



Appeal Decision

Site visit made on 14 May 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th June 2024

Appeal Ref: APP/A2335/W/23/3334128

**Thwaite End Barn, Main Road, Bolton Le Sands, Carnforth, Lancashire
LA5 9TN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mason against the decision of Lancaster City Council.
 - The application Ref is 23/01048/FUL.
 - The development proposed is the subdivision of existing pool house to provide 3 dwellings at Thwaite End Farm.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

3. The main issues of the appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies including, where appropriate, its effect on openness;
 - Whether the proposed development would provide adequate living conditions for future occupiers, with particular regard to outlook and the provision of private outdoor amenity space; and
 - 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

4. The appeal site comprises a single storey, I-shaped building, which is currently in use as a pool room, gym, and garage. It is attached to Thwaite End Barn, an existing residential property. The site has extensive grounds with an

agricultural type building and a large area of hardstanding also present within the site.

5. Thwaite End Farm, a separate property, and Grade II Listed Building, which features a small agricultural/equestrian building is located in close proximity to the appeal site.
6. The site is located between the settlements of Bolton-le-Sands and Carnforth and is accessed via a long driveway from the main road (A6). The land around the appeal site is steeply sloping. Due to the steeply sloping land, the appeal site and neighbouring buildings are set significantly lower than the main road. The site is designated as open countryside and is also within the North Lancashire Green Belt.
7. The appeal proposal is a revised scheme following the Council's refusal of a previous application¹ and seeks consent for the change of use of part of Thwaite End Barn into three separate 1-bed dwellinghouses with associated parking, gardens, package treatment plant and replacement windows and doors.

Whether Inappropriate Development

8. Paragraph 142 of 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.
9. Paragraph 155 of the Framework states 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. Paragraph 155(d) relates to the re-use of buildings provided that the buildings are of permanent and substantial construction.
10. Policy DM50 of the Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD, adopted July 2020 (DMDPD) states that inappropriate development will be resisted. In respect of the re-use of existing buildings, these will not be considered inappropriate where it does not have a greater impact than the present use on the openness of the Green Belt and the purposes for including land within it; that strict control is exercised over the extension of re-used building so that it does not result in a disproportionate addition over and above the size of the original building. It also requires that the building is of permanent and substantial construction and is capable of conversion without major or complete reconstruction.
11. As outlined above, the appeal proposal relates to the conversion of an existing building, currently in a residential use as part of Thwaite End Barn. There are no extensions proposed. Based on the evidence before me and my own observations at my site visit, the building appears to be of permanent and substantial construction and to be capable of conversion without major or complete reconstruction.
12. It therefore follows that the remaining considerations are whether the proposed development would preserve openness and not conflict with the purposes of including land within it. Openness is an essential characteristic of the Green

¹ Planning Application Ref: 22/01437/FUL

Belt, defined by an absence of buildings or other forms of development. Openness has a visual and spatial dimension and the effect, therefore, not only relates to a proposal's size or visibility from the surrounding countryside but also its purpose and intensity of its use.

13. The proposed alterations to the building would be minimal, primarily consisting of alterations to windows and doors. Consequently, these alterations would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
14. However, in addition to the re-use and conversion of the existing building, the proposed development would also involve the provision of three new garden areas. The garden areas for units one and two would be enclosed by a mixture of 1.8-metre-high stone walls and hedgerows. The proposal also involves the creation of additional parking areas, although no new hardstanding would be required.
15. The introduction of these boundary treatments would be necessary to define the individual areas of outdoor amenity space and to ensure adequate levels of privacy would be provided for future occupiers. Nevertheless, the introduction of boundary treatments together with additional domestic paraphernalia would result in additional clutter being introduced to the site, which would have an adverse effect on the openness of the Green Belt.
16. I accept that views of the site would be limited to more immediate views from within the site or the adjacent West Coast Mainline. However, openness has both a visual and spatial dimension. In this context the boundary treatments and domestic paraphernalia that would be introduced to the site would intensify the use of the site and therefore whilst the newly created gardens and parking areas would not be significant in their size, they would nevertheless, result in spatial harm to the openness of the Green Belt. It would also conflict with a purpose of including land within the Green Belt which is to assist in safeguarding the countryside from encroachment.
17. Whilst I recognise that the framework supports the re-use of buildings and therefore there is an expectation that some change will be required, the Framework does nevertheless require that the re-use of buildings preserve openness of the Green Belt. Therefore, even though the harm would be limited any harm fails to preserve the openness of the Green Belt.
18. I have had regard to the appellants case that new fences or boundary treatments could be erected using permitted development rights and I have also had regard to their suggestion that condition could be imposed to restrict future rights. However, in assessing the application as a whole I am not persuaded that the introduction of boundary treatments in isolation from any other development would have the same impact on openness of the Green Belt as the proposals.
19. For the above reasons, I conclude that the proposal would not preserve the openness of the Green Belt and would conflict with a purpose of including land within it. The proposal would not meet the exception set out in Paragraph 155(d) of the Framework, nor any of the other exceptions and developments in Paragraphs 154 and 155. It would therefore be inappropriate development in the Green Belt.

20. It would also be contrary to Policies EN3 and EN4 of the Lancaster City Council Local Plan – Strategic Policies and Land Allocations Development Plan Document (LADPD) and Policies DM29, DM46 and DM50 of the DMDPD. These policies seek, amongst other things, to resist inappropriate development in the Green Belt and to ensure development makes a positive contribution to the surrounding landscape.

Living Conditions

21. Policy DM29 of the DMDPD states that new development should ensure that there is no significant detrimental impact to the amenity in relation to overshadowing, visual amenity, privacy, overlooking, massing, and pollution. The supporting text to the policy states that, with the exception of flats, all new homes should provide at least 50m² of usable private garden space which is not directly overlooked. The supporting text also states that small north facing gardens should normally be avoided.
22. The garden for Unit 1 would be located to the west of the building close to the access and communal parking. Although no dimensions have been provided, based on the submitted plans the proposed garden area would appear to have a similar footprint to Unit 1 and so it follows that it would be likely to meet the minimum size requirement and with the proposed boundary treatments would provide adequate levels privacy for future occupiers.
23. The proposed garden area for Unit 2 would be north facing and located immediately adjacent to the large metal building within the site. Although no dimensions for this garden area have been provided, based on the submitted plans the garden area would appear to be of sufficient size to meet the minimum requirements. However, due to its position on lower ground to the appeal building and neighbouring properties, even with the proposed boundary treatments, there would be potential harm arising from overlooking from neighbouring properties.
24. The garden area for Unit 3 would be very small, it would appear to be significantly smaller than the minimum size requirement set out in the supporting text to Policy DM29 of the DMDPD. It would also be affected by the steeply sloping site and as a consequence, there is likely to be very little practical usable space within this area.
25. Whilst I have had regard to the appellant's statement that a one-bedroom unit could be suited to an occupant who does not wish to maintain a large garden, I have not been presented with any compelling evidence that there is a need for such accommodation in this location nor that the absence of garden area would achieve suitable living conditions for any future occupier. I therefore find that the proposed development would not provide adequate private outdoor amenity spaces for future occupiers.
26. Turning now to outlook, Policy DM29 also states that there should normally be at least 21 metres between habitable room windows and 12 metres where a habitable room window faces a blank wall.
27. Unit 1 would have two windows which would face towards the existing large, metal building, located approximately 4 metres from these proposed windows. Although I accept that views of the sky might be possible from these windows due to the proposed dwelling being located on higher ground to the metal

building, the outlook from these windows would be adversely affected by the proximity of this building. It would also fail to achieve the minimum separation distances set out in the supporting text to Policy DM29. For these reasons, it would fail to provide an adequate level of outlook for any future occupiers of Unit 1.

28. In respect of Unit 3, it would have two large openings in its eastern elevation. These would face towards and be located close to the boundary with the neighbouring property, Thwaite End Farmhouse. There is currently a low-level wall which would be retained this would obscure views from these windows and as a consequence fail to provide an acceptable level of outlook.
29. I acknowledge that terms of the internal accommodation, that the units would all meet the Nationally Described Space Standards for single storey, one bedroom, two-person accommodation. However, for the reasons given above, I find that the proposal would fail to provide acceptable living conditions for future occupiers with particular regard to outlook and the provision of private outdoor amenity space.
30. It would therefore be contrary to policy DM29 of the DMDPD, which requires, amongst other things, that development should ensure that there is no significant detrimental impact to the amenity in relation to overshadowing, visual amenity, privacy, overlooking, massing, and pollution.
31. It would also be contrary to Paragraph 135(f) of the Framework which requires development to create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Considerations

32. It is not disputed that there is a significant undersupply of housing within the district. A figure of 2.1 years is the figure quoted by the appellant and not disputed by the Council. The proposal would involve the provision of three new dwellings, which would make a small contribution to housing supply.
33. The site is well connected to both Carnforth and Bolton le Sands and is regarded as being in a sustainable location. The appellant has also indicated that the site could be developed quickly.

Other Matters

34. Thwaite End Farm is a Grade II Listed Building Which is inscribed with RBI 1687 on the lintel and is constructed using Pebble dash rubble under a slate roof. Its significance lies in its historic and architectural interest. The council did not find harm to the setting of this listed building and based on the evidence before me and my own observations during my site visit, I see no reason to disagree with this conclusion.
35. The appeal site is within 3.5km of Morecambe Bay which is designated as a Special Protection Area, Special Area of Conservation, Ramsar Site and Site of Special Scientific Interest. Due to the proximity of the appeal site to these designated sites and the nature of the development being for residential accommodation, there is likely to be increased recreational pressure as a result of the proposal.

36. Had I concluded that the development would be acceptable in terms of the main issues, it would have been necessary to investigate the effect of the proposal on the integrity of the SAC, SPA, Ramsar site and SSSIs as part of Habitats Regulation Assessment and Appropriate Assessment. However, as I have found harm in respect of the main issues, I have not considered this matter further.

Green Belt Balance

37. Paragraph 152 of the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless harm is clearly outweighed by other considerations.
38. The appeal proposal comprises inappropriate development that is harmful to the Green Belt. I give this harm substantial weight as required by the Framework.
39. I have considered the matters put before me in favour of the scheme. However, there are no other considerations that clearly outweigh the substantial weight I have afforded to the Green Belt harm arising from the proposal. Consequently, the very special circumstances necessary to justify the development do not exist.

Planning Balance

40. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing sites. However, as I have found that the harm to the Green Belt would not be outweighed by the other considerations, this provides a clear reason for refusing the proposal. Consequently, the presumption in favour of sustainable development as set out in paragraph 11d) of the Framework does not apply.

Conclusion

41. For the above reasons, the proposed development conflicts with the development plan, taken as a whole, and I have found no material considerations that indicate the proposal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

K Lancaster

INSPECTOR