



Appeal Decision

Site visit made on 25 January 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2022

Appeal Ref: APP/P2365/W/21/3280193

Baldwins Farm, Moss Lane, Burscough L40 4AZ

- 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 David Lowe against the decision of West Lancashire Borough Council.
 - The application Ref 2020/1178/FUL, dated 17 December 2020, was refused by notice dated 10 February 2021.
 - The development proposed is a new Agricultural access to highway with dropped kerb.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt; and
 - if it 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

3. The appeal site is situated in the Green Belt and the National Planning Policy Framework (Framework) sets out that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy, as set out in Paragraph 137 of the Framework, is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
4. The Framework establishes that certain forms of development are not inappropriate in the Green Belt, some of which on the proviso that they preserve the openness of it and do not conflict with the purposes of including land within it. Paragraph 150 of the Framework identifies engineering operations as one such form of development. In respect of this appeal proposal, such operations would include the dropped kerb access and the access road. The refusal notice cites Policy GN1 of the West Lancashire Local Plan Development Plan Document (Local Plan) and this states that proposals within the Green Belt will be assessed against national policy and any relevant Local Plan policies.

5. The access track proposed would be comprised broadly of two sections, a bound surfaced section closest to the highway and a longer linear track to be formed in compacted hard core. Although the access track would serve an existing working farm and its scale would be commensurate with the machinery used there, its length and proposed construction in hard core materials would have a harmful impact on the visual aspect of openness. Furthermore, the access track would take up an area of land and therefore would reduce the spatial aspect of the Green Belt's openness.
6. Physically the track would overwrite what is essentially natural land with an artificial, geometric and man-made intervention. Visually the intervention would be, as is its purpose, inherently visible. Thus, the access track would not preserve openness in either a spatial or physical sense and would not therefore safeguard the countryside from encroachment. Whilst the track is intended to be for agricultural activities, and whilst there would be some mitigation of its effects by virtue of surrounding features, the scheme would reduce the openness of the green belt physically (by over-writing open land) and visually (by introducing an engineered form in an area which presently contributes towards openness by virtue of the lack thereof).
7. I therefore conclude, notwithstanding the modest scale of the proposal, it would be inappropriate development in the Green Belt as it would not preserve its openness. Paragraph 147 of the Framework states that this is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It would be contrary to the Framework in this regard and would also conflict with Local Plan Policy GN1 which seeks proposals within the Green Belt to be assessed against the Framework.

Other Considerations

8. My attention has been drawn to a judgement¹ relating to agricultural development. Its relevance to this appeal development is not clear, but the referenced case related to an agricultural building, which would be considered against the exception at part a) of paragraph 149 of the Framework that does not require consideration of openness in order for a development to be considered not inappropriate. This appeal development however, as set out earlier in the decision, is considered against paragraph 150 of the Framework which is specifically caveated as being not inappropriate provided the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
9. The proposed access is intended to divert farm activity away from a nearby residential conversion. Whilst I accept that this represents a benefit of the proposal, it would not outweigh the harm by way of inappropriateness (and there is no robust evidence indicating that the proposal before me is the sole, or preferential, means of achieving such a benefit). Moreover, it is unclear whether that is necessary given that issues of amenity would have been considered in terms of a conversion elsewhere to a residential use. I accept that the proposal would be beneficial to the operation of Baldwins' Farm, however there is no compelling justification before me that the existing operation thereof would be prejudiced in its absence. Whilst I note that there are generally permitted development rights for engineering operations

¹ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404 (22 April 2016)

'reasonably necessary' for agricultural uses under certain circumstances, there is nevertheless an appeal before me and no compelling evidence that such rights are intact here or that a similar scheme could be thereby achieved (such as via a certificate of lawful development). As such very special circumstances necessary to justify the scheme have not been demonstrated, nor do other material considerations indicate that a decision should be taken other than in line with the approach in relevant elements of the development plan.

Conclusion

10. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is dismissed.

F Rafiq

INSPECTOR