



Appeal Decision

Site visit made on 2 April 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th June 2024

Appeal Ref: APP/D2320/W/23/3331910

White Gates, 75 Gorsey Lane, Mawdesley, Ormskirk, Lancashire L40 3TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Paul Bennet against the decision of Chorley Borough Council.
 - The application Ref is 23/00616/PIP.
 - The development proposed is 8 new build older person's accessible bungalow dwellings with new vehicular access from Gorsey Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
4. The description of development in the above banner heading is taken from the planning application form. I have however removed the words "*...on land to rear of Whitegates, 75 Gorsey Lane, Mawdesley...*" as this does not form part of the development.
5. The description of the development on the submitted application form refers to "*8 new build older person's accessible bungalow dwellings...*" whereas the description of development on the Council's decision notice states "*...for up to 9 new build older persons accessible bungalow dwellings*". This discrepancy is due to a slight inconsistency on the submitted application form.
6. I therefore sought confirmation on this matter from the appellant who has subsequently confirmed that the proposal seeks permission in principle for a maximum of "*8 new build older person's accessible bungalow dwellings...*". I have determined the appeal on that basis.

¹ PPG Paragraph: 012 Reference ID: 58-012-2-180615

7. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Both parties, within their respective submissions had an opportunity to comment on the revised Framework. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.
8. The Council's reason for refusal does not make reference to any relevant Development Plan Policies and therefore relies on the Framework in respect of Green Belt Policy. As such, and for the purposes of this particular appeal, I have considered the effect of the proposal within the Green Belt in accordance with the Framework.
9. The appellant has drawn my attention to case law² which details that the concepts referred to in the Framework policy for Green Belt, such as "*inappropriate development*", "*very special circumstances*", the preservation of the "*openness*" of the Green Belt, and the impact of development on "*the purposes of including land within it*" are matters of planning judgement and not concepts of law. I have had due regard to this judgment throughout my determination of this appeal.

Main Issues

10. The site lies within the Green Belt and the main parties agree that the proposal would represent inappropriate development in the Green Belt as defined in the Framework. I concur with that position.
11. Accordingly, the main issues are whether the site is suitable for residential development having regard to its location, the proposed land use, and the amount of development with respect to:
 - the effect of the development on the openness of the Green Belt; and
 - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances necessary to justify the development.

Reasons

Effect on openness

12. The appeal relates to a plot of land located on the northern side of Gorsey Lane, within land designated as Green Belt, adjacent to the Settlement Area of Mawdesley. The site would be accessed directly from Gorsey Lane, between two residential plots fronting onto this highway which each have planning permission for a single dwelling³. At the time of my site visit one of these dwellings was substantially built and this dwelling is known as 75 Gorsey Lane.
13. To the southeast of the appeal site two dwellings fronting onto Back Lane were also in the process of being constructed⁴. The submitted details explain that an additional dwelling has also been granted permission to be erected between these two dwellings and the dwelling under construction at 75 Gorsey Lane.

² Alison Hook v Secretary of State for Housing, Communities and Local Government Surrey Heath Borough Council [2020] EWCA Civ 486

³ LPA Refs: 21/00668/FUL and 21/01434/REM

⁴ LPA Ref: 21/00380/FUL

14. My attention has also been drawn to a converted former stable building to the west of the appeal site, and an approval for an existing barn to be demolished and replaced with a dwelling to the east.
15. Paragraph 142 of the Framework sets out that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence.
16. Technical details are considered at a later stage in the process, with considerations in the appeal before me limited to location, land use and the amount of development. However, openness is a fundamental characteristic of the Green Belt and therefore the effect of the appeal proposal on the openness of the Green Belt is a matter for consideration at permission in principle stage. The appellant draws my attention to several leading cases⁵ as to how openness should be assessed, and the Courts have confirmed that the openness of the Green Belt has spatial and visual aspects.
17. The appeal site is currently devoid of any structures or built form. The erection of up to 8no. bungalows, along with the associated works which according to the indicative layout would include the new road serving these dwellings, as well as any associated paraphernalia such as cars, driveways, garages, boundary treatments etc... represents a significantly sized development. By occupying a space that is currently undeveloped land the appeal proposal would inevitably reduce the spatial openness of the Green Belt. Furthermore, the appeal proposal not safeguard the countryside from encroachment, and thus conflicts with one of the five purposes of the Green Belt, as specified at paragraph 143 of the Framework.
18. In visual terms, I acknowledge that the appeal site is set back from the highway of Gorsey Lane, save for the access point, and the proposed dwellings would be positioned to the rear of the dwellings that have extant permissions to front onto Gorsey Lane. Nevertheless, at the time of my site visit only one of these approved dwellings was being constructed and therefore the plots either side were vacant. These vacant plots currently afford views of the appeal site from Gorsey Lane.
19. Furthermore, even if these two vacant plots are developed in the future, given the detached nature of the approved dwellings, which would be sited within relatively spacious plots, views of the appeal site would be possible from Gorsey Lane between these properties. Additionally, a view of the appeal proposal would also be possible through the gap that will provide access from Gorsey Lane.
20. I acknowledge that the bungalow design of the properties would somewhat reduce their effect on openness in terms of their visual dimension in comparison to a proposal for two storey dwellings. However, this does not alter that the proposed bungalows, and the associated works and paraphernalia, would still be visible from certain public vantage points on this highway in close

⁵ John Turner vs SoSCLG and East Dorset Council [2016] EWCA Civ 466; Euro Garages Ltd v SSCLG & Anor [2018] EWHC 1753 (Admin); Samuel Smith Old Brewery (Tadcaster), Oxtan Farm v North Yorkshire CC & Darrington Quarries Ltd [2018] EWCA Civ 489; and Samuel Smith Old Brewery (Tadcaster) and others (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

proximity to the appeal site and have a significantly greater visual impact on openness than the existing undeveloped site.

21. The proposed development would also be visible from the rears of a number of existing dwellings fronting onto Gorsey Lane, as well as the rears of the future dwellings that are currently being constructed, or could be constructed under extant planning permissions. Thus, the appeal proposal would have an effect on the visual openness of the Green Belt when viewed from these existing, and future, properties.
22. Additionally, to the east of the appeal site, and in relatively close proximity is a Public Right of Way⁶ (PROW) and from this PROW the proposed development would be prominently viewed. From here the appeal proposal would represent a significant encroachment into the countryside and have a harmful visual impact on openness.
23. The appellant has made reference to the appeal proposal sitting alongside an existing converted outbuilding to the west. I have been provided with very limited details in respect of this converted outbuilding, however from my observations on site I do not consider this converted outbuilding to be directly comparable to the appeal proposal which seeks to erect up to 8no. new dwellings, with associated works, on land that is currently vacant. Furthermore, the appeal proposal would be sited closer to this PROW than the existing converted outbuilding, and thus would be more visually prominent from this PROW.
24. I note the appellant has also made reference to an existing wooden fence situated close to the boundary of the appeal site, however from my observations on site the proposed development, particularly the roofs of the dwellings, would be visible above this fence from this PROW.
25. Furthermore, there are two further PROWs⁷ to the rear (north) of the appeal site. These PROWs are located a reasonable distance from the appeal site, nevertheless having walked these PROWs on my site visit there are certain vantage points along both from which the appeal site, and therefore the proposed development, would be visible.
26. In view of the above, the development of up to 8no. bungalows, and associated works and paraphernalia, into an area of land that is currently vacant and devoid of any built development, would in both spatial and visual terms have a significantly harmful impact on the openness of the Green Belt. The proposal would also conflict with the purpose of the Green Belt which seeks to safeguard the countryside from encroachment.

Other considerations

27. The appellant has drawn my attention to the Chorley Council Housing Need and Demand Assessment 2022 (HNDA). The Executive Summary of the HNDA states that this document provides the Council with up-to-date evidence on housing need across all sections of the community over the period 2021 to 2038.
28. Furthermore, the document states that the HNDA report compliments the Central Lancashire Housing Needs Assessment and the objective of the study is

⁶ FP0919029

⁷ FP0919027 and FP0919028

to identify the level and distribution of future housing needs across Central Lancashire for the period 2023 to 2038, and to provide a robust and up to date evidence base to inform the emerging Central Lancashire Local Plan (CLLP). As such, whilst the HNDA does not form part of the development plan, it is a significant material consideration in the determination of this appeal.

29. The HNDA states that over the period 2021 - 2038 the number of people aged 65 or over in Chorley is expected to increase by 9,753, which represents a 39.9% increase, and the number of households headed by a person aged 65 or over is expected to increase by 6,441 (40.7%) by 2038.
30. The HNDA therefore calculates that there is total additional need for 771 older persons units by 2038, with 453 of these provided as dwellings, and this equates to 25 dwellings each year over the period until 2038.
31. The appellant contends that the settlement of Mawdesley is characterised by older families and mature couples, and suggests that there is a ready-made market for older persons accommodation. I have however been provided with limited information to substantiate this claim.
32. The appellant also comments on the high average house prices in Mawdesley, stating that this leads to issues around land values and land availability, resulting in available land being required to support market housing. The appellant goes on to state that there are no available sites within the settlement of Mawdesley for this type of older person's accommodation, either within the settlement or adjacent to it. I can see from table 3.3 in the HNDA that in 2020 Mawdesley had the fourth highest median house price out of all the settlements in Chorley, and I accept that this can have an impact on land values and site availability.
33. In any event, as mentioned earlier the objective of the HNDA is to provide a robust and up-to-date evidence base to inform the emerging CLLP. The Council has confirmed that the emerging CLLP will look at the distribution of new homes across the plan period. Consequently, I have very limited information before me that the levels of older persons accommodation detailed in the HNDA cannot be secured within the emerging CLLP.
34. Furthermore, there is no evidence that the additional demand for older persons units could not in part be met through the potential adaptation and modification of the existing housing stock within the borough, in addition to the construction of new dwellings.
35. Nevertheless, the HNDA does clearly demonstrate that there will be a growing need for additional specialist older persons accommodation in the Borough in the period up to 2038, and therefore the provision of older persons accommodation is a benefit that weighs in favour of the appeal proposal.
36. Furthermore, interested parties have commented that the provision of smaller bungalows will be of benefit as such property types are rare and this area is currently subject to developers seeking to build larger houses. The HNDA supports this statement by commenting that the conclusions from the 2021 household survey indicate that smaller dwellings are needed to accommodate older movers, however it does also state that there are also households who require the same or even an increase in the number of bedrooms.

37. Table 2.3 within the HNDA shows that the percentage of 2, 3 and 4-bedroom bungalows against the overall dwelling stock in Chorley is above the percentage levels within Central Lancashire, the North West and England. This table however also shows that the percentage of 1-bedroom bungalows in Chorley is below these other areas.
38. At permission in principle stage it is not however possible to ascertain the size of the properties or the number of bedrooms that would be provided within the proposed bungalows. Nevertheless, the provision of bungalow house types weighs in favour of the development.
39. In view of the above, when combining the benefits of the type of housing proposed, the need for older persons accommodation in the borough and the location of the appeal site adjacent to the settlement of Mawdesley, I collectively attribute these benefits significant weight in favour of the appeal proposal.
40. Interested parties have also commented that the provision of these properties would allow existing residents to downsize from their existing properties and stay close to family support within the village, as well as freeing up larger homes for families. Whilst I acknowledge this point, there is no mechanism before me to secure that the proposed dwellings would be for residents that have a local connection to the village. As such this matter carries limited positive weight in favour of the appeal proposal.
41. The Council's Officer Report states that the Council can demonstrate 3.3 years of deliverable housing supply based on the latest Five-Year Housing Supply Statement. The provision of up to 8no. dwellings would make a small contribution to the Council's housing supply. Nevertheless, given the Council's current housing land supply position, I attach moderate weight to this benefit. In coming to this view I have had regard to the judgment⁸ cited by the appellant in respect of the weight to be attached to any shortfall in housing supply being a matter of planning judgement.
42. Economic benefits would arise from the proposal, including contributions to the local economy during the design, planning and construction phases of the development. These however would be short term benefits. Further economic benefits would also arise from additional spending in the area by future occupants of the dwellings. Cumulatively, given the scale of development the economic support to the area arising from the appeal proposal would be relatively small. I therefore attach limited weight in respect of the economic benefits.
43. The appellant also states that the proposal would provide enhanced open space and enhanced green infrastructure, along with improved accessibility to said infrastructure. I have been provided with very limited detail in respect of these benefits or how they will be delivered as part of the appeal proposal. Furthermore, as this is a permission in principle application there would be no mechanism to secure these benefits at this stage. As such, and on the limited evidence before me as to what the enhanced open space and enhanced green

⁸ Hunston Properties Limited v. (1) Secretary of State for Communities and Local Government and (2) St. Albans City and District Council [2013] EWHC 2678 (Admin); and St Albans City and District Council v (1) Hunston Properties Limited and (2) Secretary of State for Communities and Local Government [2013] EWCA Civ 1610

infrastructure would provide, as well as how it would be accessible to the public, at permission in principle stage I attribute limited weight to this matter.

Other Matters

44. The appellant has drawn my attention to updated comments received from Lancashire County Council Highways in which no objection was raised to the appeal proposal and that the Council's submission does not refer to these updated comments.
45. The Council's reason for refusal however does not relate to any highway matters and in any case this is a technical matter which would be for consideration at technical details stage rather than at permission in principle stage. Consequently, this highway implications of the scheme have not been considered in the determination of the appeal for permission in principle.

Green Belt Balance

46. The appeal proposal constitutes inappropriate development in the Green Belt and results in significant harm to openness. By virtue of paragraph 153 of the Framework this harm attracts substantial weight.
47. The Framework makes it clear that the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, must be clearly outweighed by other considerations. I find that there are matters which weigh in favour of the scheme, including the provision of older persons bungalows on a site that is located adjacent to the settlement boundary to which I have attributed significant weight. However, all these other considerations do not clearly outweigh the harm to the Green Belt identified above. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case.

Planning Balance and Conclusion

48. As the Council are currently unable to demonstrate a 5-year supply of deliverable housing sites, consequently paragraph 11(d) of the Framework applies. However, for the reasons detailed within this decision, the aforementioned harm to the Green Belt provides a clear reason for refusing the development in accordance with paragraph 11(d)(i) of the Framework. As such, the proposal does not benefit from the presumption in favour of sustainable development set out in the Framework.
49. For the reasons set out above, the proposal conflicts with the provisions of the Framework and therefore for the reasons given above, I conclude that the appeal should be dismissed.

R Major

INSPECTOR