



Appeal Decision

Hearing held on 7 February 2025

Site visit made on 7 February 2025

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

Appeal Ref: APP/Q2371/W/24/3345974

Bank Farm, 40 Martin Lane, Burscough, Lancashire L40 0RT

- 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 Daniel Bolton against the decision of Lancashire County Council.
 - The application Ref is LCC/2023/0026.
 - The development proposed was originally described as change of use from agricultural to sui generis (waste management/skip recycling - sorting, storage and distribution of non-hazardous waste).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from agricultural to sui generis (waste management/skip recycling - sorting, storage and distribution of non-hazardous waste) and including two ancillary buildings at Bank Farm, 40 Martin Lane, Burscough, Lancashire, L40 0RT in accordance with the terms of the application, Ref LCC/2023/0026, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description in the header above is taken from the application form, but I have used the description given on the Council's decision notice in my decision as it is more comprehensive.
3. At the time of the application, the use of the building for waste management had commenced. However I heard at the hearing that since that time the appellant has vacated the site. This was apparent at my site visit. I have therefore considered the development on the basis of what is proposed, rather than what occurred previously. As such, though a number of photos were provided in correspondence showing the appellant at the site, a drainage ditch being dug and waste material being deposited west of the site, these have had little bearing on my decision. For the same reason I give little weight to the appellant's assertions that the Environment Agency visited the site before and found no breaches.

Background

4. The building at the site is part of a complex of former farm buildings at Bank Farm spread around a large hardsurfaced yard. It is understood that the detached building opposite the appeal site is still used as cold storage for vegetables grown on the farm, but that the other buildings are no longer in agricultural use. Indeed, at the site visit it was apparent that the larger building to the east of the site is currently occupied by a number of users including a scaffolding company and a

removals business. I understand there is an extant but undetermined application for the use of these farm buildings for commercial or industrial purposes.

5. The proposed access would be onto Gorst Lane. Work has commenced on formalising this access with a section of hardstanding at the highway edge. Much of the remainder of the access is surfaced with compacted gravel or asphalt shavings. An access has also been created onto Martin Lane at its junction with Merscar Lane, which it is understood, has been done by the landowner. The development does not propose to use this access.
6. The appellant manages a skip hire company. The skips would be stored on open land adjacent to the main building at the site. The appellant owns around 60 skips; 15 of these are on permanent loan, with the others being on temporary hire. It is likely that around 20 skips would be on the appeal site at any one time.
7. The skips are usually hired out to builders, with some to householders, and are returned with a mixture of wood, metal, rubble, soil and green waste. Around 10 skips containing such wastes would be returned to the site each day. Should any hazardous waste be brought to the site erroneously, this would either be sent back to the customer or put in an isolated skip and disposed of at the appropriate facility. The appellant would not accept any further waste from that particular customer.
8. Within the building there would be a large 40 tonne skip for each type of waste. When brought to the site, the skips would be assessed to see which type of waste they mainly contain, and then would be tipped into the appropriate 40 tonne skip. Any waste material which is not of that nature would be lifted out by a telehandler and placed in the appropriate alternative 40 tonne skip. Skips that contain a mixture of many wastes would be tipped onto the floor of the building, or in a tipping bay, and then sorted either by hand or a telehandler. When full, each 40 tonne skip would then be taken away for recycling by the appropriate operator. This would happen around 2 or 3 times a week.
9. The maximum amount of waste that could be taken by the site would be 15,000 tonnes per year which would be limited by the Environmental Permit. The appellant considers this limit would amply cater for the waste he collects, plus a limited amount he accepts from third parties.
10. The development also includes the provision of two modular buildings which would provide toilet facilities for staff and an office, though the toilet block is already on the site and it is understood that it is used by the operatives at the other buildings in the wider complex.

Main Issues

11. The main issues are:
 - i) the effect of the proposal on the living conditions of nearby occupiers with respect to dust, noise and disturbance; and
 - ii) whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and local development plan policies.

Reasons

Living conditions

12. The closest houses to the site are those to the north on Martin Lane, in particular No 36 which, from the plans, appears to be around 60 metres from the site. There are also houses to the west and southwest on Martin Lane which are comfortably over 100 metres from the site, and there are a few houses further away on Gorst Lane to the southeast.
13. There is no doubt that the development would generate noise when skips are being tipped or waste is being separated, but this would take place within the building. The building is open fronted along its south side and so it is reasonable to expect that noise generated from these operations would escape from the front of the building, away from the nearest houses.
14. There would also be some noise generated by moving of empty skips either onto lorries or into piles, which are operations that would take place outside the building. There would also be some noise from vehicles moving to and from the site along the access road. I do not disagree that this noise would be heard at nearby dwellings. However on the basis that this would be for only a limited number of occasions during the day, I consider it unlikely that this would be unacceptably disturbing for neighbouring residents.
15. It is also recognised that while the area is rural in nature, there are noise generating businesses nearby including a sawmill on Martin Lane, farms on Merscar Lane and farms north and south of the site on Martin Lane. As such, some noise generated by the site would not be out of keeping with its surroundings.
16. With respect to dust, it is clear that previously, in 2023, neighbouring residents did suffer from dust being generated by operations taking place at Bank Farm. However I understand that at that time another business, as well as the appellant, was operating from this location, and that that business operated stone crushing machinery which may have contributed to dust being generated. That operator was served with an Enforcement Notice and is no longer on the site either.
17. On the basis that the tipping would be mostly undertaken into 40 tonne skips and that these would be within the building, I consider it unlikely that amounts of dust would disperse out from the site such that it would be unacceptably disturbing for nearby residents.
18. In addition as the access road would be surfaced with gravel or hardstanding, it seems unlikely that significant amounts of dust would be generated by vehicles using this.
19. Overall, though I have given careful considerations to the significant concerns from neighbouring residents on this issue, I consider that the volumes of noise and dust to be generated by the proposal would not be likely to be unacceptably disturbing to the living conditions of nearby occupiers.
20. As such the development would accord with policy DM2 of the Joint Lancashire Minerals and Waste Local Plan (2013) and policy GN3 of the West Lancashire Local Plan (2013) which both seek to ensure that environmental impacts of

development, such as emissions of noise and dust, are minimised to acceptable levels.

Green Belt

21. Paragraph 154 h) iv. of the Framework identifies that the re-use of buildings is not inappropriate in the Green Belt providing they are of permanent and substantial construction, preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
22. It is not disputed that the building is of permanent and substantial construction. In terms of openness, it was not suggested that the use of the building would fail to preserve the openness of the Green Belt, nor that it would conflict with any of the five purposes set out in paragraph 143.
23. Paragraph 154 h) v. adds that a change of use of land is also not inappropriate providing it preserves openness and the purposes of including land within the Green Belt.
24. I consider some visual impact on openness would result from the storage of skips on the areas outside the building, and by the provision of the site office and toilet. However the part of the site indicated for skip storage and the office on the plans, is largely screened by an earth bund and some trees along the north and west boundaries. Longer distance views from the south would be largely obscured by the thick hedge along the east side of Martin Lane or by the building opposite the site. In addition, given the transient nature of the skips, and the fact that as an established agricultural site there would most likely have been agricultural paraphernalia here previously, such as the wooden crates, trailers and machinery that I saw was being stored in the building at the appeal site and elsewhere across the complex, I consider the storage of skips would preserve the spatial openness of the Green Belt too. Likewise the temporary nature of the site office and toilet limits their impact. I concur with the main parties that there would be no conflict with the purposes of the Green Belt resulting from the change of use of the land.
25. It was suggested in the hearing that the industrial nature of the development, and the vehicle movements associated with the use, would result in harm to openness. However I consider any effects from vehicles movements would have no effect on openness, given the transient nature of vehicles and, in this case, the relatively limited number of them that would result from the proposal. Moreover, it is agreed that previously there would have been regular movements by agricultural vehicles to the appeal site, as well as the other buildings around the yard. Whilst there may be a change in the nature of the operations from agricultural to industrial and, as a result, the type of vehicles, this itself would not harm openness.
26. Overall the development would not be inappropriate in the Green Belt and so would accord with paragraph 154 of the Framework.

Other Matters

27. There is concern that surface water run off from the site may enter the local ecosystem. Langleys Brook is, as shown in the appellant's Design and Access Statement, around 350 metres to the east of the site and this connects into the Martin Mere Wetland Centre which is a Special Protection Area (SPA), a Site of Specific Scientific Interest (SSSI) and Ramsar Site, and is within 2km of the site.

28. The qualifying features for Martin Mere include Whooper swan, Bewick's swan, pink-footed goose, Eurasian teal, Northern pintail and a waterbird assemblage. The conservation objectives are to maintain the habitats, and the supporting processes of those habitats, of these species. Without any mitigation it is possible that surface water from the waste deposited on the site could enter Langleys Brook and subsequently the SPA. This would likely have a significant adverse effect on the qualifying features and the integrity of the SPA. Consequently, I am required to make an appropriate assessment.
29. I saw at the site that there is a large drain within the building which empties into a sealed interceptor. This would be emptied and the waste water taken away from the site. As the waste would be tipped in the building, any water from material brought to the site would fall into this interceptor and would not run beyond the building. There is a drain in the yard and it is not known to where this would drain as neighbouring residents were clear that there is no mains drainage nearby. Nonetheless, it is likely that only rain water from the yard would fall into this drain. Conditions have been suggested which require that all waste operations are conducted inside the building, that provisions are made for the collection of surface water and that foul water is also discharged to a sewer or sealed tank.
30. With such mechanisms in place, the development would not be likely to have a significant adverse impact on the integrity of the SPA. Natural England have been consulted and agree that the measures, secured by condition, would be sufficient to avoid an adverse impact to the integrity of the SPA.
31. In addition, the site is within flood Zone 1 as shown on the EA flood maps. Langley Brook, and the land immediately flanking that, is the nearest area to be shown at high risk of flooding. However given the distance between the site and this watercourse, there would be little risk of floodwater entering the site or the interceptor.
32. Although there are concerns that litter from skip lorries has been found on the front gardens of neighbour's properties, a condition could be included which would ensure that all lorries are sheeted which should minimise such events.
33. It is understood that Whooper Swans graze in the fields to the east of the site. Even though the access road is flanked by fields to both sides, I have no reason to consider this species would be harmed by the development.
34. Any increase in traffic that the proposal would generate would be minimal. Though I note the concerns that industrial vehicles are different to agricultural vehicles, there is no substantive evidence to suggest industrial traffic of the volumes likely to be generated by the development would be harmful to the character of the area, or the safety of highway users including those using Martin Lane and Gorst Lane as part of the national cycle network.
35. It is recognised that the surrounding agricultural land is Grade 1, and that agricultural production still continues close to the appeal site. However there is no substantive evidence before me to suggest the proposal, with appropriate environmental controls in place, could not operate in proximity to arable farming without any adverse effect.
36. I understand there are larger industrial estates not far from the site, which local residents may consider are more appropriate locations for the development.

Nonetheless, as I find the proposal to be acceptable here, there is no need for me to consider alternative locations.

37. Planning permission has been given for the redevelopment of a former pub on Martin Lane to 6 flats. However as that site is a similar distance from the appeal site as other nearby dwellings, to which I have found no harm, there is no reason to consider future occupiers of the flats would be harmfully affected, nor that traffic from the flats in addition to that generated by the proposal could not be safely accommodated on local roads. Similarly as the nearby campsite is further from the appeal site than nearby houses, there would not be any unacceptably harmful impact on the users of that facility.

Conditions

38. I have had regard to the conditions set out in the Statement of Common Ground (SoCG). Where necessary I have slightly amended the wording of the conditions to better reflect the advice in the Framework and the national Planning Practice Guidance.
39. The conditions relating to the commencement of the development and the approved plans are necessary in the interests of certainty. The condition relating to the removal of the site office when redundant is necessary in the interests of minimising the impact on the Green Belt in the long term.
40. The conditions limiting the hours of operation, the machinery used, and requiring all operations to take place within the building are necessary to protect the living conditions of nearby residents from unacceptable disturbance. Although there were suggestions that operations should cease at 13:00 hours on a Saturday because the appellant's previous site on Southport Road had this limit, I see no reason to apply that here.
41. Two conditions are imposed relating to the access, in the interests of highway safety. Although at my site visit it was apparent that some surfacing of the access has been undertaken, it is not clear if the hardsurfacing provided extends for 10 metres as required by the Council. I have therefore left the condition as suggested in the SoCG. With the first 10 metres of the access hardsurfaced, there would be no need for an additional condition requiring mechanisms to prevent mud, dust or other debris being deposited on the road, as the hardstanding would most likely serve this purpose.
42. The conditions relating to drainage are necessary to safeguard local watercourses.

Conclusion

43. The proposal would accord with the development plan taken as a whole and there are no other considerations that indicate a decision other than in accordance with the development plan. Therefore, for the reasons given above, the appeal should be allowed.

A Owen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. LM/DB/5111B and LM/DB/5111C.
- 3) Should no waste management operations take place on the site for a continuous period of 12 months, the site office shown on drawing no. LM/DB/5111C shall be removed from the site within a further period of two months.
- 4) Delivery of waste, waste management operations, bulking up of waste or recycled materials or the removal of waste materials or recycled materials off the site shall only take place between the following hours:

08:30 to 17:30 hours Mondays to Fridays

08:00 to 15:00 hours on Saturdays

No delivery of waste, waste management operations, bulking up of waste or recycled materials or the removal of waste materials or recycled materials off the site shall take place at any time on Sundays or on Bank or Public Holidays.

- 5) Depositing, sorting, segregation, processing and loading of waste shall only be undertaken within the building shown on drawing no. LM/DB/5111B.
- 6) There shall be no mechanical sorting, separating or processing of waste or recycled materials other than by a telehandler.
- 7) All vehicles transporting waste materials or recycled waste products into, or from, the site shall be securely sheeted or contained.
- 8) There shall be no access to or from the site from Martin Lane/Merscar Lane.
- 9) No development shall commence until the site access road shown on drawing no LM/DB/5111B has been surfaced over a 10 metre distance when measured from the carriageway edge at the junction of Gorst Lane using tarmac, concrete or similar surfacing product. Thereafter the site access road shall be maintained in a smooth condition, free from potholes for the duration of the development.
- 10) No development shall commence until a mechanism for the collection, treatment and disposal of all water entering or arising on the site, to ensure that there shall be no discharge of contaminated or polluted drainage to ground or surface waters, has been installed. The mechanism shall be retained and maintained as such thereafter.
- 11) All foul water drainage shall be discharged to a public sewer or else to a sealed water tank.

APPEARANCES

FOR THE APPELLANT

Daniel Bolton	Appellant
Elana Kaymer	Barrister
Lisa McLachlan	ML Planning Consultancy Ltd (Agent)

FOR THE LOCAL PLANNING AUTHORITY

Rob Hope	Principal Planner
Cllr Matthew Maxwell-Scott	County Councillor (Chair of Development Control committee)
Cllr Eddie Pope	County and Borough Councillor
Cllr John Gordon	Borough Councillor

INTERESTED PARTIES

Nick Brooks	General Manager Martin Mere Wetland Centre
Laura Brough	Leader; Martin Lane Residents Group
John Makinson	Local resident
Cathy Hyde	Local resident
Nick Hughes	Local resident
Bill Neale	Local resident