



Appeal Decision

Site visit made on 22 April 2025

Decision date: 27th May 2025

Appeal Ref: APP/P2365/W/24/3352316

Tawdside Farm, 38 Deans Lane, Lathom, ORMSKIRK L40 4BL

- 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 A Cowburn against the decision of West Lancashire Borough Council.
 - The application Ref is 2023/0259/FUL.
 - The development proposed is conversion of agricultural barns (Barn A and Barn B) into 3 residential dwellings with associated vehicular parking and garden areas.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr A Cowburn against West Lancashire Borough Council. This application is the subject of a separate decision.
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Preliminary Matters

4. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the matters of dispute in this appeal, the changes are not fundamental. Neither main party were asked for their views, and I am satisfied no parties have been prejudiced as a result.
5. The appellant requests that the appeal is made against a revised site plan (Ref: C1381-14 Rev2 September 2024). The proposed amendment is the provision of on-site parking, which has been moved so that the siting of the parking provision is wholly within the red edge boundary.
6. The Procedural Guide: Planning Appeals- England (Updated April 2025) advises that the appeal process should not be used to evolve a scheme. The scheme at appeal should essentially be the same as that considered at the planning application stage. I have also had regard to the substantive and procedural tests established in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).
7. The amendment shown on the revised site plan does not change the red edge boundary and the parking is shown in a broadly similar area. The modest relocation serves to include the full length of the parking spaces within the boundary, rather than straddling it. This does not constitute a 'substantial difference' to the application. Furthermore, I am satisfied that to accept the revised site plan would not prejudice the interests of interested parties, thereby causing procedural unfairness.

8. Therefore, I consider that the revised site plan submitted with the appeal meets both the substantial test and the procedural test. As such, I have determined the appeal on the basis of the revised site plan.
9. The appeal site is within the Green Belt but this is not a matter of dispute as both parties agree that the proposal would not constitute inappropriate development in the Green Belt.

Main Issues

10. The main issues are:

- the effect of the development on the living conditions of future occupants, with particular regard to noise and odour, and the provision of private amenity space;
- The effect on protected species and habitats, and;
- Whether suitable parking provision is made.

Reasons

Living Conditions

11. Located within a farm complex, the barns (A and B) that are the subject of this appeal are adjacent to modern, open-sided agricultural buildings. Agricultural use of these buildings is associated with activities and use of large machinery that can be noisy with nothing to prevent activity early in the morning or into the evening. Although the appellant highlights that the agricultural enterprise does not involve livestock and that farm vehicles can use a separate access, there is no guarantee that that would remain the case. The agricultural sector is a dynamic one and it is foreseeable that agricultural operations could be subject to change to respond to changing markets and climate conditions.
12. The proposal is for the residential conversion of Barns A and B. Given the close proximity of Barns A and B to the agricultural buildings, which could lawfully be used to store and operate agricultural machinery and potentially for accommodating livestock, future residential occupiers would be likely to find such uses a source of unwanted noise and odour. In the absence of substantive evidence to show otherwise, the nature, frequency, and timing of such disturbance would be likely to unacceptably affect the enjoyment of their property.
13. I note that planning permission was previously granted for residential conversion of a barn in this farm complex. However, this is subject to an occupancy restriction such that the occupant is involved in agriculture. Such occupants normally have strong functional reasons to justify living so close to agricultural operations. Their expectations in relation to living conditions would be seen through that prism and balanced against the need and convenience of being on site. As such this is different to a residential occupant unconnected with the agricultural operation, where tensions between the respective domestic and agricultural uses would be more likely to emerge.
14. Whilst the appellant may accept an occupancy condition, there is no substantive evidence of a justified need for the proposed dwellings in connection with the agricultural use on site.

15. The Council's refusal reasons also included reference to the lack of demonstrable private amenity space for future occupiers. The revised site plan (Ref: C1381-14 Rev2 September 2024) shows a defined garden area for each of the barns (A and B) and a communal area. As such, I am satisfied that a quantum of private amenity space could be provided for each dwelling. However, for the reasons already outlined, their proximity to agricultural buildings and associated activity means that future occupiers would likely be subject to unreasonable levels of disturbance that would inhibit their use of the space as a place of relaxation and enjoyment. I am not convinced that a landscaping condition would surmount my concerns in this respect.
16. Consequently, it is not shown that the proposed dwellings would achieve a high standard of amenity for future users in accordance with the expectations of paragraph 135f) of the Framework.
17. Based on the evidence before me, the proximity of the proposed development to agricultural buildings and activity would be likely to be detrimental to the living conditions of future occupants by reason of noise, disturbance and odour. As such, the proposal would be contrary to Policy GN3 1(iii) of the West Lancashire Local Plan 2012-2027 DPD October 2013 (LP) which allows development provided it retains or creates reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the neighbouring and proposed properties.

Ecology

18. Policy EN2 of the LP states that where there is reason to suspect that there may be a priority species, or their habitat, on or close to a proposed development site, planning applications should be accompanied by a survey assessing the presence of such species and, where appropriate, making provision for their needs.
19. This aligns with paragraph 193 a) of the Framework, which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Paragraph 187d) also states that planning decisions should incorporate features which support policy or threatened species and explicitly refers to bats.
20. The bat and breeding bird surveys submitted with the application were in excess of 5 years old and could not therefore be relied upon.
21. New surveys have been undertaken and a report by Tyrer Ecological Consultants Ltd, dated September 2024, has been submitted. This found that the appeal site provides roosts for common pipistrelle bats, which are a protected species. The conversion works would therefore displace bats from those roosts and would separately require a licence to proceed.
22. The report goes on to detail recommendations for mitigation measures. These include the provision of a crevice bat box, ridge tiles, bat shelter and bat boxes and details for translocation.
23. On that basis, I am satisfied that the appellant has demonstrated that the proposed development would mitigate the harm to protected species or their habitats and that it is reasonable to suppose that a licence would be forthcoming. The mitigation

could be secured by planning conditions in the event of an approval, thereby meeting the expectations of the Framework.

24. As such I find that the proposed development would accord with Policy EN2 of the LP.

Parking Provision

25. Policy IF2 of the LP sets out standards for car parking provision required for residential development. The proposed parking provision meets the required number of parking spaces per dwelling relative to the number of bedrooms to be provided. The revised site plan (Ref: C1381-14 Rev2 September 2024) shows that the parking provision would be wholly within the red edge boundary.
26. As such, I am satisfied that the proposed development would make suitable provision for parking in accordance with Policy IF2 of the LP.

Conclusion

27. Although I did not find harm in relation to two of the main issues, the proposed development would be unacceptably harmful to the living conditions of future occupants by reason of noise, disturbance and odour.
28. I conclude therefore, that the proposed development is contrary to the development plan when read as a whole, and there are no material considerations to indicate that a decision should be taken other than in accordance with that plan.
29. The appeal is dismissed.

N Kempton

INSPECTOR