the dwelling, and details of the relevant permissions have not been provided. Moreover, the Council state that the stables have long since been demolished, and it is unclear what use the land was put to during any intervening period. On the evidence before me, and strictly for the purposes of this decision only, it has not been demonstrated that the appeal proposal is on land within the residential curtilage of No 59. I therefore attach little weight to this purported fallback position.
15. The proposal would provide additional facilities to the existing property. It has also generated some economic benefits during the construction phase, and through the purchasing of materials. However, these are modest benefits that are common to most developments of this type and size.

Conclusion

16. The proposal constitutes inappropriate development in the Green Belt and has reduced openness in this location. It has also significantly harmed the character and appearance of the area. The Framework states that substantial weight should be given to any harm to the Green Belt. Even when taken together, the other considerations do not clearly outweigh the harm in this

case. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would therefore be contrary to Policy GN3 of the West Lancashire Local Plan (2013), and guidance contained in the Framework relating to Green Belts.

17. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR