



Appeal Decision

Hearing held on 13 February 2024

Site visit made on 13 February 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Appeal Ref: APP/V4250/W/23/3333755

Shakerley Hall, Cumbermere Lane, Tyldesley M29 8NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Blears against the decision of Wigan Metropolitan Borough Council.
 - The application Ref A/20/90293/OUT, dated 2 November 2020, was refused by notice dated 20 June 2023.
 - The development proposed is described as the 'erection of an agricultural workers dwelling.'
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Decision

1. The appeal is dismissed.

Applications for costs

2. Prior to the hearing, an application for costs was made by Mr Blears against the decision of Wigan Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application was submitted in outline with matters of access, appearance, scale, layout and landscaping reserved for future consideration. I have dealt with the appeal on this basis.
4. In December 2023 the Government published a revised National Planning Policy Framework (the Framework). As acknowledged during the Hearing although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal.
5. The Council submitted a Statement of Common Ground (SoCG) shortly before the Hearing which had not been agreed with the appellant. Included with it was a list of properties for sale on the Rightmove website and an accompanying map. Whilst the SoCG was acceptable, the Rightmove information constituted late evidence, which I declined to accept after listening to the parties' views. To do so would have been prejudicial to the appellant's interests. Moreover, the appellant did not dispute that there were other dwellings available within the vicinity of the appeal site. Rather their case is based around the need for a dwelling to be provided on the appeal site. The information was therefore not relevant to the appellant's case.
6. At the Hearing, the appellant requested to provide updated figures for current livestock levels due to the passage of time since the refusal of the planning

application. There was no good reason why updated figures could not have been provided within the appellant's statement of case. Providing updated figures at such late notice would have been prejudicial to the Council's interests as it would not have been able to consider them in detail, including any consequent implications for the financial viability of the business.

Main Issues

7. In light of all that I have read and the discussions at the Hearing, I consider that the main issues in relation to this appeal are;
- i) Whether the proposal would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies;
 - ii) The effect of the proposal on the openness of the Green Belt;
 - iii) If the proposal would be inappropriate development, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, including whether there is an essential need for an additional dwelling to accommodate a rural worker at the site, so as to amount to very special circumstances necessary to justify it.

Background

8. Shakerley Hall Farm occupies a total of 160 acres of agricultural land, 110 of which are owner occupied and 50 acres rented from the Council on a lifetime tenancy agreement. The evidence presented indicates the farm operates with a suckler herd of approximately 50 animals including a bull, cows and calves, although livestock numbers can vary throughout the year depending on calving rates. The Hearing discussions revealed that the sheep belong to the appellant's daughter as a separate entity and are not associated with the enterprise.
9. The appellant and his brother are directors of the business but wish to retire. It is the intention of the appellant's daughter, with the assistance of her husband to take over the enterprise in the future. The proposed development would provide a third dwelling for the unit in addition to Shakerley Hall and The Bungalow, enabling the appellant's daughter to live on-site and provide a 24-hour presence.

Reasons

Whether Inappropriate Development

10. The appeal site is located within the Green Belt. Policy CP8 of the Wigan Local Plan Core Strategy (CS) defers to the Framework in relation to new development proposals within such locations.
11. Paragraph 154 (previously paragraph 149) of the Framework indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate development in the Green Belt. 'Buildings for agriculture and forestry' is one of the exceptions (154a) and upon which the appellant's case relies.
12. The appeal scheme proposes a dwelling for an agricultural worker. Even if it would be subject to a restriction limiting occupation to an agricultural worker,

its primary use would nevertheless be that of a C3 dwellinghouse¹. Whilst supporting an agricultural use, the proposal would not result in a 'building for agriculture.'

13. Consequently, the proposal would fail to comply with Policy CP8 of the CS and would fail to meet the exception set out by paragraph 154a) of the Framework. It would therefore be inappropriate development which is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances.

Openness

14. I have been referred to the Lee Valley judgement which determined that where development is found to be 'not inappropriate,' it should not be regarded as harmful to either the openness of the Green Belt or to the purposes of including land within it². In this case, I have found the proposal would constitute inappropriate development, such that the effect of the proposal on the openness of the Green Belt remains to be considered.
15. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension, as set out in the Planning Practice Guidance (PPG)³.
16. The appeal site lies on the edge of the farm complex comprising 2 dwellings and a collection of various agricultural sheds and buildings. It is separated from the built-up area of Tyldesley by agricultural fields, woodland planting and allotments. Given that the appeal site forms part of a larger undeveloped pasture, it has a visual association with the surrounding countryside.
17. Although recognising that the application is in outline with the scale and appearance of the proposed dwelling to be determined, the erection of a building where one does not currently exist, would nonetheless result in a spatial loss of openness.
18. Even if the proposed dwelling was to be single storey, the increased mass and scale of the development would be visible in localised public views from Common Lane and Cumbermere Lane above the boundary hedges. Whilst in these latter views the proposed dwelling would be seen against the backdrop of the farm complex, it would nonetheless result in a noticeable reduction in openness. The visual encroachment of built development into the countryside including a garden, parking area and domestic paraphernalia would also occur.
19. The appellant suggests that the proposed development would not have a greater impact on the Green Belt, than other similarly approved agricultural worker's dwellings. To that end, I have been provided with a number of site plans from other determined applications⁴. I do not doubt that other agricultural worker's dwellings have been granted planning permission elsewhere within the Lancashire Green Belt. However, the full details of these cases including whether very special circumstances were demonstrated to justify new buildings within the Green Belt, are not before me. Consequently,

¹ The Town and Country (Use Classes) (Amendment) (England) Regulations 2020.

² Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404.

³ Paragraph: 001 Reference ID: 64-001-20190722.

⁴ Planning application references 18/01004/OUT (Chorley Council); 2016/0711/FUL and 2020_0509_FUL (West Lancashire Borough Council); 07/2015/1404/FUL and 07/2017/2215/FUL (South Ribble Borough Council) and 17/0735 (Fylde Borough Council).

they do not alter my findings with regard to the impact of the proposal on openness.

20. The proposal would result in permanent harm to the spatial and visual openness of the Green Belt. Consequently, I find conflict with Policy CP8 of the CS and paragraph 142 of the Framework as set out above.

Other Considerations

21. There is no dispute that the appeal site is located outside of any designated development boundary. Paragraph 84 of the Framework seeks to avoid the creation of isolated new dwellings in the countryside unless particular circumstances apply. This includes the essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near, their place of work in the countryside.
22. There is no specific CS policy in respect of the essential need for a rural worker's dwelling. Although now cancelled, the parties agreed at the Hearing that Annex A of Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7), sets out a tried and tested methodology for assessing if there is an essential need for an agricultural worker's dwelling on a particular enterprise⁵. These include functional and financial 'tests.'
23. Neither the development plan nor the Framework refer explicitly to a financial test. However, I am mindful of the advice in the PPG which sets out that relevant considerations for rural workers dwellings can include the degree to which there is confidence that the enterprise will remain viable for the foreseeable future⁶. I am therefore satisfied that it is appropriate to consider the financial viability of the rural enterprise, as well as the functional need.

Essential Need

24. Following miscalculations by both parties in the written evidence, it was agreed in the Council's SoCG and by the parties at the Hearing, that the enterprise generates a need for 1.24 full-time equivalent workers. This need is currently fulfilled by the appellant and his brother who reside in the existing dwellings on the farm.
25. I am referred to the Keen judgement which established that accommodation needed to not only exist but also be available⁷. The Council does not dispute the relevance of this judgement, and the parties agreed at the Hearing that the 2 existing dwellings would not be available once the appellant and their brother retire. I have no reason to take an alternative view in this instance, although I note that at some point in the future the existing dwellings would become available.
26. The proposed dwelling is said to be required to facilitate succession planning for the farm business which the appellant's daughter intends to take over. It was clarified at the Hearing that the appellant's daughter and her husband currently work full-time in other employment, contrary to the evidence provided within the appellant's planning statement⁸. Nevertheless, I heard that the appellant's daughter spends evenings and weekends at the farm assisting with the requirements of the enterprise in part, due to the age and physical

⁵ Appendix 11 of the appellant's statement of case.

⁶ Paragraph: 010 Reference ID: 67-010-20190722.

⁷ Keen v Secretary of State for the Environment and Aylesbury Vale District Council [1996] JPL 753.

⁸ Paragraphs 5.2.2, 5.2.4 and 6.1 of the Planning Statement by P Wilson & Company as provided at Appendix 2 of the appellant's statement of case.

limitations of the appellant and his brother. This includes emergency out of hours assistance. However, it is not clear how much of the evenings and weekends the appellant's daughter spends at the farm tending to her own flock of sheep, rather than the animals belonging to the enterprise.

27. The main need for someone to be on site to tend to the animals relates to calving, which can often occur at night. The presence of a farmer when cows give birth can be important to ensure that the calf takes its first breath and suckles from its mother. The 50 strong suckler herd calve all year round. Whilst the RSK ADAS Consultants report advises that this would on average equate to just under one supervision week each throughout the year⁹, the discussion revealed that there may be periods where cows calve together and conversely there may be periods where no calves are born. Although the appellant suggests this average is not helpful, it does demonstrate that due to the relatively low numbers of stock, that calving is more episodic and does not generate the need for a worker to be on-site constantly.
28. Discussions during the Hearing also revealed that cows generally show signs when they are about to calve, such that the farmer will know when they need closer observation and can make suitable arrangements for care. Moreover, it is not clear how many cows and calves actually require human intervention during and post birth, to generate a demand for a continual on-site presence.
29. The appellant's daughter lives approximately one mile from the appeal site. Given the short journey times and the relatively low level of animals requiring a regular and consistent on-site presence, I find little evidence that a timely response could not be provided from such accommodation, or more temporary provision on the farm. General upkeep and maintenance, for example mending fences, whilst important work, could be undertaken by someone living off-site.
30. I do not doubt that the appellant's daughter, along with her husband, provides invaluable support to their relatives and that this can at times, have a negative impact on their own family, particularly when required to provide essential animal care at short notice, including during the night. Although the proposed dwelling would be more convenient for family life, based on the method of farming and stock numbers presented, it has not been demonstrated that the enterprise at its current scale generates a need for a continual on-site presence.
31. The description of development is not specific in terms of the size of the proposed dwelling. However, at the Hearing the appellant did not dispute the Council's position that the proposal would produce a detached 4-bedroomed dwelling. Accepting that this is an outline proposal, whilst a dwelling of this size may meet the personal circumstances of the appellant's daughter, there is no functional justification for a dwelling of this size. On the basis of the evidence presented, I am unable to conclude that the proposal would be of a size commensurate with the established functional requirement of the enterprise.
32. Furthermore, the appellant advises that the traditional barn within the farm complex could not be converted to provide a dwelling. At the site visit, I observed that the barn is in use for storage purposes, but it is unclear to what extent this storage is essential to the operation of the enterprise. At the Hearing the Council also pointed to other forms of possible development including the extension of the existing dwellings through the exercise of

⁹ Page 2 of the RSK ADAS report as provided in Appendix 6 of the appellant's statement of case.

permitted development rights¹⁰. Even if an essential need for a dwelling had been demonstrated, it has not been satisfactorily demonstrated that there are no other alternatives to provide accommodation at the appeal site, to prevent the erection of a new building within the Green Belt.

Financial Viability

33. In existence since circa 1947, the farming enterprise is clearly established. Annual accounts for the years ending October 2019, 2020 and 2021 have been provided. They indicate that the business was profitable in one of these 3 years (2021). However, the accounts indicate that the profit appears to have been bolstered by the sale of fixed assets (plant and machinery) and additionally that capital has been put into the business from elsewhere¹¹. Even allowing for some living expenses to be accounted for through the business, drawings for the directors were meagre, and less than the amount of the capital supplement.
34. Notwithstanding the intention that the appellant's daughter would take over the majority control of the business in the future, she is not currently a named director of, nor an employee of the business. I see no particular reason why a dwelling needs to be provided before the business is of a sufficient scale and profitability and measures are exercised to hand over the business, as suggested by the appellant at the Hearing.
35. The appellant's daughter provides unpaid labour to support the work of the holding, which appears to conceal a cost to the business. Based on the supplied accounts, I am not convinced that the business makes sufficient profit to be able to pay her a realistic salary.
36. Furthermore, it is intended for the proposed dwelling to be privately funded. It was confirmed at the Hearing that the property would likely remain in the separate ownership of the appellant's daughter and her husband, rather than being an asset of the business. Whilst there would be an agricultural occupancy restriction on the proposed dwelling, there would be no tie to prevent the business and dwelling from being sold-off separately from each other.
37. I acknowledge that there is no development plan or national planning policy requirement for the farming business to fund the construction of the proposed dwelling. Nonetheless, it is the business itself which must be viable and capable of supporting the proposed dwelling. Considering the outline nature of the proposal and the uncertainty regarding the proposed dwelling's exact size and scale, the resultant construction costs are unknown. Regardless, it is clear from the supplied accounts that the enterprise could not fund what is likely to be a significant expenditure for the construction of the proposed dwelling.
38. Moreover, I have not been provided with more recent accounts for 2022 or 2023. Nor do I have a business plan or other financial forecasts regarding the ongoing viability of the enterprise once the appellant's daughter takes over, to clearly demonstrate that the enterprise has a clear prospect of remaining financially sound and able to support an agricultural worker.

Conclusion – Other Considerations

39. Based on the evidence presented, it has not been adequately demonstrated that there is an essential need for an additional dwelling to accommodate a

¹⁰ Set out in the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended.

¹¹ Appendix 10 of the appellant's statement of case.

rural worker at the appeal site, to support the existing farming enterprise. Furthermore, based on all that I have heard and read I have reservations regarding the financial viability of the business to support an agricultural worker and the construction and ongoing costs associated with the proposed dwelling.

40. The proposal would conflict with Paragraph 84 of the Framework that requires an essential need to be demonstrated for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work. It would also conflict with the advice contained within the PPG (paragraph: 010 Reference ID: 67-010-20190722).

Other Matters

41. Given the appellant's contention that the proposed dwelling is required in a specific location to meet the needs of an existing agricultural enterprise, the suggested sustainable location of the proposed dwelling, along with the provision of existing infrastructure and utilities, weigh neutrally, neither for nor against the proposal.
42. The appellant suggested at the Hearing that appeal decision APP/N1730/W/20/3257541 as presented by the Council, should be given full weight in the determination of the appeal. The circumstances are not comparable given the greater number of livestock involved and the lack of a permanent dwelling on site for an established enterprise. This does not affect my findings.
43. At the Hearing the appellant raised concerns about the construction of a barn within the Green Belt that is visible from the appeal site. The full details of this proposal including the circumstances of any permission granted are not before me, such that it could be considered to be comparable to the development proposed. Concerns regarding compliance with a planning permission are a separate matter for the parties.

Green Belt Balance and Conclusion

44. The proposal would be inappropriate development in the Green Belt which would result in a loss of openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
45. Given the substantial weight to be attached to Green Belt harm, the harm is not clearly outweighed by an essential need for a rural worker's dwelling to ensure the effective operation of an agricultural enterprise. The very special circumstances required to justify the development have not been demonstrated. The development conflicts with Policy CP8 of the CS and paragraphs 154 and 84 of the Framework.
46. Consequently, the proposal conflicts with the development plan and there are no material considerations including the approach within the Framework, which indicate a decision should be made otherwise than in accordance with it. Accordingly, the appeal is dismissed.

M Clowes - INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Robert Harrison	P Wilson & Company
Daniel Perch	P Wilson & Company
Alan Blears	Appellant
Heather Dandy	Appellant's Daughter
Robert Dandy	Appellant's Son-in-Law

FOR THE LOCAL PLANNING AUTHORITY

Jon Corcos	Senior Planning Officer
Alison Truman	Development Management Team Leader
Kenny Dhillon	Director ADAS Planning
Stephen Watson	Principal Agricultural Consultant ADAS Planning