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# Appeal Decision

Site visit made on 1 February 2024

**by J Smith MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3<sup>rd</sup> April 2024**

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**Appeal Ref: APP/N4205/W/23/3328355**

**Bank Top Farm, Mill Lane, Aspull, Bolton, Lancashire WN2 1QG**

- 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 Mrs Karen Mercer against the decision of Bolton Metropolitan Borough Council.
  - The application Ref 15516/23, dated 25 February 2023, was refused by notice dated 23 June 2023.
  - The development proposed is the conversion of agricultural building to single detached dwelling.
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## Decision

1. The appeal is allowed and planning permission is granted for the conversion of agricultural building to single detached dwelling at Bank Top Farm, Mill Lane, Aspull, Bolton WN2 1QG in accordance with the terms of the application, Ref 15516/23, dated 25 February 2023, subject to the conditions set out in the schedule attached to this decision.

## Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the matters relied on by the main parties are unchanged. Therefore, I did not need to consult with the main parties regarding the revised Framework and in determining this appeal, I have had regard to the most recent version and any references refer to the revised numbering in that version.

## Main Issues

3. The main issues in this appeal are:
  - Whether or not the development is inappropriate development in the Green Belt having regard to the Framework, including any relevant effects on the openness of the Green Belt, and with regard to any relevant development plan policies;
  - The effect of the proposal on the character and appearance of the area; and,
  - The effect of the proposal on the integrity and maintenance of the Public Right of Way (Westhoughton 054).

## Reasons

### *Whether or not the proposed development is inappropriate development in the Green Belt and its effect on openness*

4. The proposed development is the conversion of an agricultural building (the barn) into a dwelling, with the demolition of stable blocks to the side elevations of the host building. The barn is surrounded by three dwellings which all vary in their design. These include a bungalow, farmhouse and barn conversion. The appeal site is located within the Green Belt. Paragraph 155 of the National Planning Policy Framework (the Framework) sets out certain developments which are not inappropriate in the Green Belt, provided that they preserve its openness and do not conflict with the purposes of including land within it.
5. Policy CG7AP of the Bolton's Allocations Plan 2014 (AP) seeks to prevent inappropriate development in the Green Belt, with the exception of new buildings for agriculture and forestry, the extension or alteration of a building provided that it does not report in disproportionate additions and the replacement of a building, amongst other things. Paragraph 155 of the Framework sets out other certain forms of development which are also not inappropriate within the Green Belt. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction. Policy CG7AP of the AP broadly conforms to the general thrust of national Green Belt policy, as it seeks to prevent inappropriate development.
6. The Council suggest that the building is not of permanent and substantial construction as the proposal would indicate that there would be significant rebuilding required to facilitate this conversion. I note that a number of elements are to be removed from the barn. These include lean to structures of the side elevation. However, crucially, the main structure and appearance of the barn would remain.
7. I have had regard to the structural survey which accompanies this appeal. This survey finds that the barn is free of significant structural defects and the removal of the lean to stables of the barn would not affect the structural integrity of the building. Furthermore, I am of the view that the rebuilding of some walls principally where demolition would occur, the addition of a new roof material, a damp proof membrane, surfacing and internal and external cladding to insulate the proposal are an acceptable form of change for such a development. This is not beyond what is deemed necessary for habitable use. I am therefore satisfied that the host building is of permanent and substantial construction. I turn then to the matter of openness.
8. The appeal building is a large barn with ancillary stables to its side elevations. These would be removed, and a lean-to garage would replace this structure to one of the side elevations. The proposed rear elevation would also be altered, which would inset the large, glazed element and remove some of the floor space which currently exists. These changes would reduce the overall footprint of the building, even when considering the addition of a lean-to structure to be used as a garage. This would result in a reduction of floor space and overall massing which would promote the openness of the Green Belt in this instance.
9. The Council suggest that the increase of parking activities, refuse storage and other domestic paraphernalia would lead to a more intensive use than the existing situation. Openness would be reduced through this increase in

residential use. However, the area around the appeal building is currently used for the parking of vehicles of both farm and personal use. The provision of a small area of garden space to the rear of the building would be largely concealed by a drop in height due to the existence of a retaining wall in this position. I therefore find that this proposal would not reduce the openness of the Green Belt to an extent that would be harmful due to its existing use and limited curtilage of the proposed dwelling.

10. The exterior of the building would be changed through the provision of glazing, roof lights and cladding. The Council suggest that this would reduce the openness of the Green Belt through its increase in light spill from the increase of glazing in the elevation and roofscape. At certain times of use, light spill is a possibility especially from the large, glazed element to the rear elevation. However, due to the inset to the covered porch area of the rear elevation, the rise in land in front of the rear elevation which would aid in hiding the full rear wall, the height of the building where rooflights are proposed and the downward facing nature of lighting fittings, this light spill would be limited. Additionally, given the existing residential buildings which surround the appeal site, the contribution that this one building would make to light spill of the immediate locality would be small in this context.
11. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Green Belt serves five purposes and I am satisfied that this proposal would not conflict with those purposes. Furthermore, I have found the existing building to be of permanent and substantial construction and that it would preserve the openness of the Green Belt. Accordingly, I consider that it would not be inappropriate development and would accord with the Framework and Policy CG7AP of the AP in this regard.

#### *Character and appearance*

12. The proposed demolition of the stables to either side of the existing building, provision of a garage and roof canopy would still retain the overall structural shape, general form and roof profile of the agricultural barn. With regard to the large rear glazed element, this has been designed with an inset within the large gabled feature of the building. From a distance, due to the combination of the inset, shading and dark wall material colour, this would appear as a large barn opening. This is a general characteristic of many agricultural barns. More decisively, the overall shape and structure of the building would be retained, which would contribute to retaining its character and that of the area generally.
13. The barn is of a substantial size and form, with white painted or untreated breezeblock at its lower levels with corrugated sheeting to its roof and higher elevations. The residential buildings which surround the appeal property are all of a different design and utilise a variation of brick colour in their appearance. The proposed materials would utilise brick slips to match the existing adjacent farmhouse. Additionally, the zinc cladding proposed to the higher elevations would be similar in colour to the existing material type. The use of these materials would result in a cleaner appearance, which would be more residential in character. However, the building would still have the appearance of the split in materials to its elevations, would match the brick of neighbouring buildings and would retain its use of simple materials.

14. From my observation on my site visit, I also note that a form of rooflight is present in the existing roofscape, with a total of 8 rooflights. These would be removed with the provision of a zinc cladding to the roof, and the addition of 10 rooflights in total. As such, I do not find that the addition of new rooflights along with a new roof material, would be incongruous when considering the existing structure, form and materials of the barn.
15. As such, the combination of the proposed form, materials and acknowledgement of the existing features would not result in a development whose character or appearance would be incongruous in its surroundings. The proposal would comply with Policies CG3 and OA3 of the AP, and the guidance found within the General Design Principles Supplementary Planning Document (SPD). These policies and SPD seek for development to be compatible with the surrounding area, with regard to local materials and to the character of farm complexes, amongst other things.

### *Public Right of Way*

16. The Westhoughton 054 Public Right of Way (PROW) passes through the farm from the approach along Mill Lane. The Council are concerned with how the proposal would retain this PROW, and that an existing muck midden impedes part of this PROW. No management plan of the PROW provided by the appellant. However, from my observations on site, I have noted the existing the arrangement in place. Currently, the official PROW route would not be possible for users to follow as the walls of the barn are constructed over it. This results in a small, natural and simple deviation for PROW users.
17. The appellant has also provided a site plan to clarify this route and to demonstrate that the PROW would not be affected by the proposal. The development would not result in the further extension of the building over this PROW, or cause an obvious barrier to PROW users. The proposed amenity space to this dwelling would be situated in a different area of the site and therefore this would not block the PROW. This arrangement allows access through the site, even with an existing muck midden in situ.
18. In the evidence before me, I have noted that the appellant indicates that this muck midden would be removed and that this can be conditioned. This view is also shared by the Council. As such, a condition to ensure this will be discussed later in this report. Commentary from both parties is evident on the official legal realignment of the PROW. This is undertaken through a separate legal process and is not for consideration under this appeal.
19. To conclude, the introduction of planning conditions would alleviate this harm and retain the integrity of the PROW. As such, the proposal would comply with the provision of Policy P8AP of the AP. This policy permits development proposals, provided that the integrity of the right of way is retained.

### **Other Matters**

20. A number of comments have been provided by interested parties. These are consultees which have either recommended refusal of the application based on the above main issues or have provided suggested conditions. These are discussed later in this decision.

## Conditions

21. In addition to the statutory time condition [1], I have applied conditions specifying the approved plans [2] and a condition requesting samples of the external materials to be used [3] in the interest of certainty and to safeguard the character and appearance of the area. A condition regarding the provision and retention of car parking spaces [4] has been applied. This is to ensure that adequate spaces are available to the proposed dwelling before its occupation. I have applied a condition to restrict construction to take place outside of the bird nesting season [5] and a scheme for Biodiversity Compensation and Enhancement measures [6] to be submitted. These conditions are necessary to safeguard nesting birds and maintain appropriate biodiversity within the appeal site. A condition requiring an assessment of the risks posed by any contamination [7] has been applied. This is necessary to safeguard against any risks associated with contaminated land, given its previous use for the storage of farming vehicles and the proposed use of residential accommodation. The removal of the muck midden on site, and the retention of access for the Westhoughton 054 has been conditioned [8] in the interest of certainty in relation to maintaining the accessibility to the PROW.
22. Some conditions have been amended following a similar suggested condition from the Council. This has been undertaken for clarity and to meet the six tests for imposing planning conditions. The Council has suggested conditions which would require the submission of a Construction Environmental Management Plan and the submission of a testing methodology for soil material which could be brought to site. No evidence has been provided to explain how these conditions are necessary or relevant to the proposed development. I therefore find that these conditions are unreasonable, and I have therefore not included them within my decision.

## Conclusion

23. The proposed re-use of the barn would not be an inappropriate development in the Green Belt. The alterations would not harm the character and appearance of the area, or cause harm to the integrity of the PROW. For the above reasons, the development would not conflict with the policies of the development plan or the Framework. Having had regard to all matters raised, I conclude that the appeal should be allowed.

*J Smith*

INSPECTOR

### *Conditions schedule*

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in complete accordance with the following approved plans:
  - Proposed Ground and First Floor Plans, dated 03/10/2022, drawing number PL K1065/01 Rev F
  - Proposed Front and Side Elevations, dated 03/10/2022, drawing number PL K1065/03 Rev D
  - Proposed Rear and Side Elevations, dated 03/10/2022, drawing number PL K1065/04 Rev E
  - Proposed Site Plan, dated 03/10/2022, drawing number PL K1065/00 Rev D
- 3) No above ground construction works shall take place until samples or full details of materials to be used externally on the buildings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The approved materials shall be implemented in full thereafter.
- 4) Before the approved development is first brought into use vehicle parking spaces shall be provided within the curtilage of the site and retained thereafter, in accordance with approved plan Proposed Site Plan, dated 03/10/2022, drawing number PL K1065/11 Rev D. Such spaces shall be made available for the parking of vehicles at all times.
- 5) No works to or demolition of buildings or structures that may be used by breeding birds shall take place during the main bird breeding season 1st March and 31st August inclusive, unless an ecologist has undertaken a detailed check of the structures for active birds' nests immediately before the works commence and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to the local planning authority.
- 6) No above ground construction works shall take place until a scheme for the Biodiversity Compensation and Enhancement Measures shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to first occupation of the development (or in accordance with a phasing plan which shall first be agreed in writing with the local planning authority) and shall be retained thereafter.
- 7) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model

Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.

- 8) The muck midden indicated to be removed in the Appeal Statement (RG/RG/G267/L001) shall be removed prior to the commencement of the main building operations and thereafter the area shall remain clear. Access to Public Right of Way (Westhoughton 054) shall be retained during the building operations and retained thereafter.