



Appeal Decision

Site visit made on 30 April 2025

by **Sarah Manchester BSc MSc PhD MEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 16 June 2025

Appeal Ref: APP/E2340/W/25/3360496

Roaming Roosters, Barrowford Road, Higham, Lancashire BB12 9ER

- 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 Charles McDermott against the decision of Pendle Borough Council.
 - The application Ref is 24/0484/FUL.
 - The development proposed is demolition of existing vacant shop and erection of 6 no. dwelling houses with associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing vacant shop and erection of 6 no. dwelling houses with associated infrastructure at Roaming Roosters, Barrowford Road, Higham, Lancashire BB12 9ER in accordance with the terms of the application, Ref 24/0484/FUL, subject to the conditions in the attached schedule.

Background and Preliminary Matters

2. Planning permission¹ was originally granted for change of use of 2 no agricultural buildings to form farm education centre, offices, prep and workspace for management of Roaming Roosters, ancillary Café and formation of car park and wildlife pond. Planning permission² was then granted in May 2013 for erection of 2 No. extensions to rear to form livestock accommodation, food preparation and storage areas. A later planning permission³ for change of use from farm education centre with ancillary shop and café to Farm, Farm Shop (Use Class A1) and Café (Use Class A) has not been implemented.
3. Planning permission⁴ was refused, and dismissed on appeal⁵ in August 2023, for demolition of existing vacant farm shop and construction of 12 dwellinghouses with associated infrastructure. Permission⁶ was again refused, and dismissed on appeal⁷ in April 2024, for a similarly described development comprising 8 dwellings. The appeal scheme has been amended to address the earlier concerns.

¹ Ref 13/10/0307P

² Ref 13/13/0163P

³ Ref 19/0417/FUL

⁴ Ref 22/0424/FUL

⁵ Ref APP/E2340/W/23/3315598

⁶ Ref 23/0285/FUL

⁷ Ref APP/E2340/W/23/3328627

Main Issues

4. The main issues are:

- i) Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework 2024 (the Framework) and any relevant development plan policies;
- ii) The effect of the proposal on the openness of the Green Belt; and
- iii) 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

Whether or not inappropriate development

5. The appeal site comprises a large area of hardstanding with a commercial building, together with an area of improved grassland, trees and hedgerows. It lies to the north of the A6068 Barrowford Road, in an area of sparsely developed countryside between the settlements of Higham and Fence. It is in the Green Belt.
6. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Policy ENV2 of Pendle Local Plan Core Strategy 2011-2030 adopted December 2015 (the LP) seeks to achieve quality in design and conservation including, where applicable, by maintaining the openness of the Green Belt having regard to the siting, size, design and appearance of proposals. The Framework sets out exceptions to inappropriate development in the Green Belt, two of which are relevant to the appeal. These are paragraph 154g), the limited infilling or the partial or complete redevelopment of previously developed land, which would not cause substantial harm to the openness of the Green Belt; and paragraph 155, the development of grey belt land subject to meeting certain listed criteria.

Previously developed land (PDL)

8. The evidence indicates that the lawful use of the appeal site is a commercial sui generis, mixed use such as constitutes PDL for the purposes of the Framework. The Inspectors in both previous appeals accepted this position. However, third parties dispute this on the basis that the buildings are agricultural in form and parts remained in agricultural use. In this regard, the Framework definition of PDL excludes land that is or was last occupied by agricultural or forestry buildings.
9. The westernmost part of the building has a substantial footprint. Its construction and materials are typical of modern agricultural buildings and its gable end, with cart door, retains an agricultural appearance. Irrespective, the term 'agricultural building' means a building used for agriculture. Where land is occupied by a permanent building that has changed its use from agricultural or forestry, it will be PDL as the building would no longer be considered agricultural or for forestry.
10. Excerpts of design and access and planning statements that supported earlier planning applications have been provided. The first of these dates from March 2010. It sets out that the farm shop would sell produce from Roaming Roosters. The café would serve food and beverages. The large cattle shed, with toilets, wash

area and prep area, would be the main internal space for children during school visits. Although the shop was restricted by planning condition to retail Roaming Roosters produce, I note concerns in relation to historic breaches of planning permission relating to the expansion and diversification of the café and the ancillary shop into a bistro and wider retail function. However, this alleged diversification does not demonstrate an agricultural use or alter the lawful mixed use.

11. The existing plans illustrate a large part of the west end of the building simply as 'barn', but other parts of it are mezzanine, plant room and bathrooms that connect to the barn and the café (bistro). The September 2019 planning statement refers to the sidelining of the farm education part of the business and the conversion of the space previously used as a classroom into an additional coffee style café. Based on the March 2010 statement, this appears to refer to the former cattle shed (barn). However, there is little substantive evidence of an ongoing agricultural use of the barn for farm machinery storage or livestock or of any physically and functionally separate units of occupation. Consequently, I see no compelling reason to disagree with the previous Inspectors in relation to the PDL status of the appeal site.
12. In contrast to the earlier appeals for 12 and 8 dwellings, which would both have resulted in an increase in the volume of buildings, the proposal would result in a reduction in built volume. There would also be a reduction in hardstanding and an increase in green space compared to the existing situation. Consequently, there would be a marked increase in the spatial openness of the Green Belt.
13. The Inspector in the appeal for 12 dwellings considered that the existing building has the appearance of a collection of linked agricultural buildings. Notwithstanding that numerous parked cars and activity would generate a more commercial character, they found that overall it fits within the landscape as a rural enterprise. However, I observed that the existing development has no architectural merit. It is not a high quality or rural vernacular building group, rather it has a somewhat commercial and industrial appearance that does not contribute positively to sense of place or local distinctiveness.
14. As with the earlier appeals, the dwellings would be detached and generally well separated from one another, resulting in a greater spread of buildings across the site than the existing consolidated built form. However, their individually smaller scale and spacing would result in a more permeable form of development without the solidity, bulk and massing of the existing building. The dwellings would not approach the road any more closely than the existing building. Even accepting a slightly greater width of built form and that each would be 2-storey in height, the proposal would not have the same degree of visual prominence as the existing building with its wide front elevation.
15. The dwellings would be sited to either side of an internal access road. The group would be widely separated from development in all directions. It would be read as a small and relatively isolated building group and it would not be a ribbon of roadside development. As noted by the earlier Inspector, the layout would not be visually incongruous taking into account nearby residential development comprising linearly arranged and modest dwellings to either side of a street set back from Barrowford Road. Moreover, the design of the dwellings and the traditional external materials would be in keeping with and sympathetic to the surrounding rural landscape and built development context.

16. There would be views of the proposal from the surrounding area, although these would likely only be glimpsed in passing along the road to the front. The comings and goings of future occupiers would be apparent, as would residential activity, outdoor paraphernalia and parked cars. However, this would not be any more conspicuous or visually obtrusive than the former mixed use of the site and the comings and goings of large numbers of people and vehicles.
17. While there would be a visual change, I am satisfied that the replacement of the existing development with a small number of dwellings would not result in substantial harm to the openness of the Green Belt. In reaching this conclusion in relation to the magnitude of the impact on openness, I am mindful of the earlier appeal decisions. In this regard, the proposal would have a markedly lesser impact than the earlier 12 dwelling scheme, which that Inspector found would be no more than moderately harmful to openness. The Inspector in the appeal for 8 dwellings found that scheme would be inappropriate development, which is by definition harmful to the Green Belt, and they gave substantial weight to that harm as directed to by the Framework. However, specifically in relation to openness, they found only that there would be a greater impact than the existing development and not that there would be substantial harm to openness.
18. The proposal would not encroach into the undeveloped countryside. The dwellings would not bridge the wide gap between Higham and Fence nor set a precedent for the development of surrounding undeveloped land. In this regard, each scheme must in any case be considered on its individual merits.
19. Therefore, I conclude that the proposal would be the limited infilling or the partial or complete redevelopment of previously developed land, which would not cause substantial harm to the openness of the Green Belt. It would meet the exception in paragraph 154g) of the Framework. It would not conflict with LP Policy ENV2 or the Framework policies that protect the Green Belt. Consequently, it is not necessary for me to consider whether it would meet any other exception in the Framework.

Other Matters

20. The appeal site is in a suitable location for residential development, taking into account that nearby Fence is within easy walking and cycling distance. The previous Inspectors acknowledged that the earlier schemes would result in various benefits, which would be similarly realised by the proposal. These include re-use of a site that has been vacant for a number of years, social and economic benefits associated with the construction and occupation of residential dwellings, enhancements to biodiversity and green space, energy efficiency, drainage improvements, improved pedestrian links with lighting and junction improvements.
21. The proposal would be for a lesser number of dwellings than either previous scheme. However, in contrast to the context for each of those, the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites. Consequently, the proposal would make a small but nevertheless important contribution towards addressing the shortfall and more generally towards meeting the Government's objective of significantly boosting the supply of homes.
22. Taking into account the siting and wide separation of the appeal site from surrounding development, there would be no adverse effects on the living conditions of neighbours or residential amenity nor on the setting of Listed

Buildings. The proposal would not result in harm to highway safety, particularly taking into account junction improvements and visibility splays.

23. Concerns about the original decision relating to the mixed use of the site and alleged breaches of previous planning permissions are not matters for the appeal. Moreover, absence of an entry on the Council's brownfield register does not preclude proposals coming forward or from being found acceptable, having regard to the development plan and material considerations including the Framework.
24. The parties agree the proposal is exempt from Biodiversity Net Gain requirements, on the basis that it would be the development of PDL covered by sealed surfaces in the area to be developed. The decrease in the footprint of hardstanding and buildings, and the increase in landscape planting, would in any case result in a significant increase in biodiversity. I see no reason to disagree.

Conditions

25. The Council has suggested planning conditions in the event the appeal was allowed. I have considered these against the tests set out in the Framework and made only minor amendments where necessary.
26. Conditions 1 (time limits) and 2 (approved plans) are necessary in the interests of certainty. Conditions 3 (external materials) and 18 (permitted development rights) are necessary in the interests of visual amenity and the openness of the Green Belt and the countryside. Condition 4 (construction code of practice) is necessary to protect the environment. Conditions 5 (construction management plan), 6 (site access) and 19 (visibility splay) are necessary in the interests of highway safety.
27. Conditions 11, 12 and 13 (estate road) are required to secure a satisfactory means of access and for highway safety and visual amenity. Condition 14 (driveways and parking) ensures satisfactory off-road parking provision and condition 15 (cycle storage) supports sustainable forms of transport.
28. Conditions 16 (landscaping), 9 and 17 (tree protection) are necessary for tree protection and in the interests of visual amenity. Conditions 7 and 8 (drainage schemes) secure proper drainage and manage the risk of flooding and pollution. Condition 10 (contaminated land) protects public health and prevents pollution.
29. The Council also suggests a condition relating to electric vehicle charging points. However, Part S of the Building Regulations requires the installation of such as part of residential development. Therefore, as this matter is addressed by other regulatory controls, it is not necessary for this condition to be imposed.

Conclusion

30. For the reasons set out above, I conclude that the appeal should be allowed.

Sarah Manchester

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 the following drawing nos: 21022_PL(90)101, 21022_PL(90)103_A, 21022_PL(20)103_B, 21022_PL(20)104_B, 21022_PL(25)103_A, 21022_PL(25)104_A, 21022_PL(25)105_A, 21022_PL(25)106_B, 21022_PL(25)107_A, 21022_PL(26)101.
3. The materials to be used on the development hereby approved shall be as stated on the application forms and approved plans.
4. No development shall take place until a Construction Code-of-Practice statement has been submitted to and approved in writing by the Local Planning Authority. The Code shall include details of the measures envisaged during construction to manage and mitigate the main environmental effects of the relevant phase of the development. This shall include detailed proposals for the protection of badgers that may forage on the site during the construction period. The Code shall be adhered to throughout the construction period for the development.
5. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) The parking of vehicles of site operatives and visitors;
 - ii) The loading and unloading of plant and materials;
 - iii) The storage of plant and materials used in constructing the development;
 - iv) The erection and maintenance of security hoarding;
 - v) Wheel washing facilities;
 - vi) Measures to control the emission of dust and dirt during construction;
 - vii) A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) Details of working hours;
 - ix) Routing of delivery vehicles to/from site.The approved statement shall be adhered to throughout the construction period
6. No development shall take place until a scheme for the site access and off-site highway works has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include, but not be exclusive to, widening of the site access and radii on Barrowford Road, re-grading the highway verge on the western side of the site access, extension of the street lighting system, construction of a new footway on the north side of Barrowford Road between the site and Wheatley Lane Road and removal of Roaming Rooster tourism signage. The development shall not be occupied until the approved scheme has been implemented.
7. No development shall take place until details of a sustainable surface water drainage scheme and a foul water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); Reason: To secure proper drainage and to manage the risk of flooding and pollution;
- (iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- (iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- (v) Foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

8. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to and approved in writing by the local planning authority. The sustainable drainage management and maintenance plan shall include as a minimum:
 - a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
 - b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

9. No ground clearance, demolition, or construction work shall commence until protective fencing, to BS 5837 : 2005 at least 1.25 metres high securely mounted on timber posts firmly driven into the ground has been erected around each tree/tree group or hedge to be preserved on the site or on immediately adjoining land, and no work shall be carried out on the site until the written approval of the Local Planning Authority has been issued confirming that the protective fencing is erected in accordance with this condition. The fencing shall be located at least 1.00 metre beyond the protected area detailed in BS 5837. Within the areas so fenced, the existing ground level shall be neither raised nor lowered. Roots with a diameter

of more than 25 millimetres shall be left unsevered. There shall be no construction work, development or development-related activity of any description, including the deposit of spoil or the storage of materials within the fenced areas. The protective fencing shall thereafter be maintained during the period of construction.

10. No development shall take place until a method statement setting out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site has been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail how:

a) an investigation and assessment to identify the types, nature and extent of land contamination affecting the application site together with the risks to receptors and potential for migration within and beyond the site will be carried out by an appropriately qualified geotechnical professional (in accordance with a methodology for investigations and assessments which shall comply with BS 10175:2001) will be carried out and the method of reporting this to the Local Planning Authority; and

b) a comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the Local Planning Authority.

All agreed remediation measures shall thereafter be carried out in accordance with the approved implementation timetable under the supervision of a geotechnical professional and shall be completed in full accordance with the agreed measures and timings. Prior to commencing construction of any building, a report to confirm that all the agreed remediation measures have been carried out fully in accordance with the agreed details, providing results of the verification programme of post-remediation sampling and monitoring and including future monitoring proposals for the site shall be submitted to and approved in writing by the Local Planning Authority.

Advisory Notes: (i) Where land identified as having the potential to be contaminated is undergoing redevelopment, a copy of the leaflet entitled 'Information for Developers on the investigation and remediation of potentially contaminated sites' will be available to applicants/developers from the Council's Contaminated Land Officer. The leaflet will be sent to the developer by request. (ii) Three copies of all contaminated land reports should be sent to the Local Planning Authority. (iii) This condition is required to be fully complied with before development is commenced. Failure to comply with the condition prior to commencement of work may result in legal action being taken.

11. Within three months of the commencement of development, details of the proposed arrangements for future management and maintenance of the estate road within the development shall be submitted to and agreed in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved details until such time as an agreement has been entered into with the

Highway Authority or a private management and maintenance company has been established.

12. Within three months of the commencement of development, full engineering, drainage, street lighting and constructional details to adoptable standards (Lancashire County Council's specification) of the internal estate roads shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details. Reason: In the interest of highway safety to ensure a satisfactory appearance to the highway infrastructure serving the approved development.
13. The internal estate roads shall be constructed in accordance with the approved engineering details and to at least base course level prior to first occupation of any dwelling.
14. Prior to first occupation of each dwelling, the driveways and parking areas shall be constructed in a bound porous material and made available for use and thereafter shall be kept available at all times for the parking of vehicles and maintained for that purpose.
15. Prior to first occupation of each dwelling, secure, covered cycle storage for at least two cycles shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The approved cycle storage shall be permanently maintained thereafter.
16. No above ground works shall commence until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
 - a. the exact location and species of all existing trees and other planting to be retained;
 - b. all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;
 - c. an outline specification for ground preparation;
 - d. all proposed boundary treatments with supporting elevations and construction details;
 - e. all proposed hard landscape elements and pavings, including layout, materials and colours;
 - f. the proposed arrangements and specifications for initial establishment maintenance and long-term maintenance of all planted and/or turfed areas.The approved scheme shall be implemented in its entirety within the first planting season following the substantial completion of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.
17. The development hereby approved shall be carried out in strict accordance with the Arboricultural Impact Assessment, prepared by Seed Arboricultural Consultancy reference 1457-AIA-V1-C.

18. Notwithstanding the provisions of Article 3 and parts 1 and 2 of the second Schedule of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development as specified in Schedule 2 Part 1, Classes A, B, C of that Order shall be carried out.
19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device over 1m above road level. The visibility splay subject of this condition shall be that land in front of a line drawn from a point 2.4 m measured along the centre line of the access road from the continuation of the nearer edge of the carriageway on Barrowford Road to points measured 160m in both directions of the nearer edge of the carriageway of Barrowford Road, from the centre line of the access, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

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