



Appeal Decision

Site visit made on 5 November 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Appeal Ref: APP/P2365/W/24/3346809

87 and 89 Ruff Lane, Ormskirk, Lancashire L40 6HA

- 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 and Mrs J and A N Waddington against the decision of West Lancashire Borough Council.
 - The application Ref is 2024/0137/FUL.
 - The development proposed is construction of a new dwelling including landscaping, infrastructure and access works following demolition of the existing properties.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a new dwelling including landscaping, infrastructure and access works following demolition of the existing properties at 87 and 89 Ruff Lane, Ormskirk, Lancashire L40 6HA in accordance with the terms of the application, Ref 2024/0137/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr and Mrs J and A N Waddington. This application is subject to a separate decision.

Main Issues

3. The main issues are whether the development is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any development plan policies.

Reasons

4. The site subject to this appeal is located in the Green Belt. Paragraph 154 of the Framework notes that the construction of new buildings in the Green Belt should be regarded as inappropriate. Several exceptions are listed in Paragraph 154 of the Framework. In my examination of the evidence, the Council have assessed the scheme against the exceptions listed in paragraph 154 (d) and 154 (g) of the Framework. Of these exceptions, I have considered paragraph 154 (g) to be most relevant to this appeal.
5. Paragraph 154 (g) notes that the construction of new buildings in the Green Belt is inappropriate, except where this would involve the redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development. Policy GN1 of the West Lancashire Local Plan 2012 – 2027 (adopted 2013) (LP) notes that development proposals within the Green Belt will be assessed against national policy and any relevant local plan policies.

6. The appeal site comprises of both 87 and 89 Ruff Lane which both host large areas of undeveloped garden space to the front and rear of the properties. The proposal involves the demolition of these two properties and the construction of a new dwelling with a basement across the two property boundaries. In assessment of paragraph 154 (g), the proposal is sited partly on the same footprint as 87 and 89 Ruff Lane. However, part of the proposal would be located slightly off the footprint due to the positioning of the proposal towards the centre point of the two sites. Nevertheless, given the position of the building which follows the overall footprint of the buildings within the site, this is previously developed land.
7. Paragraph 154 (g) of the Framework notes that the redevelopment of previously developed land is an exception to the construction of new buildings within the Green Belt, where it would not have a greater impact on the openness of the Green Belt than the existing development. Policy GB3 of the West Lancashire Local Plan Supplementary Planning Document: Development in the Green Belt 2015 (SPD) discusses proposals for the redevelopment of previously developed sites in the Green Belt. This policy states that the redevelopment of previously developed sites within the Green Belt will be permitted provided the proposed development would not have a greater impact than the existing development on the openness of the Green Belt or on the purposes of including land within the Green Belt.
8. In consideration of the effect on openness as required under Paragraph 154 (g) of the Framework, this is an essential characteristic of the Green Belt which can have spatial as well as visual aspects. The assessment of whether one building is or is not materially larger than those which it replaces involves an assessment of the differences in size. Although located underground, the basement proposed in this application must be included in this assessment.
9. In purely numerical terms, the proposal would create a building which is numerically larger than the existing buildings within the appeal site. The proposal when viewed against 87 and 89 Ruff Lane, would host elevations which are greater in height than the existing built form. However, the effect of the scheme on the openness of the Green Belt should not just be limited to a numerical calculation.
10. I am cognisant that the site benefits from planning permission for a scheme (application reference 2024/0136/FUL) which is identical above ground in terms of its appearance and the above ground dimensions. The difference between the two schemes is the provision of a larger basement in this appeal.
11. Whilst this proposal would be numerically larger than the existing development on the appeal site, the basement would have no greater impact in visual terms to the openness of the Green Belt when compared to the existing buildings. The underground nature of the basement has no visual effect or implications on openness. The proposed dwelling would also be located in an area which is surrounded by other residential built form on all sides of the appeal site, set back within the site and away from the highway. Visually, the site is not easily viewed in the wider context.
12. Therefore, in following Paragraph 154 (g) of the Framework, I conclude that the proposed development would not be inappropriate development in the Green Belt. It would constitute as previously developed land and would not have a greater impact on the openness of the Green Belt than the existing development. Consequently, I find no conflict with Policy GN1 of the LP, which states that

proposals in the Green Belt will be assessed against national policy, and the guidance found in the SPD.

Other Matters

13. Interested parties have commented on the proposal. Concern has been raised that the excavation involved with a development of this type could damage neighbouring properties. This is a civil matter between these parties.
14. A boundary hedge between the boundary of 87 and 89 Ruff Lane and a number of trees are proposed to be removed. The Council have considered this matter and have provided no objection to their removal. In my consideration of this hedgerow and these trees during my site visit, I do not find that its removal would be harmful to the locality. The works have been assessed by the Council who have no objection to the scheme, subject to a suitably worded condition. I find no reason to disagree subject to the imposition of a suitably worded condition.
15. Further comments are made about hedges which are sited along the boundaries to neighbouring properties. These comments state that changes cannot be made to these hedges without consent from the relevant neighbouring properties. These are proposed to be retained. If any changes were to be undertaken, this is a private matter between these parties.
16. An interested party has suggested that building work should not be undertaken during certain hours and on certain days. The Council have suggested a condition in relation to this matter. I will explore the use of this condition later in my decision.
17. The effect of the development on the character and appearance of the area has been cited as a concern by interested parties. The Council do not consider that the proposal would be out of keeping with the other dwellings in the area. In my assessment of this matter, I find that due to its distinctive separation from other properties and the absence of a universal style of design, that the proposal would not have an unacceptable effect upon the character and appearance of the locality. The appeal site also benefits from planning permission for an identical above ground scheme.
18. Comments further suggest that the design of the scheme has not considered a restrictive covenant within the deeds of a neighbouring property which would limit the overall height of neighbouring properties. However, this is not a matter for consideration by the planning system, and is a private, legal matter between the relevant parties.

Conditions

19. The Council did indicate which conditions it wanted to be considered in the event that the appeal was allowed. In assessment of these conditions, I have undertaken minor changes to meet the six tests and I have consulted the parties on this wording. Neither party raised any objection to the suggested wording of the conditions which were consulted on.
20. In addition to the statutory time condition [1], a condition specifying the approved plans [2] are justified in the interests of certainty. A condition requiring that a detailed foul and surface water drainage strategy [3] shall be submitted to and approved in writing by the Council is included. This is necessary and required to ensure adequate drainage from the site following the erection of the building. A

condition has been included which requires the submission of a scheme for the protection of retained trees and the submission of an arboricultural method statement which is to be approved in writing by the Council [4]. This is necessary to ensure that nearby trees which are to be retained are protected from harm during the course of the development of the scheme.

21. The carrying out of the landscape works before the development is first occupied [5] is necessary in ensuring that the appropriate landscaping of the site is carried out. A condition which requires the provision of the samples of all external facing materials to be used on the building and hard landscaped areas [6] is required to ensure that the external appearance of the building and landscaped areas is appropriate to its locality. In following the suggested conditions provided by the Council, condition 6 has combined two of the suggested conditions. These suggested conditions discussed the provision of samples of both the external appearance of the building and landscaped areas separately.
22. The provision of a condition which requires the demolition of all buildings within the site [7] is necessary in the interests of protecting the openness of the Green Belt. The provision of bird nesting box details [8] is necessary in providing mitigation for the loss of bird breeding habitat through the construction of the proposed dwelling. The details of external lighting [9] are required to safeguard biodiversity within the site, and to minimise the effect of lighting on neighbouring properties. This has been significantly amended from the suggested wording provided by the Council. The suggested condition was prescriptive. As such, I have amended the wording of the condition as the appellant may provide an appropriate lighting solution during the submission of these details.
23. A condition requiring the provision of parking spaces to be laid out so that they can enter and leave in forward gear [10] is necessary in the interests of highway safety. An electric vehicle charging point is required [11] in the interests of providing appropriate facilities for electric vehicles. This condition is necessary in ensuring that this facility is provided. The appeal site is located within the Green Belt. As such, following consultation with both parties, in order to protect the openness of the Green Belt, it has been agreed that various permitted development rights have been removed [12]. A working hours condition [13] has been imposed. This is considered to be an acceptable time for works to take place within the site. This is necessary to protect the living conditions of neighbouring occupiers as a result of noise and general disturbance from the construction of the proposal.

Conclusion

24. For the reasons given above the appeal should be allowed.

J Smith

INSPECTOR

Schedule of Conditions

- 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 accordance with drawing numbers:
 - 21157 (PL) 1001 A – Site location plan
 - 21157 (PL) 1011 A – Proposed block plan
 - 21157 (PL) 1020 H – Proposed site plan
 - 21157 (PL) 1160 J – Proposed floor plan 1
 - 21157 (PL) 1161 A – Proposed floor plan 2
 - 21157 (PL) 1200 D – Proposed elevations 1
 - 21157 (PL) 1201 E – Proposed elevations 2
 - 1157-WR1-XX-XX-DR-L-0001 Rev P01 – General Arrangement
- 3) No development shall take place until a strategy for the separate foul and surface water drainage of the development, including any necessary infiltration measures, attenuation measures, maintenance management proposals, and phasing of delivery if applicable, is submitted to and is approved in writing by the Local Planning Authority. The surface water drainage strategy must take account of the relevant provisions of the Non- Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement standards. The drainage scheme must be completed in accordance with the approved details.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees must be completed in accordance with the approved details.
- 5) Before the development is first occupied, the landscaping works shall be carried out in accordance with the approved details as shown on drawing number 1157-WRI-XX-XX-DR-L-0001 Rev P01 (General Arrangement). Any trees or shrubs which are removed, die, become severely damaged or diseased within 7 years of their planting shall be replaced in the next planting season with trees or shrubs of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.
- 6) No development above ground level shall take place until samples of all external facing materials to be used on the building and those to be used on all external hard landscaped areas have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 7) Prior to the taking place of any building or engineering operations in connection with the construction of the replacement dwelling, or to a timetable agreed in

writing with the local planning authority, all buildings existing on the application site shall be demolished.

- 8) No building shall be occupied until details of bird nesting boxes (number, type and location on an appropriately scaled plan) to be erected on the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.
- 9) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the building is occupied. Development shall be carried out in accordance with the approved details.
- 10) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing number 21157 (PL) 1020 H (Proposed Site Plan) for cars to be parked and so that they may enter and leave the site in forward gear. That space shall thereafter be kept available at all times for the parking of vehicles.
- 11) Before the development is first occupied, an electric vehicle charging point shall be installed within the site. The electric vehicle charging point shall be retained throughout the life of the development.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C, D and E of Part 1 and Class A of Part 2 Schedule 2 to the Order shall be undertaken unless on application to the Local Planning Authority, planning permission for such development has been granted.
- 13) Demolition or construction works shall take place only between:
 - 08.00 to 18.00 on Monday to Friday
 - 08.30 to 13.30 on Saturdays
 - No demolition or construction works shall take place at any time on Sundays or on Bank or Public Holidays.