



Appeal Decision

Site visit made on 11 October 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd November 2023

Appeal Ref: APP/D2320/W/23/3321253

East Barn, Heights Farm, Bury Lane, Withnell, Lancashire PR6 8SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mrs Barbara Raines against the decision of Chorley Borough Council.
 - The application Ref 22/01072/FUL, dated 11 October 2022, was refused by notice dated 6 December 2022.
 - The development proposed is described as 'Full Planning Application for the Erection of a Detached Garage. Resubmission of LPA Ref. 22/00269/FUL'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the NPPF) including, where appropriate, its effect on openness;
 - If the development is inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. The appeal site comprises a small area of hardstanding used for the storage of domestic refuse bins and a grassed bank with retaining wall and mature planting. It lies to the northwest of East Barn, a dwelling located within a small cluster of residential properties accessed off an unmade road between the villages of Withnell and Brinscall. A public footpath extends along this road also, passing between the appeal site and East Barn. The wider area surrounding the appeal site and these residential properties comprises mainly open fields on rising land. The site lies within the Green Belt.
4. The Council's decision notice does not reference any relevant local plan policies, only the NPPF. The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. Paragraph 149 of the NPPF establishes that the construction of new buildings should be regarded as inappropriate, except in specific circumstances. The appellant contends that the appeal scheme should benefit from two of these exceptions, (b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; and (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
6. Taking exception (g) first, there is dispute between the main parties as to whether the appeal site is garden comprising part of the residential use of East Barn and consequently, whether it can be considered as previously developed land (PDL). There is no Lawful Development Certificate (LDC) before me to this effect, and it is not for me to determine the lawful use of the land as part of this section 78 appeal. However, even if I were to conclude that the appeal site was PDL, a proposal for re-development will only benefit from exception (g) if it would not have a greater impact on the openness of the Green Belt than the existing development.
7. Openness of aspect is a key characteristic of this part of the countryside. Albeit small, the appeal site is open, and it contributes to the openness of the area. It presently contains only a very limited amount of development. The existing hardstanding and low retaining wall do not detract in any significant way from the openness of the site and any impacts from refuse bins are small scale and transient in nature.
8. The proposed development would introduce a new building to the appeal site and whilst it would be modest in scale and partially built into the rising topography, it would nevertheless have a greater impact on the openness of the Green Belt in spatial terms than existing development at the site. Further, it would be visible when travelling northeast or southwest along the public footpath. Topography and landscaping (existing and proposed), would not sufficiently screen the proposed garage in these views, resulting in a greater impact on the openness of the Green Belt in visual terms also.
9. Even if considered in the context of the wider landholding, the appeal scheme would have a greater impact on openness than existing development. Whilst the proposed garage would be located opposite existing housing and to the east of an existing garage, nevertheless, this area remains predominantly open, and the proposal would extend the built form to the northwest, where existing development is sporadic and limited in extent.
10. As such, regardless of whether the site constitutes PDL, the proposed development would have a greater impact on the openness of the Green Belt than the existing development and so it does not benefit from exception (g) of paragraph 149.
11. Turning to exception (b), the appellant states that garages are not used solely for the storage of vehicles, that the host dwelling has a large landholding, and that the proposed building would provide storage for gardening/land maintenance equipment in connection with outdoor recreation.

12. As noted above, there is no LDC before me defining the lawful use of the appeal site, or the additional land to the west that is owned by the appellant. The information before me suggests that any present use of the land is associated with the residential use of East Barn, thus it could not reasonably be considered as an outdoor recreational use. The plans and application form indicate that the proposed building would provide domestic garaging for two vehicles and storage of refuse bins, which cannot be considered as appropriate facilities for outdoor recreation.
13. Even if I did consider the proposal to be a facility for outdoor recreation, it would be inappropriate development, unless the facilities preserved the openness of the Green Belt and did not conflict with the purposes of including land within it. For the reasons outlined above, I have found that both spatially and visually the proposal would harm the openness of the Green Belt and so openness would not be preserved. It would result in encroachment into the countryside, conflicting with one of the purposes of including land within the Green Belt. The proposed development does not therefore benefit from exception (b) of paragraph 149.
14. Whilst other building types specified as exceptions within NPPF paragraph 149 may be larger in extent than the appeal scheme and may have differing impacts on openness, each building type is required to be considered against the relevant NPPF tests. Additionally, whilst I have had regard to the Council's assessment of the existing garage located to the west of the appeal site¹, I have reached my own conclusions on the appeal scheme.
15. Overall, the proposal would not benefit from any of the exceptions put forward and so it would constitute inappropriate development, which is, by definition, harmful to the Green Belt.

Other considerations

16. I am presented with a fallback position whereby the appellant would utilise permitted development rights (PDR) afforded to the host property under the GPDO², to construct a garage to the rear of East Barn, as well as potentially extending the dwelling itself. The Council has not disputed that the property benefits from such rights. Additionally, the appellant suggests that PDR could be removed if the appeal scheme were allowed, in order to ensure that any impacts on openness were not greater than those being presented. Policy HS5 of the Local Plan³ has also been brought to my attention, which indicates that extensions in the Green Belt amounting to a 50% increase in volume, are not considered to be disproportionate.
17. The appeal scheme itself indicates an intention to provide garaging facilities for the property. Whilst the appellant has indicated a willingness to submit plans for this fallback position for comparison purposes, or a Lawful Development Certificate, neither are before me and so I am unable to make a detailed comparison between the appeal scheme and what could be constructed using these rights.
18. Nevertheless, any extension to East Barn or an outbuilding to the rear would be seen in the context of the dwelling itself and its closely grouped neighbours,

¹ 04/00562/FUL

² Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

³ Chorley Local Plan 2012-2026 (Adopted July 2015)

rather than extending the built form northwest to the opposite side of the road. Further, when travelling northeast and southwest along the lane, views of the garden areas to the rear of these properties are often screened by hedging, trees, walls or the dwellings themselves. These same features would likely provide some screening to any outbuilding positioned to the rear of the host property. As such, I am not convinced that development comprising the fallback position would be more harmful to the openness of the Green Belt, than the appeal scheme, particularly in visual terms.

19. I accept that the design and materials proposed for the garage would be sympathetic to the surrounding area and that additional landscaping could provide biodiversity enhancements. I note the proximity of the appeal site to local services and facilities. The proposal would provide an enclosure for existing refuse bins, which the appellant considers have an untidy appearance.

Other Matters

20. The site is within flood zone 1 and the information before me does not suggest any technical issues, including in relation to highway safety and the adjacent public footpath. No protected trees or heritage assets are identified as being affected by the proposal and the appeal site is not within any ecological designation. No issues are identified in relation to the character and appearance of the area or the living conditions of occupiers of neighbouring properties. These are neutral matters that do not weigh for or against the proposal.

Green Belt Balance

21. The appeal scheme is inappropriate development in the Green Belt, which is, by definition, harmful to it. I have also concluded that the appeal scheme would harm the openness of the Green Belt. Further, it would be contrary to one of the purposes of the Green Belt, which is to assist in safeguarding the countryside from encroachment. I give this harm substantial weight as required by NPPF paragraph 148.
22. I have had regard to the other considerations put before me in favour of the scheme. However, I conclude that these other considerations taken together do not clearly outweigh the substantial weight I have afforded to the Green Belt harm. Consequently, the very special circumstances necessary to justify the development do not exist. The development therefore conflicts with the requirements of the NPPF.

Conclusion

23. No development plan policies have been drawn to my attention against which the proposal should be assessed. However, the NPPF is a material consideration of great weight and policies within it protecting the Green Belt provide a clear reason for refusing the development proposed. On that basis, I conclude that the appeal should be dismissed.

S Brook

INSPECTOR