



Appeal Decision

Site visit made on 18 July 2023

by Hannah Ellison BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th August 2023

Appeal Ref: APP/F2360/W/23/3316769

Agricultural Barns on the West side of Newgate Lane, Whitestake, Preston PR4 4JU

- 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 Steve Fairclough against the decision of South Ribble Borough Council.
 - The application Ref 07/2022/00475/FUL, dated 6 June 2022, was refused by notice dated 10 February 2023.
 - The development proposed is the change of use from agricultural storage barns to non-agricultural storage (B8) including external alterations to walls.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural storage barns to non-agricultural storage (B8 Use Class) together with the formation of an area of hardstanding at Agricultural Barns on the West side of Newgate Lane, Whitestake, Preston PR4 4JU in accordance with the terms of the application, Ref 07/2022/00475/FUL, dated 6 June 2022, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Steve Fairclough against South Ribble Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The planning application form omitted a site address thus I have used the site description included on that form, along with the site address on the appeal form, in the banner heading and formal decision above.
4. The description of development in the banner heading is taken from the planning application form, however it is clear that the proposed development was amended during the course of the application. I have therefore used the description included in the decision notice and appeal form within the formal decision as it is a more accurate description of the development.
5. I have omitted the words 'part retrospective' from the description of development as it is superfluous and not an act of development.

Main Issues

6. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt, including any harm to openness, having regard to the National Planning

Policy Framework (the Framework) and any relevant development plan policies;

- The effect of the proposal on the living conditions of nearby residential occupiers, with particular regard to noise and disturbance; and
- The effect of the proposal on highway safety.

Reasons

7. The appeal site comprises a parcel of land off Newgate Lane which includes two steel portal framed buildings of typical agricultural construction and appearance, with some sides open to the elements with steel gates, along with associated areas of hardstanding. No physical alterations are proposed to either building through this appeal.
8. It is understood that both buildings were previously used for agricultural purposes, including the storage of livestock and machinery. At the time of my site visit, the eastern building (hereafter referred to as Unit 1) was used for the storage of cardboard, and the western building (hereafter referred to as Unit 2) was being used for the storage of vehicles associated with a second-hand car sales business located elsewhere in the borough.

Whether inappropriate development

9. The appeal site is located within the Green Belt. The Framework, which is the most up to date expression of the national policy position on development in the Green Belt, states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
10. Although the Council does not explicitly state that the proposal would be inappropriate development in the Green Belt, the effect on the openness of the Green Belt is referenced in the decision notice and in both main party submissions.
11. Paragraph 150 of the Framework indicates that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include at subsection d) the re-use of buildings provided that the buildings are of permanent and substantial construction.
12. Similarly, Policy G2 of the South Ribble Local Plan (July 2015) (the LP) relates to the re-use and adaptation of buildings in the Green Belt and outlines that proposals should not have a materially greater impact on the openness of the Green Belt and the purposes of including land in it and that the building is of permanent and substantial construction, amongst other criteria which I shall return to below.
13. Framework paragraph 150(d) and LP Policy G2 effectively have 3 elements which must be met in order for the proposed re-use of a building to constitute not inappropriate development. These are that the buildings are of permanent and substantial construction; that the development would preserve the openness of the Green Belt; and it would not conflict with the purposes of including land in the Green Belt.

14. There is no dispute between the main parties that the proposal would involve the re-use of buildings that are of permanent and substantial construction. Whilst I note the concerns from third parties regarding this matter, I concur with the assessment of the main parties as the existing buildings appear to be of solid and sound construction, with floor slabs, roofing and elevations typical of an agricultural building.
15. As such, in order to determine whether the proposal is inappropriate development I am required to consider the effect on the openness and purposes of the Green Belt.
16. The Framework states 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. When applying the concept of openness to the particular facts of a case, a number of factors are capable of being relevant.
17. No changes are proposed to the appearance of the buildings and their re-use does not, in itself, impact openness. However, I must also consider the effect of activities associated with the change of use.
18. The appellant agrees to a restriction on external storage on the site, thus the storage of various goods, products, vehicles etc. would occur within each of the buildings rather than on the hardstanding around them. Although the open sided design of the buildings provides for some views into them, this is limited due to their orientation and the mature landscaping surrounding the site. Furthermore, the buildings are a generous distance from public vantage points.
19. The proposal would however involve parking of vehicles within the site. Some views would be obtainable from public viewpoints and, whilst not permanent features it would be clear that these vehicles, which could be light goods vehicles, are not typical features of an agricultural use.
20. However, the area of parking is significantly restricted and located in a discrete part of the site, between Unit 1 and 2. With regards to the remaining areas of existing hardstanding within the site and the proposed stretch of hardstanding, a condition could be attached which prevents vehicles from parking in these areas.
21. The additional hardstanding proposed would not, in itself, appear out of context with its agricultural surrounds given its very close relationship to the existing buildings. Views of vehicles manoeuvring along this stretch would be fleeting and there would be low levels of vehicle movements across the week, which could be controlled by condition. Thus, the visual effect of vehicles traversing along this track to the dedicated parking area within the site would not harm openness.
22. Furthermore, the existing buildings are of a very considerable size such that the former agricultural use could have been of a significant scale and involved a high number of agricultural vehicles and machinery, some of which can often be of a substantial size, being sited on the site, amongst other things. There would also have been a degree of comings and goings from the site. Whilst typical of the wider rural area, this activity would nevertheless have had some effect on openness.

23. As such, the limited vehicles parked and manoeuvring as a result of the appeal proposal, and the internal storage arrangement, would not compromise openness to a greater extent than what may have occurred under the previous agricultural use. The proposal would not therefore result in any significant change in this respect.
24. The purposes of the Green Belt are set out in paragraph 138 of the Framework. The proposal seeks to reuse the buildings and their existing areas of hardstanding. With regards to the additional hardstanding, it would project beyond Unit 1 by a limited amount and would not extend beyond the line of Unit 2. This ensures it remains tightly associated to the existing buildings. I therefore consider that the proposal does not conflict with any of the purposes of the Green Belt, namely to assist in safeguarding the countryside from encroachment.
25. Accordingly, the proposal would preserve openness and would not conflict with any of the purposes of the Green Belt. It therefore meets the requirements of Framework paragraph 150d) and does not constitute inappropriate development. It accords with LP Policy G2, the aims of which are set out above. Consequently, very special circumstances do not need to be demonstrated in this instance.

Living conditions

26. It seems to me that the previous agricultural use of the appeal site was on an unrestricted basis and could be accessed by large vehicles and machinery associated with an agricultural use. Activity in and around the appeal site would also have undoubtedly been at unsociable hours throughout the day at certain parts of the year, as agricultural needs arise.
27. I nevertheless recognise that, at some level, local residents would have been accustomed to and somewhat expectant of activity associated with the previous use in this semi-rural location.
28. The use and comings and goings which would be associated with the proposed use would be different in nature to that of an agricultural use. Although I note that the existing storage businesses operating at the site may currently be small in scale with limited noise and comings and goings, this appeal is not for a personal permission thus it is important that I consider that other storage or distribution businesses could operate from this site which would bring with them varying and potentially expanded operational needs.
29. That being said, the nearest residential properties are located a considerable distance from the appeal site. This relationship, along with limitations which could be placed on hours of operation, outside storage and any future lighting by way of conditions, would ensure that any activity within the appeal site, namely noise from vehicles, loading/unloading and people, would not result in a harmful increase in noise and disturbance to local residents.
30. I acknowledge that there are several properties located along Newgate Lane and Green Lane, many of which are sited close to the highway. Therefore, local residents are likely to experience the comings and goings associated with the proposed use, including at times when vehicles associated with the appeal site are waiting to pass parked vehicles.

31. However, as the hours of operation, weekly number of vehicle movements and size of vehicles could be restricted via conditions, I consider that the frequency of the comings and goings would not be so substantial so as to result in lengthy visual obstructions or prolonged disruptions to residents' journeys, or that living conditions within these properties and their gardens would be significantly disrupted. The proposed restrictions would ensure the scale of the development is appropriate to this locality.
32. Taking all the above into consideration, the proposal does not result in harm to the living conditions of nearby residents and thus does not conflict with Policy G2 of the LP which, in so far as it relates to this main issue, seeks to ensure that the re-use and adaptation of buildings in the Green Belt do not result in an adverse impact in respect of noise, odours, emissions or traffic.

Highway safety

33. The appeal site is located off Newgate Lane, much of which can accommodate two-way traffic. However, at the time of my site visit I observed that high levels of on street parking prevented two vehicles from passing at points. This correlates with comments provided by local residents. Signage also states that Newgate Lane is unsuitable for heavy goods vehicles (HGVs) and I note that it is in a poor condition along stretches.
34. On passing the adjacent nursery site, there are no footways or street lighting on this stretch of Newgate Lane leading to the appeal site and beyond onto Green Lane. The width of the carriageway also becomes limited in parts. The speed limit along this stretch changes from 30mph to the national speed limit. At this point, vehicles associated with the appeal site would therefore be in close proximity to a variety of road users, namely drivers, cyclists, pedestrians and horse riders, and may be travelling at high speeds.
35. I note the submitted evidence from third parties which suggests there have been problems with HGVs previously accessing the site. Given the features of the highway as noted above, it is necessary in this case to prevent the use of HGVs so as to ensure the vehicles accessing the appeal site do not conflict with other road users. The actions of the appellant in respect of the use of HGVs to date are not matters relevant to this appeal. I note that the appellant is agreeable to a condition preventing the use of HGVs.
36. In addition to ensuring only smaller vehicles access the site, given the condition and arrangement of the highway outlined above, it would be necessary to restrict the total number of vehicle movements so as to ensure that the proposal does not result in high volumes of traffic which would significantly hinder the free flow of vehicles in this locality, above that which currently occurs.
37. Consequently, the proposal does not result in harm to highway safety and thus accords with the aims of Policy G17 of the LP of ensuring the development would not prejudice highway and pedestrian safety.

Other Matters

38. Within my reasoning above, I have carefully considered all representations made by local residents. In addition, although the buildings are open to some sides, these openings are restricted and close up views from public vantage points are largely prevented by intervening landscaping, such that activity

within the buildings would not be a highly visible intrusion into the local landscape or have an urbanising effect.

39. That a need for the proposal has not been demonstrated or that there may be other suitable sites within the borough for the proposed use is not a matter for this appeal. Similarly, that these buildings should remain for agricultural purposes and that there is currently a need for them is not of relevance. Moreover, the evidence in this regard is not convincing.
40. There is no conclusive evidence before me which indicates that smaller vehicles which may be used in association with the proposal would present any concern with regard to weight limitation of the carriageway.
41. Behaviours and comments which have been made during the planning application process by all concerned parties are not a matter for me within the context of this appeal, which I have determined on its own merits.
42. Speculation as to how the appeal site may or may not be developed in the future is also not a consideration for this appeal. Any future proposed schemes would be considered on their own merits.
43. I also note the concerns regarding the accuracy of the appeal documentation, namely that it contains errors and inaccurate statements. However, these factors do not have any bearing on my decision as I have only had regard to the planning merits of the appeal scheme which is before me.

Conditions

44. The Council has suggested a number of conditions, which I have reviewed in light of paragraph 56 of the Framework and the Planning Practice Guidance (the PPG). I have consolidated some of the suggested conditions in the interests of clarity, and reworded others to make them more precise, reasonable and capable of being enforced.
45. A condition for the commencement of development is not necessary as it has already begun and planning permission is being granted on a retrospective basis. A condition specifying the plans is necessary in the interests of certainty.
46. To ensure the site can be satisfactorily drained, a condition is attached regarding foul and surface water. In the interests of highway safety, a condition is attached regarding the surfacing of the hardstanding within the site. As these two conditions require details to be submitted and approved, it is necessary to set a timetable for compliance and a sanction for non-compliance as permission is being granted retrospectively. This will ensure that the development can be enforced against if the requirements are not met.
47. In the interest of highway safety and to safeguard the living conditions of nearby residents, conditions are necessary to control the hours of operation, restrict the total weekly vehicle movements, prevent the use of HGVs, and hours of construction. I have used the Council's suggested opening hours which restrict operations in evenings and at weekends, at which time nearby residents would have a reasonable expectation that activities would be limited.
48. With regards to condition 5, whilst it would be relatively difficult to enforce, it would not be impossible. The keeping of a register/log of vehicle movements,

which the Council could inspect at regular intervals, would provide one means of ensuring the condition is workable.

49. To protect the Green Belt and the character and appearance of the area, conditions preventing external storage of goods and restricting the areas in which vehicles can park are necessary. For similar reasons, and in the interest of protecting the living conditions of nearby residents, a condition is necessary which requires details of any lighting scheme to be submitted to and approved by the Council.
50. To ensure vehicles accessing and egressing the appeal site can do so in a manner which is safe for all road users, a condition restricting the height of the boundary hedge is necessary. Linked to this, a condition is necessary to prevent tree felling and vegetation clearance works during certain times of the year in order to protect wildlife.
51. The Council has not provided clear justification for the suggested condition which prevents deliveries to the appeal site during peak school times. I note that the nearest school is a considerable distance away and, given the restrictions on the total number of vehicle movements throughout the week, I consider it unlikely that the number of comings and goings to the site would reach such a level during peak school times which would harm any pedestrians which may be walking past the appeal site to and from the school. Mindful of the PPG, such a condition would not pass the tests of reasonableness or necessity, thus I have omitted it.

Conclusion

52. The development accords with the development plan as a whole and there are no other considerations which indicate a decision should be made other than in accordance with it. Therefore, the appeal should be allowed, subject to the attached conditions.

H Ellison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Location Plans, Dwg No 2226/S2F; Unit 1 Existing Layout and Elevations, Dwg No 2226/101A and Unit 2 Existing Layout and Elevations, Dwg No 2226/102A.
- 2) Unless within 3 months of the date of this decision a scheme for the provision of foul and surface water drainage is submitted in writing to the Local Planning Authority for approval, and unless the approved details are implemented within 3 months of the Local Planning Authority's approval, the use of the site for storage purposes within Use Class B8 shall cease. Upon implementation of the approved scheme, it shall thereafter be retained and maintained in accordance with the approved details for the duration of the approved use. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within 3 months of the date of this decision a scheme for the surfacing of the access extending from the highway boundary for a minimum distance of 20 metres into the site and the car parking and manoeuvring areas is submitted in writing to the Local Planning Authority for approval, and unless the approved details are implemented within 3 months of the Local Planning Authority's approval, the use of the site for storage purposes within Use Class B8 shall cease. Upon implementation of the approved scheme, it shall thereafter be retained and maintained in accordance with the approved details for the duration of the approved use. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 4) The use hereby permitted shall not operate outside the hours of 0800 to 1800 Monday to Friday and 0800 to 1300 on Saturdays, nor any time on Sundays, Bank or Public Holidays. This includes the operation of machinery and other processes on site, and deliveries to and dispatches from the site.
- 5) There shall be no more than a total of 40 weekly vehicular movements to and from the site during operational hours. A log shall be kept which details all vehicle movements to and from the site and this shall be made available to the Local Planning Authority on request.
- 6) No vehicle over 3.5 tonnes shall service, access, be stationed, parked or stored on the site.
- 7) There shall be no stacking or storage of any raw or finished products, parts, crates, packing materials, waste or machinery outside of the buildings at any time.
- 8) The parking of vehicles outside of the appeal buildings shall only take place in the area designated for parking on approved plan 'Proposed Location Plans, Dwg No 2226/S2F' and that area shall thereafter be kept available at all times for the parking of vehicles and for no other purpose.
- 9) Prior to the installation of any external lighting full details shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
- 10) The hedge along the highway frontage of the site to Newgate Lane shall be maintained at a height not greater than 0.9 metres above the nearside carriageway level.
- 11) Any tree felling or vegetation clearance works that may affect nesting birds shall not take place between March and July inclusive of any year.
- 12) No construction works associated with the development shall take place outside the hours of 0800 to 1800 Monday to Friday and 0800 to 1300 on Saturdays, nor at any time on Sundays, Bank or Public Holidays.

End of Schedule