



Appeal Decision

Site visit made on 17 August 2022

Decision by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13th September 2022

Appeal Ref: APP/P2365/W/22/3294427

**Land on the east side of Bescar Lane (south of 29 Bescar Lane),
Scarisbrick**

- 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 Elite Estates against the decision of West Lancashire Borough Council.
 - The application Ref 2021/1280/FUL, dated 30 October 2021, was refused by notice dated 1 March 2022.
 - The development proposed is the erection of 4 dwellings with associated garden curtilages and communal courtyard / parking, bin and cycle stores, and hard and soft landscaping
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended drawings with the appeal. These show alterations to one of the proposed dwellings, intended to overcome a reason for refusal. I am satisfied that these are minor alterations. As part of the appeal process the Council have had the opportunity to provide comments on the updated plans. I further note that the residents of No. 29 have provided representations on these changes. As such, and having regard to the Wheatcroft principles¹ and guidance², I am satisfied that there is no risk of prejudice if I take the amended plans into account. I have therefore determined the appeal on this basis.

Main Issue

3. The main issues are:
 - 1) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - 2) the effect on the openness of the Green Belt;
 - 3) the effect of the development on the living conditions of residents of No. 29 Bescar Lane, with particular regard to privacy; and

¹ Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

² 'Procedural Guide Planning Appeals – England'

- 4) 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 necessary to justify the proposal.

Reasons for the Recommendation

Whether the proposal constitutes inappropriate development

4. The appeal site comprises an open plot of land to the south of No. 29 Bescar Lane, situated just outside of the settlement boundary of the rural village of Bescar, Scarsbrick. It is located adjacent to, and across from, residential dwellings, with those falling inside the settlement boundary having a notably tighter grain of development, with properties facing onto Bescar Lane. The site sits within the Green Belt. Policy GN1 of the West Lancashire Local Plan 2012-2027 states that development proposals within the Green Belt should be assessed against national policy and any relevant local plan policies.
5. The Framework states at paragraph 149 that construction of new buildings in the Green Belt should be regarded as inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, this is subject to a number of exceptions including at paragraph 149(e), limited infilling in villages.
6. 'Limited' and 'infilling' are not defined in the Framework. Similarly, while the site lies outside the settlement boundary, this is not determinative in judging whether it forms part of the village. It is established case law³ that these are matters of planning judgment, to be assessed on the facts on the ground.
7. I am satisfied that the proposal would comprise limited development. While the site is sizeable in the context of the street, the proposal is for only four dwellings. These would not be unduly large or spaced out within the site, and would not stretch significantly beyond the established rear line of surrounding development. As such, the proposal would overall be of an appropriate scale to accord with this aspect of paragraph 149(e) of the Framework.
8. With regards to whether it forms part of the village, the site is adjacent to, but beyond, the core ribbon of development. Although there is no fixed design character, the opposite side of Bescar Lane continues a tight and largely consistent rhythm of development reflective of the main village. However, the appeal site marks a transition for the eastern side of the road. It gives way to more sporadic built form in plots that do not follow the pattern of development and frontages largely found within the immediate settlement boundary, before a clear transition to open fields. As such, despite its physical proximity to the village and associated services, the site overall does not read as part of it but rather relates more to the open countryside just beyond.
9. Case law⁴ has interpreted infilling as development in a gap in an otherwise built up frontage. While the properties to the north of the site share such a frontage, this is not the case for those immediately to the south. This is due to their setback and orientation relative to the street, with the dwellings sitting back from and perpendicular to Bescar Lane. In addition, spacing and boundary treatments between the properties contribute to a visual and

³ Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin)

⁴ Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin)

physical separation from neighbouring development, befitting of the more open character of this stretch of Bescar Lane.

10. The site is not therefore a gap within a built up frontage. While I acknowledge that the layout of the proposal seeks to add visual interest in response to provisions of the Design Guide SPD, it nevertheless contributes to the lack of a clear continuum of development in the streetscene. Accordingly, I do not consider that the proposal would be infill development.
11. For these reasons, the proposal would not meet the exception set out in paragraph 149(e) of the Framework. There is no suggestion that it would meet any other exception listed in the Framework and it would therefore represent inappropriate development, which by definition is harmful to the Green Belt.

Impact on openness

12. The Framework states that *"the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence."* It has been established that openness has both a spatial and visual aspect.
13. From a spatial perspective, the proposal would inevitably lead to a reduction in the openness of the Green Belt. While I have concluded that the proposed development would overall be limited in scale, it would nonetheless introduce elements of built form and hardstanding in a currently open parcel of land free from development. This would therefore reduce the current spatial openness of the immediate section of the Green Belt.
14. From a visual perspective, I acknowledge that the proposal would be set back from the street, with some screening provided by trees, and that an attempt has been made to ensure it is reflective of a traditional farmstead. Nevertheless, the addition of the proposal would remain highly visible within the surrounds, notably reducing the visual openness at this location.
15. Accordingly, due to its spatial and visual impact the proposal would fail to preserve the openness of the Green Belt.

Living Conditions

16. One of the dwellings proposed, identified as The Shippon, would sit perpendicular to No. 29 Bescar Lane. In the application plans it was shown to have first floor habitable rear windows that would directly face the rear garden of No. 29, at a separation distance shorter than that recommended by the Design Guide SPD. As such, a clear view was provided from these windows towards this rear outdoor space, causing overlooking and unduly impacting the privacy of residents of No. 29.
17. However, the appellant has since provided updated plans which show the replacement of these windows with rooflights. Due to the angle of the rooflights, there would no longer be clear or direct views from these rooms overlooking the garden of No. 29, such that the privacy of residents would not be impacted. For the avoidance of doubt, on the information provided I consider that these rooflights would also adequately serve the associated rooms in terms of light and outlook.
18. For the reasons given, the proposal would not have a significant adverse effect on the living conditions of No. 29 Bescar Lane, with regard to privacy. As such, it

would comply with Policy GN3 of the West Lancashire Local Plan 2012-2027, which seeks to retain reasonable levels of privacy for neighbouring properties.

Other considerations

19. The Framework states that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
20. The proposal would provide housing in a sustainable location within an area acknowledged to have a shortage of available brownfield land. While the Council can demonstrate a 5 year supply of housing sites, there is no bar to greater provision, with the Government's objective being to significantly boost housing supply. Nevertheless, four dwellings would have a limited impact on the future delivery of housing. Accordingly, I attribute moderate weight to this benefit.
21. The appellant has made reference to other appeal decisions⁵ which have concluded that development at sites with gaps in frontages of similar widths to the appeal site have constituted infill development. However, on the basis of the information provided, these sites formed part of an otherwise built up frontage which I have concluded is not the case in relation to the appeal site before me. In any event, the proposal has been considered on an individual basis and the acceptance of other developments referred to is of little weight.
22. I acknowledge that the proposal provides other benefits in representing good design, providing ecological gains, and presenting opportunities to engage local labour and increase spending in the local economy. However, given the limited scale of the proposal, these benefits would be modest and attract limited weight.
23. The concerns raised in relation to how the application was considered by the Council have not had a bearing on my decision. I have considered the appeal on its own merits based on the evidence before me and my observations of the site.

Conclusion

24. The proposal would result in inappropriate development in the Green Belt. By definition, this would be harmful to the Green Belt and the Framework indicates that such harm should be given substantial weight. I have also concluded that harm would be caused to the openness of the Green Belt. While I have concluded that the proposal would not have a significant adverse effect on the living conditions of residents of No. 29 Bescar Lane with regards to privacy, this represents a lack of harm which is neutral in the overall planning balance.
25. I find that the other considerations in this case when taken together do not clearly outweigh the harm that I have identified by way of inappropriateness and the harm caused to the openness of the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would therefore be contrary to the Framework in addition to Policy GN1 of the West Lancashire Local Plan 2012-2027, which is consistent with the Framework in this regard, and the Green Belt SPD. Having regard to all other matters raised, the appeal is therefore dismissed.

C Rafferty

⁵ APP/P0240/W/20/3262804; APP/R0660/W/18/3201548; APP/B3438/W/18/3214689

INSPECTOR