



Appeal Decision

Site visit made on 5 June 2023

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2023

Appeal Ref: APP/M0655/W/22/3311986

Top Farm, Higher Lane, Broomedge, Lymm WA13 0RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by D T Joseph Ltd against Warrington Borough Council.
 - The application Ref 2022/41470, is dated 22 April 2022.
 - The development proposed is full planning application for: 1) demolition of the existing buildings 2) erection of 2 no. dwellings and car port 3) comprehensive landscape scheme and creation of ecology area 4) associated works.
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Decision

1. The appeal is allowed and planning permission is granted for full planning application for: 1) demolition of the existing buildings 2) erection of 2 no. dwellings and car port 3) comprehensive landscape scheme and creation of ecology area 4) associated works at Top Farm, Higher Lane, Broomedge, Lymm WA13 0RW in accordance with the terms of the application, Ref 2022/41470, dated 22 April 2022, subject to the conditions in the attached schedule.

Preliminary Matter

2. The planning application subject of this appeal was not determined by the Council within the prescribed time period. I have had regard to both parties' submissions in determining the appeal.

Main Issues

3. It is common ground that the proposed development would be inappropriate development in the Green Belt having regard to Policies CC 1, CS 2 and CS 5 of the Local Plan Core Strategy (Core Strategy) and the National Planning Policy Framework (the Framework). Hence, the main issues in this case are: a) the effect of the proposal on the openness of the Green Belt; b) the effect of the proposal on the purposes of including the land within the Green Belt; and c) 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

Openness

4. Openness has a visual and spatial aspect. The Framework confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
5. The appeal site is a vacant farmstead which contains four buildings; a large red brick barn, a steel portal frame shed and two smaller timber buildings.

Hardstanding and made ground comprising of hardcore covers most of remainder of the site. The boundaries to the site are lined in places by hedgerow. The appeal site lies to the rear of a small run of development to the south of Higher Lane near to its junction with High Leigh Road and Burford Lane. Broomedge is a small settlement situated around the crossroad junction.

6. The proposed dwellings and garage would be in a different location to the existing buildings which would be demolished. Thus, there would be a change to the location, form and layout of built form on the site, and although the existing barn and portal frame shed are two storeys high in places, and visible from the nearby area, the proposed development would be of a greater scale and mass compared to the existing buildings on the site. Even so, the proposed development would be of a lower volume, footprint and floorspace. Hence, there would be less built development on the site than there currently is.
7. Siting the proposed development closer to the neighbouring residential dwellings on Higher Lane would visually and spatially reduce openness in that part of the site, but placing development here would be more closely aligned with the existing built-up area of Broomedge. The proposed gardens would likely include domestic paraphernalia that would affect openness visually and spatially by drawing the residential use of the site away from the built form and to the southern extent of the site. This would, to an extent, counter act the proposed landscaping to the remainder of the site. However, parts of the site that currently contain built form would be opened up, freed of development and landscaped. In doing so, the openness of the Green Belt would be improved, visually and spatially.
8. There would be no effect on the openness of the Green Belt from the level of activity associated with the proposal, especially bearing in mind neighbouring dwellings and the site's agricultural use.
9. The proposal would cause a loss of openness in some parts of the site but create openness in others. Overall, I consider that the proposal would result in a beneficial improvement to the openness of the Green Belt, spatially and visually. On this basis, there would be no conflict with Framework paragraph 137. I afford this benefit moderate weight in favour of the appeal scheme.

Purposes

10. I agree with the Council's assessment that the proposal would not conflict with four out of the five purposes for including the land in the Green Belt. The parties hold different views on the remaining purpose: to assist in safeguarding the countryside from encroachment.
11. The proposal would not encroach into the countryside beyond the confines of the appeal site. Whilst the proposed dwellings and garage would be sited closer to the existing neighbouring built form and further away from the open expanse of Green Belt to the south and west. The landscaping proposed would also turn existing developed land into a soft edge to the fields beyond. For these reasons, the proposal would not conflict with the purpose of safeguarding the countryside from encroachment and Framework paragraph 138.

Other considerations

12. Although the appeal site is washed over by the Green Belt designation, it is in Broomedge, which has a small range of facilities and services for day-to-day needs. A wide range of facilities and services in Lymm are accessible by a

range of transport modes. The site's accessible location carries limited weight in favour of the appeal scheme due to its scale.

13. The appeal site is derelict land and most of the buildings are visually damaged. Noting this, and with the site's location on the edge of Broomedge and visible from High Legh Road on approach to the cross road junction, it does not positively contribute to the visual amenity of the area.
14. Framework paragraph 145 seeks to enhance visual amenity, biodiversity and to improve damaged and derelict land. In tandem with siting the new dwellings and garage closer to the neighbouring built form, the proposed landscape works would enhance the site's visual amenity through the introduction of native hedgerows, trees, a pond and wildflower meadow. This would provide a softer transition to the adjoining open fields and provide ecological habitat.
15. The appellant's assessment puts the net gain of habitat units at 95.49% with a 12,902% net gain in hedgerow units. These are considerable enhancements to biodiversity. The overall development would therefore improve what is currently a damaged and derelict piece of land. In doing so, the development would result in visual and landscape character benefits and positively reinforce local distinctiveness through design. The long-term success and management of the landscape and ecological improvements could be secured through a planning control. The proposal would also ensure that the whole site is remediated and suitable for residential occupation subject to the imposition of planning conditions.
16. For the reasons set out, the proposal would accord with Framework paragraph 145. But, before ascribing weight to the benefits put forward, I am mindful of the prior approval scheme granted last year to convert the brick-built barn building to create two dwellings. Although it may not be the appellant's preferred option for redeveloping the site, there is a real prospect of the prior approval scheme taking place especially if I were to dismiss the appeal and as only one of the two schemes could be carried out.
17. The prior approval scheme would convert the existing brick barn, but there are no guarantees that the remaining buildings would be demolished, or improvements made to the remaining land. The biodiversity improvements proposed would not be realised to the same extent, if at all, through the prior approval scheme, as there is no mechanism to secure them. The remediation of the whole appeal site would also not occur with the prior approval scheme as the site edged red is smaller than that before me.
18. Therefore, the proposed biodiversity enhancements, land remediation and the removal of buildings would not either be the same or happen at all with the prior approval scheme. Also, if the prior approval scheme were to be carried out and occupied by residents, their health and living conditions could be harmed by the whole of the site not being remediated.
19. For this reason, together with the visual and biodiversity enhancements that would not see the whole of the damaged and derelict land improved, the prior approval scheme would be more harmful than the proposal before me which would result in significant landscape and biodiversity benefits to this damaged and derelict land and its visual amenity enhanced. I attach significant weight in favour of the proposal to the fallback position and significant positive weight to the scheme's environmental benefits.

Planning Balance

20. The proposal would be inappropriate development. The Framework sets out that this is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This harm carries substantial weight. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
21. No harm would arise in respect of the Green Belt purposes, and I consider moderate positive weight should be given to the scheme's benefit to the openness of the Green Belt, given it is a fundamental characteristic of the Green Belt.
22. I give significant weight to the fallback prior approval scheme that would be more harmful than the proposal as it would not remediate, visually enhance or improve the whole site that is damaged and derelict. Collectively the other considerations clearly outweigh the harm that I have identified. Therefore, the very special circumstances necessary to justify the development exist. I conclude that the proposal would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.

Conditions

23. I have imposed an approved plans condition in the interests of certainty. Pre-commencement conditions are necessary in respect of land contamination and biodiversity so that the site is suitably remediated, and ecological habitat and species are protected. A condition to secure details of the materials is necessary in the interests of the character and appearance of the area.
24. A condition in respect of a landscape and environmental management plan is necessary in the interests of securing biodiversity benefits. To encourage the use of sustainable transport modes, I have imposed a condition for electric vehicle charge points for each dwelling. So that vehicles using the site can do so safely and park, I have imposed conditions covering surfacing. A condition requiring remediation of any land contamination and verification that it has been satisfactorily dealt with is necessary in the interests of future occupiers' health and living conditions.
25. A condition is suggested by the Council to restrict certain permitted development rights in the interests of openness and the rural character of the site. Be as that may, a blanket removal of freedoms for small scale domestic alterations is, according to the Planning Practice Guidance, unlikely to meet the tests of reasonableness and necessity. In this case, the suggested condition goes too far, and I have amended it so that it solely relates to extensions and outbuildings given the case around openness of the Green Belt.

Conclusion

26. For the reasons given above, I conclude that the appeal should be allowed.

Andrew McGlone

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: SSL:20801:100:1:1:FLR; SSL:20801:100:1:1:TOPO; SSL:20801:100:1:1:ELV; M3316-PA-01-V3; M3316-PA-03-V5; M3316-PA-04-V4; M3316-PA-05-V1; M3316-PA-06-V2; M3316-PA-07-V2; 20145-PL05 Rev C; 20145-PL06 Rev B; 20145-PL07 Rev A; and 20145-PL08 Rev A.

Pre-commencement

- 3) No development (other than demolition and site clearance works) shall take place until the steps in Sections A and B below are undertaken:

A: Characterisation: With specific consideration to human health, controlled waters and wider environmental factors, the following documents must be provided (as necessary) to characterise the site in terms of potential risk to sensitive receptors:

- Preliminary Risk Assessment (PRA or Desk Study)
- Generic Quantitative Risk Assessment (GQRA) informed by an Intrusive Site Investigation
- Detailed Quantitative Risk Assessment (DQRA)
- Remedial Options Appraisal

Completing a PRA is the minimum requirement. DQRA should only be submitted if GQRA findings require it.

B: Submission of a remediation & verification strategy: As determined by the findings of Section A above, a remediation strategy (if required) and verification (validation) strategy shall be submitted in writing to and approved by the local planning authority. This strategy shall ensure the site is suitable for the intended use and mitigate risks to identified receptors. This strategy should be derived from a Remedial Options Appraisal and must detail the proposed remediation measures/objectives and how proposed remedial measures will be verified.

The actions required in Sections A and B shall adhere to the following guidance: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

- 4) Prior to commencement of the development a scheme of reasonable avoidance measures during site clearance for the protection of hedgehogs within the application site shall be submitted to and approved in writing by the local planning authority. The site clearance and development shall be carried out in accordance with the approved scheme.
- 5) No works to trees or shrubs shall occur or demolition commence between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been approved in writing by the local planning authority.
- 6) The demolition building 1 is likely to cause harm to bats as identified in the Extended Phase 1 Habitat Survey and Bat Surveys by Rachel Hacking Ecology and demolition of this building shall not in any circumstances commence

unless the local planning authority has been provided with either:

- a) a license issued by Natural England pursuant to Regulation 55, of the Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development go ahead; or
- b) a statement in writing form the relevant licensing body or local planning authority to the effect that it does not consider that the specified development will require a license.

Before development above slab level

- 7) None of the building(s) hereby approved shall be constructed above slab level until written and photographic details of the external roofing and facing materials (including manufacturer's details) have been submitted to and approved by the local planning authority. Materials samples shall be made available to view on site and shall not be deposited with the Local Planning Authority. The development shall be constructed in accordance with the approved details/samples.
- 8) None of the building(s) hereby approved shall be constructed above slab level until a landscape and environmental management plan for the habitat creation proposals within the Biodiversity Impact Assessment, Rachel Hacking Ecology – April 2022 shall be submitted to and approved in writing by the local planning authority. The plan shall include:
 - Planting schedules using locally native species;
 - Detailed designs and/or working methods to achieve proposed habitats and management conditions;
 - A bird box strategy including numbers target species and location of boxes;
 - Timetable of delivery for all habitats;
 - A 10 year timetable of ecological monitoring to assess the success of all habitat creation/enhancement.
 - Identification of the persons responsible for implementing, monitoring and managing the works.
 - 25 year management plan.

The development, monitoring and management of the land shall be carried out in accordance with the approved plan.

Before first occupation

- 9) A scheme for the provision of an electric vehicle charging point for each dwelling shall be submitted to and approved in writing with the local planning authority before each dwelling is first occupied. The approved scheme shall be provided prior to first occupation of each unit and retained as such thereafter.
- 10) Prior to first occupation of the dwellings hereby approved, that part of the access extending from the nearside edge of the carriageway of Higher Lane, for a minimum distance of 10 metres into the site shall be appropriately paved in a bound material such as tarmacadam, concrete, block pavements or other material approved in writing by the local planning authority.
- 11) The development shall not be brought into use until the areas indicated on the approved plans to be set aside for parking and servicing have been surfaced, drained and permanently marked out or demarcated in accordance with the details and specifications shown. The parking and servicing areas shall be retained as such thereafter.

- 12) The development shall not be used until the following requirements have been met and required information submitted to and approved by the local planning authority:

A: Remediation and verification: Remediation (if required) and verification shall be carried out in accordance with an approved strategy. Following completion of all remediation and verification measures, a Verification Report must be submitted to the local planning authority for approval.

B: Reporting of unexpected contamination: All unexpected or previously-unidentified contamination encountered during development works must be reported immediately to the local planning authority and works halted within the affected area(s). Prior to site works recommencing in the affected area(s), the contamination must be characterised by intrusive investigation, risk assessed (with remediation/verification measures proposed as necessary) and a revised remediation and verification strategy submitted in writing and agreed by the local planning authority.

C: Long-term monitoring and maintenance: If required in the agreed remediation or verification strategy, all monitoring and/or maintenance of remedial measures shall be carried out in accordance with the approved details.

The site shall not be taken into use until remediation and verification are completed. The actions required to be carried out in Sections A to C above shall adhere to the following guidance: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

Other

- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification):
- (i) no extensions shall be carried out to the dwelling(s); and
 - (ii) no outbuildings shall be erected within the curtilage of the dwelling(s)