



Appeal Decision

Site visit made on 20 October 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/P2365/W/22/3300135

297 Liverpool Road, Rufford, Lancashire L40 1SE

- 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 & Mrs Jason Holden against the decision of West Lancashire Borough Council.
 - The application Ref 2021/0965/FUL, dated 6 August 2021, was refused by notice dated 14 December 2021.
 - The development proposed is to demolish domestic outbuilding and erect a single residential dwelling in rear garden.
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Decision

1. The appeal is allowed and planning permission is granted to demolish domestic outbuilding and erect a single residential dwelling at 297 Liverpool Road, Rufford, L40 1SE in accordance with the terms of the application, Ref 2021/0965/FUL, dated 6 August 2021, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposal on the openness of the Green Belt.

Reasons

3. The appeal site is within the Green Belt, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open. The National Planning Policy Framework (the Framework) says that inappropriate development, which includes the construction of new buildings, is harmful to the Green Belt and should not be approved except in very special circumstances. Policy GN1 of the West Lancashire Local Plan confirms that development proposals within the Green Belt will be assessed against national policy.
4. Framework paragraph 149 lists circumstances in which new buildings may not constitute inappropriate development. This includes criterion g), which allows for the partial or complete redevelopment of previously developed land, where it would not have a greater impact on the openness of the Green Belt than the existing development.
5. For the purposes of the Framework, previously developed land is defined as land which is, or was, occupied by a permanent structure, including the curtilage of the developed land. Outside of built-up areas, residential gardens are not excluded from the definition of previously developed land.

6. The proposed dwelling would be constructed on the site of a long timber outbuilding within the large rear garden of 297 Liverpool Road (No. 297). The appeal site is not isolated from other built development, but it is in a countryside location, outside of any settlement. The site therefore falls within the definition of previously developed land.
7. In accordance with Framework paragraph 149g), the test to be considered in this appeal, therefore, is the effect of the proposal on the openness of the Green Belt, compared with that of the existing situation.
8. Both parties have made references to policies contained in the Development in the Green Belt Supplementary Planning Document (SPD). This document provides additional detail to inform the local interpretation of national Green Belt policy. Policy GB1 relates to replacement dwellings, and Policy GB2 relates to replacement of non-residential buildings with another non-residential building, but neither are directly applicable to the appeal proposal. Rather, Policy GB3, which is concerned with redevelopment of previously developed land, is applicable. This reaffirms that the test to be applied in this case is the effect of the proposal on openness, as set out in Framework paragraph 149g).
9. The long, rectangular garden at No. 297 is well landscaped, with numerous trees and substantial hedges. It is bounded by open fields on two and a half sides, with part of the western boundary also adjacent to a neighbouring property.
10. The outbuilding proposed to be demolished and replaced is a long and narrow timber building, with a pitched roof and an attached pen at one side. It appears agricultural in origin, despite its location within the extensive rear garden at No. 297. Its low height and position to the side of the garden, means that the visual impact of the existing building is limited. Despite its length, the building is unobtrusive, even from within the garden itself. It is not readily visible from the main road, or from the private driveway serving the cluster of properties. Whilst it may be visible from the neighbouring property, that is some distance away, across a small field, with boundary hedges providing screening.
11. Overall, the modest height of the existing outbuilding, combined with its siting at the side of the well landscaped garden, means that, in visual terms, its impact on the openness of the Green Belt is small.
12. The proposed house and garage would be sited in a similar position to the existing building. Whilst it would be very different in appearance, the contemporary style dwelling has been designed to reflect the existing outbuilding in scale, with a similar footprint.
13. Like the outbuilding, the proposed house would be long, but rather than taking the form of a simple rectangle, the dwelling would have three distinct sections, connected by glazed links, as well as a separate garage. The form of the building, in which the elements would vary in height, width and appearance, would mean that the development would read as separate, connected buildings, rather than a single, solid form. This would help to visually break up its mass, and lessen the overall visual impact.
14. The submitted plans show that part of the proposed building would be somewhat taller than the existing outbuilding, with a maximum ridge height of almost 4.3m, compared with just over 3.5m. However, this modest height

different would only occur on parts of the building, with some elements being lower than the existing outbuilding. The height increase would not significantly affect the visual impact of the building, which would still appear unobtrusive in its setting. Like the existing outbuilding, the proposed house would be well screened by surrounding vegetation. It would not be readily visible from the public domain, and would not be prominent or particularly noticeable beyond the confines of the existing garden.

15. The proposal would also involve the creation of a new, fairly long, driveway and area of hardstanding for parking. These elements would increase the visual impact of the scheme, but the effect would be limited to the immediate garden setting. As they would not contribute to the built development on site, the effect of these flat features on the openness of the Green Belt would be negligible.
16. Overall, in visual terms, the effect of the proposal on the openness of the Green Belt would be similar to that of the existing outbuilding.
17. The concept of openness also has a spatial element. In simple numerical terms, the overall footprint of the proposed house would be very similar to the existing building. However, the individual sections of the proposed dwelling would generally be wider than the existing building, and slightly offset from each other. The proposal would also be longer overall, with the proposed master bedroom, and part of the glazed link, extending some 6m beyond the footprint of the existing building.
18. The proposed dwelling would occupy areas to the northern and eastern sides of the building which are currently free of built development. However, there is nothing in national planning policy which requires that a proposal involving redevelopment of previously developed land must precisely follow the existing footprint of the building. The additional areas involved would be modest in the context of the overall site, and the submitted site layout plan shows that there are other parts of the existing footprint which would not form part of the new house.
19. In assessing whether or not a proposal would have a greater impact on openness than the existing development, the judge in the Euro Garages case¹ indicated that the correct approach is to consider the impact or harm, if any, wrought by the change. Whether or not any change will have an adverse impact, and so cause harm to openness, might depend on factors such as the scale of the development, its locational context and its spatial and/or visual implications.
20. In this case, the proposed development would be contained within the existing context of the domestic garden, where the proposed domestic use, including buildings such as a garage, areas for parking, and other domestic paraphernalia, would be expected. The proposed house would be slightly larger than the existing outbuilding in terms of its overall height, length and width, and would be very different in appearance. However, this would not have a significant impact on the overall visual impact, which, like that of the existing building, would be limited. The proposed house would occupy a slightly larger footprint overall, but the additional areas involved would be small.

¹ Euro Garages Ltd v SSCLG & Anor [2018] EWHC 1753 (Admin)

21. When compared with the existing situation, the effect of the proposal on the openness of the Green Belt would be negligible, in both spatial and visual terms. As such, the proposal would comply with Framework paragraph 149g), and by extension, Local Plan Policy GN1.
22. The proposal would not constitute inappropriate development in the Green Belt, and no other harm has been identified. The appeal should therefore be allowed.

Conditions

23. In addition to the standard implementation and plans conditions, I have imposed a condition specifying that hard and soft landscaping works shall be carried out in accordance with the details specified on the approved plan. This is required for certainty, and to ensure a satisfactory visual appearance. I have imposed a further condition requiring that demolition of the building should take place outside the nesting bird season, to ensure no disturbance to breeding swallows. This is needed to protect biodiversity, and reflects the recommendation of the submitted Preliminary Bat Roost Assessment.
24. The Council's drainage engineer has suggested a condition requiring details of a foul and surface water drainage strategy for the development. I agree that this is necessary to avoid flood risk and protect water quality, and have imposed the condition. To make it more concise, I have excluded some of the detailed information, which can be required by the Council in any case, as part of their assessment and approval of the drainage strategy.
25. Reference has been made within the appellant's and neighbour's submissions to the need or otherwise to restrict permitted development rights. I have considered this matter in light of advice in the Planning Practice Guidance (paragraph: 017 Reference ID: 21a-017-20190723), which says that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness or necessity.
26. Permitted development rights can result in sizeable extensions or outbuildings, but the General Permitted Development Order has not withdrawn such rights (in total or in part) in the Green Belt, and paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so.
27. In this case, the site is within an existing domestic garden. There is nothing to suggest that permitted development rights are not in place for the host property, 297 Liverpool Road, so extensions and outbuildings could already be erected on the site without the need for planning permission. Given that, and in light of the guidance referred to above, there is no clear justification to remove permitted development rights for the new dwelling, so I have not done so.

Conclusion

28. The proposal would comply with the development plan and the Framework. The appeal is therefore allowed, subject to the conditions.

R Morgan

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:
 - Existing site location plan: 195HOL01-03
 - Proposed site layout plan: 195HOL01-05 Rev A
 - Proposed floor layout plan: 195HOL01-10 Rev A
 - Proposed elevations (sheet 1): 195HOL01-11 Rev A
 - Proposed elevations (sheet 2): 195HOL01-12 Rev A
 - Planning Design & Access Document April 2021
- 3) Hard and soft landscaping works shall be carried out in accordance with the details specified on drawing 195HOL01-05 Rev A
- 4) Demolition works shall take place outside of the nesting bird season (March – September), or following a nesting bird survey by a suitably qualified ecologist which confirms that there are no breeding swallows.
- 5) No construction works shall take place until a strategy for the separate foul and surface water drainage of the development has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall take account of the relevant provisions of the Council's Planning Applications – Drainage, Flood Risk and Sustainability guidance and the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015), or any revisions to that guidance.

The drainage strategy shall be implemented and thereafter managed and maintained, in accordance with the approved details.