The Planning Inspectorate

Appeal Decision

Site visit made on 22 September 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020

Appeal Ref: APP/P4225/W/20/3256043
Whitfield Barn, Calderbook Road, Littleborough OL15 9NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Nigel Bishop against the decision of Rochdale Metropolitan Borough Council.
- The application Ref 19/01179/FUL, dated 7 October 2019, was refused by notice dated 6 February 2020.
- The development proposed is re-submission of refused application 18/1061/FUL. Change of use and conversion of existing barn and outbuildings to form a new dwelling and storage building and extension to existing dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council had raised concerns over the date of the original bat survey submitted with the application, although it did not form a reason for refusal. The appellant in support of the appeal has provided an updated *'Bat Presence / absence Survey (2020)'*. In the interests of natural justice and fairness the Council were given the opportunity to comment, however no representations were forthcoming. I will return to this matter in other considerations.

Main Issues

3. The main issues are:

    - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework, 2019 (the Framework) and any relevant development plan policies;
    - The effect of the proposal on the openness of the Green Belt;
    - The effect of the proposed development on the character and appearance of the host building and area, with particular regard to the setting of heritage assets; and
    - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The proposed development is for the change of use of an existing barn and outbuildings including storage for the existing property within a small cluster of dwellings/former farm buildings, whilst located within the Green Belt. Policy G4 of the Rochdale Adopted Core Strategy, 2016 (CS) deals with the Green Belt and advises that development will be restricted to those limited types of development which are deemed not to be inappropriate by national planning policies unless very special circumstances can be demonstrated.

5. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 145 of the Framework regards the construction of new buildings as inappropriate in the Green Belt, subject to a limited number of exceptions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

6. The exceptions are set out at paragraph 145 of the Framework, and include (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building and (g) limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in a continuing use which would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to the openness of the Green Belt where development would contribute to meeting an identified affordable housing need.

7. Paragraph 146 of the Framework sets out that other forms of development, including (d) the re-use of buildings provided that the buildings are of permanent and substantial construction provided they preserve its openness and do not conflict with the purposes of including land within it.

8. The appeal site is accessed from Calderbrook Road by a steep access road serving a number of properties with Whitfield Farm being at the top within a prominent position within the landscape. The wider appeal site comprises of a residential dwelling with attached holiday let accommodation including private yard areas. The appeal building 'the barn' has some existing openings, albeit blocked up and there are considerable amounts of areas both walls and roof of the building missing, therefore it is in a dilapidated state, whether that be from its age or neglect. A stone courtyard detached from the existing dwelling surrounds it.

9. The proposals include the rebuilding of stores which would link to the existing dwelling on the site. The store buildings have no roofs and limited walls remaining. However, the Council advise that this would be within the residential curtilage and this element of the proposal would meet the guidance as set out in the SPD[1], paragraph 5.20 in regard to it being no more than a third of the existing volume and would not be 'inappropriate development' in the Green Belt as it would not result in a disproportionate addition over and above the size of the original building. As such, I have no reason to disagree with their findings on this matter and this element of the proposal.

[1] Rochdale Borough Council, Guidelines & Standards for Residential Development SPD, 2016

10. Turning to the 'barn', the appellant contends that, whilst rebuilding of the elevations is required the overall barn is of substantial and permanent construction. A structural report, albeit limited was submitted with the application. Amongst other things it identifies that the roof is in a poor structural condition and requires replacing, most of the elevations have shown bulge including gables and require replacing with new walls. Excavation is required of levels to allow underpinning for sub-basement levels, thermal insulation and new internal floor levels.

11. As such, I would agree with the Council that it appears the barn has significant structural issues. For these reasons, I consider that the works would be so extensive that they would be more than what can be considered a conversion and that the buildings are not of a permanent and substantial construction. It would, therefore not meet the exception as set out in the Framework at paragraph 146(d).

12. The Council argues that the appeal and wider site were a former farmstead and was granted permission in 1995[2] for a change of use and conversion of barn to form 2 dwellings but did not include the barn or store structures. It, therefore, remains as an agricultural use. The appellant contends that the site amounts to PDL as the appeal site has been used for other purposes, being not agriculture that include vehicle storage, vehicle maintenance for a dairy, domestic use and has been abandoned for some years with no prospect of it being resurrected for agricultural use.

13. The Framework supports development that makes efficient use of land, through the definition of PDL[3], which includes land occupied by a permanent structure including the curtilage of developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed infrastructure, however this does not go without being caveated. It excludes land that is or was last occupied by agriculture or forestry buildings, and land that was previously developed but where remains of the permanent structure or fixed surface structure have blended into the landscape.

14. The evidence before me sets out that previous planning permissions at the site did not include the 'barn', I have no evidence to the contrary. I acknowledge that the wider site is occupied by other permanent buildings, these have a lawful residential use and fall within the definition of PDL. Simply because a site contains other structures/buildings that would meet the definition this does not mean that the whole site[4] should be considered as such.

15. However, in considering whether the lawful use has been lost by evidence of abandonment, *Panton & Farmer*[5], in which it was found that a use which was merely dormant or inactive could still be considered 'existing', so long as it had already become lawful and had not been extinguished by evidence of abandonment. The test is whether the previous use had been abandoned or supplanted. In *Thurrock*[6], it was found that the *Panton and Farmer* principle only applied when lawful use rights had been accrued.

[2] 95/D32216
[3] Annex 2 of the Framework refers to the definition of previously developed land
[4] *R (Lee Valley Regional Park Authority) v Broxbourne Borough Council [2015] EWHC 185 (Admin)*
[5] *Panton & Farmer v SSETR & Vale of White Horse DC* [1999] JPL 461
[6] *Thurrock BC v SSETR & Holding* [2002] EWCA Civ 226

16. I acknowledge the appellants comments in regard to citing *Hartley*[7] *and* consideration of the owners' intentions, in citing *Hughes*[8], of which the Court of Appeal held that the test of the owner's intentions should also be objective and not subjective, however this is not decisive. The test was the view to be taken by a reasonable man with knowledge of all the relevant circumstances. I accept that the Courts[9], have established there are four factors of abandonment to be considered; (i) the physical condition of the land or building; (ii) the period of non-use, (iii) whether there had been any other use and (iv) the owner's intentions as to whether to suspend the use or to cease it permanently.

17. Nonetheless, I have no supporting evidence to support these contentions, I observed the site was fairly maintained, albeit had been segregated from adjoining fields of which tractors were visible in use along them. This, however, does not necessarily indicate that only residential activities were taken place on the immediate appeal site. Furthermore, the structural report indicates that extensive works are required for a residential purpose but did not conclude the building was beyond repair.

18. On the basis of the evidence before me, including the absence of a lawful development certificate for the use of the building, insufficient evidence has been provided to demonstrate that on the balance of probability the 'barn' building would be considered abandoned. As such, I have no reason to consider that the lawful use of the 'barn' would be for purposes other than agriculture, whether that being redundant or not, thus the appeal site does not amount to PDL.

19. Moreover, even, if I were to accept the appellants contentions that there had been abandonment of the agricultural use of the appeal site including the 'barn', it would fail on the other exceptions as set out within the Framework as I have already identified, and would amount to inappropriate development in the Green Belt.

20. For the reasons given above, I conclude the proposal would be contrary to Policy G4 of the CS. Furthermore, it does not meet any exception in that of the Framework, with reference to paragraphs 145(g) and 146(d), as it would not be a building of permanent and substantial construction or the appeal site amounts to PDL.

21. As the appeal scheme would not meet any of the exceptions in paragraph 145 or 146 of the Framework, it would constitute inappropriate development in the Green Belt.

Openness

22. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, which can also have a visual or spatial element.

23. The change of use of the 'barn' would result in a sizeable detached dwelling over three floors, incorporating excavation and levelling to form a new sub-

[7] *Hartley v MHLG* [1970] 1QB 413
[8] *Hughes v SSETR & South Holland DC* [2000] JPL 826
[9] T*rustees of Castell-y-Mynach Estate v SSW* [1985] JLP 40

underground floor, outdoor terracing, new parking, new hardstanding and domestic curtilage with associated paraphernalia which would have a significant adverse impact on openness. Whilst the site would be enclosed by fencing it would still be visible from public views further along the rights of way and the appeal site entrance / road. Given the proposal is for built form of significant scale, it would be clearly discernible in those views.

24. For the above reasons, the proposed development would harm the openness of the Green Belt in both visual and spatial terms. The scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

Significance of Heritage Assets

25. Section 66(1) of the Act requires the decision maker, in considering whether to grant planning permission for development which affects a listed building (LB) or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.

26. The appeal site is within close proximity to two Grade II LB, Whitfield Farmhouse and Whitfield Cottage. The Stables is immediately adjacent to the site and is considered to be a non-designated heritage asset and is found upon the first edition of OS maps and within the setting of the LB. Whitfield Barn is a 20th century building and appears to have been developed combining a barn and lean-to shippon structure at the lower level. The original building is easily identified at the lower levels, constructed of sandstone, with the upper being brick with stone slate roof. The building is identified further on the historic maps.

27. Both parties disagree whether the appeal site should also be considered as a non-designated heritage asset. The Council confirm that although the original barn building was constructed between 1892 & 1904 giving the building some historical value, it is apparent that the property does not entirely date from this time. Furthermore, it would not meet the Council's Non-Designated Heritage Asset Identification Criteria, albeit not published it sets out good practice of identification of Non-Designated Heritage Assets. Therefore, I would agree that the visual connection of the building to the Stables alone is insufficient to define it as an asset. As such, the appeal site is clearly located within the setting of the non-designated heritage asset but does not form one itself.

28. Policy P1 and P3 of the CS requires high quality design in new developments, regardless of location in the borough. Policy P2 protects heritage by conserving, enhancing and promoting key heritage assets, both statutory and non-statutory, including consideration of their wider settings. This includes both LB and non-statutory heritage assets of local interest, be they buildings and promotes their sensitive restoration. They are consistent with the aims of the Framework.

29. The Framework at paragraph 184, recognises that heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 192 requires that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, its

positive contribution to sustainable communities, and the desirability of making a positive contribution to local character and distinctiveness.

30. Paragraph 193 considers the impact on the significance, great weight should be given to the asset's conservation and is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. Paragraph194 advises that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. This includes development within its setting.

31. Paragraph 197 requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

32. Despite the design of the works to the stores in connection with the existing dwelling being acceptable and in keeping with the original form there is somewhat limited details of this. The proposed conversion of the barn would result in a significant number of openings being introduced and the balcony and glass balustrade would appear as an incongruous addition and alien feature. Therefore, the design of the proposed development for the dwelling would over domesticate the existing building, with cumulative impacts from the excessive openings including doors, windows and rooflights to the detriment of the character and appearance of the host building, of which has an agricultural appearance based particularly from its historical association with a wider agricultural complex.

33. Furthermore, the extent of rebuilding works would result in the loss of its simple original and utilitarian form, resulting in discordant features causing harm to the character and appearance of the host building and wider area, including the wider setting of the appeal site, it would impact considerable on the significance of the non-designated asset and designated heritage assets.

34. Moreover, the barn is visually prominent from the surrounding landscape, including views from across the surrounding countryside, designated rights of way that connect to the site and on approach from the bottom of Calderbrook Road. I would disagree to some extent of the neutral impact and that the proposals would not be readily visible from the LB given the close proximity and topography of the area.

35. For the reasons given, I conclude that the proposed development would harm the character and appearance of the area and cause harm to setting of both the designated heritage assets and non-designated heritage asset, contrary to Policies P1, P2 and P3 of the CS, amongst other things these policies require high quality design and to conserve, enhance and protect heritage assets.

36. Whilst the harm to the heritage assets would be less than substantial, I must nonetheless give this considerable importance and weight in the context of a duty to favour preservation or enhancement.

37. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage

asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

38. There would be little public benefit with the change of use to a dwelling, although it would contribute to the Council's housing land supply, this would be limited due to the quantum of development proposed. There would be a small social benefit in providing the housing and economic advantages would also arise from the construction and occupation of the new house, however this does not outweigh the harm found to the significance of the heritage assets.

39. It would also be contrary to Section 16 of the Framework as it would not conserve the heritage asset in a manner appropriate to its significance, or positively contribute to local character or distinctiveness.

Other Considerations

40. The appellant indicates that repair works to the 'barn' could be done without the need for planning permission and that prior approval could be sort under Part Q of the GPDO[10] for the conversion of the barn (fallbacks). Whilst, this may be the case, this is not the appeal scheme before me. In any event, the appeal needs to be determined on its individual merits on the basis of the evidence before me.

41. Furthermore, no substantive evidence has been provided to persuade me that the appellant would genuinely pursue any fallback option of repair works if the appeal failed. In the absence of any consent for a Class Q development, I have no evidence that there is a greater than theoretical possibility that this could take place, and from the evidence before me the Council has indicated the consideration or requirements of such prior approval matters would be a concern to them. As such, I attach little weight to the fallback positions.

42. I acknowledge the appellant's comments in regard to the 'wider works' of the conversion/rebuilding of stores for the existing dwelling being acceptable. However, the absence of harm on this part of the proposals does not justify the harm I have identified in regard to the conversion of the 'barn' to form a new dwelling.

43. The appellant submitted an additional bat survey as part of the appeal. The survey concluded that there was no evidence of use by bats found internally or externally. Although there was potential for use by roosting bats and some activity was recorded of bats foraging nearby. From the evidence before me, the proposed development would not have an adverse impact on protected wildlife species. Suitable worded conditions would address enhancements and any mitigation required. As such, this is not a consideration that outweighs the harm I have identified caused by the proposed development.

44. The appellant refers to the Council's procedure statement and sustainable development. I accept that the proposal would result in the re-use of an underused building and help future needs with housing in the borough. However, this is limited and although the Framework is supportive of positive planning and sustainable development, it is not without caveats, including that developments are sympathetic to local character, conserve and protect heritage assets and protect the Green Belt. Although there would be some social, environment and economic benefits to the borough, this does not

[10] The Town and Country (General Permitted Development) (England) Order 1995, as amended

outweigh the significant harm I have found to both the Green Belt and heritage assets.

Planning Balance and Conclusion

45. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness, which gives rise to additional harm. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.

46. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt and the other harm I have identified including the harm to the character and appearance of the host building, area and the setting of designated and non-designated heritage assets. Consequently, the very special circumstances necessary to justify the development do not exist.

47. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.

48. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR