

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	21st APRIL 2015
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - None to report
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:- Copy Appeal Decisions attached

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**Planning Appeals Lodged
between 09/03/2015 and 12/04/2015**



Application No.: 57082/FUL

Appeal lodged: 12/03/2015

Decision level: DEL

Appeal Type: Informal Hearing

Recommended Decision: Refuse

Applicant: Mr George Bretherton

Location Gorse Brow Farm, Fern Grove, Bury, BL9 6SS

Proposal Erection of 1 no. dwelling

Application No.: 57676/FUL

Appeal lodged: 20/03/2015

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: Mr Kamran Khan

Location 431 Bury New Road, Prestwich, Manchester, M25 1AF

Proposal Change of use from Dog Grooming Parlour to Private Hire booking office (Sui Generis)

Total Number of Appeals Lodged: 2

**Planning Appeals Decided
between 09/03/2015 and 12/04/2015**



Application No.: 56560/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Miss Elizabeth Haslam

Appeal Decision: Dismissed
Date: 09/04/2015
Appeal type: Written Representations

Location: Land adjacent to 9 Taylors Lane, Radcliffe, Bolton, BL2 6QS

Proposal: Demolition of existing buildings and regrading of land; Erection of 1 no. detached dwelling; Erection of stables, with tack room, store, kennels and wash room; Formation of manege (resubmission)

Application No.: 57261/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mr Peter Nuttall

Appeal Decision: Dismissed
Date: 07/04/2015
Appeal type: Written Representations

Location: Land at 252 Turton Road, Tottington, Bury, BL8 4AJ

Proposal: Erection of 1 no. dwelling (resubmission)

Application No.: 57263/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mr Peter Clarke

Appeal Decision: Dismissed
Date: 16/03/2015
Appeal type: Written Representations

Location: Land at rear of 141 Stubbins Lane, Ramsbottom, Bury, BLO OPR

Proposal: Erection of a two storey dwelling

Application No.: 57456/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mr Rohall Nawaz

Appeal Decision: Allowed
Date: 13/03/2015
Appeal type: Written Representations

Location: 73 Bury Old Road, Prestwich, Manchester, M25 0FG

Proposal: Retrospective application for front porch, two storey/first floor extension at side and single storey extension at rear

Application No.: 57721/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mr A Mahmood

Appeal Decision: Dismissed
Date: 24/03/2015
Appeal type: Written Representations

Location: 134 Rochdale Road, Bury, BL9 7BD

Proposal: Retrospective application for single storey extension at side

Appeal Decision

Site visit made on 3 March 2015

by William Fieldhouse BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09/04/2015

Appeal Ref: APP/T4210/W/14/3001347

9 Taylors Lane, Bolton BL2 6QS

- 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 Miss Elizabeth Haslam against the decision of Bury Metropolitan Borough Council.
 - The application Ref 56560, dated 30 July 2013, was refused by notice dated 7 July 2014.
 - The development proposed was described originally as "demolition of equestrian/storage building, regrading of land, and replacement with bungalow, stables with tack room, store, kennels and washroom and manege".
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Applications for Costs

1. Applications for costs were made by both Miss Elizabeth Haslam and Bury Metropolitan Borough Council, each against the other main party. Those applications are the subject of a separate decision letter.

Decision

2. The appeal is dismissed.

Preliminary Matters

3. The description of development set out in the header above is taken from the **planning application form. The Council's decision notice describes the proposal as "demolition of existing buildings and regrading of land; erection of 1 no. detached dwelling; erection of stables with tack room, store, kennels and washroom; formation of manege (resubmission)".** A previous application for a similar proposal that included a larger dwelling had been withdrawn in April 2013.
4. The omission of reference to an "equestrian/storage **building**" on the decision notice may reflect the fact that the Council has a different opinion to the appellant as to the current lawful use of the appeal site.
5. The parties agree that planning permission was granted for the change of use from a chicken house to stables and retention of fenced paddock in 1991¹. However, there is disagreement over whether that planning permission was

¹ Planning application Ref 26249 approved 3 October 1991.

implemented, and over whether the site has been used for equestrian purposes for at least the last ten years. Both parties have submitted evidence to support their views. However, in the absence of a lawful development certificate I cannot be sure that the lawful use of the site is anything other than agricultural. That said, this uncertainty does not mean that I am unable to properly assess the proposal in the context of relevant planning policies.

Main Issues

6. There is no dispute that the site is in the Green Belt, and therefore the main issues are:
 - whether the proposal is inappropriate development for the purposes of national and development plan policy relating to Green Belts and, if so
 - whether the 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 it.

Reasons

7. The site is a former poultry farm and comprises a large building constructed of blockwork with timber cladding and a low pitched roof located close to the west boundary, along with an adjoining paddock. Access is via Taylor Lane or Ainsworth Hall Road, both of which are narrow tracks connecting to the A58 some 300 metres or so to the south, with a field and dwellings in the area between. There are a few houses to the east and west, and open countryside to the north on the other side of Taylor Lane.
8. At the time of my visit the building was used for stabling a number of horses, and for the storage of associated equipment, food and various other items. The proposal would entail the demolition of the existing building, the erection of a bungalow and new stable block in its place, the provision of a new access road, and formation of an outdoor manege. The appellant has advised that the stables would be used for domestic purposes only.

Whether the Development would be Inappropriate in the Green Belt

9. **The National Planning Policy Framework ("NPPF") makes it clear that** development in the Green Belt is inappropriate other than for a limited number of defined purposes. In this context, the erection of a new stable building and creation of a manege, being appropriate facilities for outdoor sport or recreation, would not be inappropriate provided that they preserved the openness of the Green Belt and did not conflict with the purposes of including land within it.
10. The erection of a new dwelling in the Green Belt is an inappropriate form of development in most situations, an exception being if it involves limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
11. As I have already stated, the lawful use of the site has not been definitively established. However, even if I were to accept that the lawful use was for

equestrian purposes, and that the site should be classified as previously developed land as defined in the NPPF, to be considered not inappropriate the proposed residential development, as well as the other elements of the scheme, would have to meet the tests relating to the openness and purposes of the Green Belt.

12. The proposed dwelling, and the new stable block, would together have a significantly smaller footprint and volume than the existing building on the site. Thus, whilst the height of the buildings would be somewhat greater, as the openness of an area essentially depends on the overall amount of built development, I am satisfied that the buildings themselves would not have a materially greater impact on openness.
13. However, the existing building, whilst in poor condition, is essentially rural in nature and quite unobtrusive in the landscape, due to its simple design, external materials, and low eaves. In contrast, the proposed bungalow would have a greater overall height and also higher eaves meaning that it would be more prominent. Moreover, the introduction of a dwelling would in itself markedly change the character and appearance of the site from one that is at present quite typical of countryside on the urban fringe to one that is overtly residential in nature. This harmful effect would be compounded by virtue of the fact that the whole site would be used in connection with the dwelling, meaning that the proposed stables, access and parking areas, and other outdoor areas would be quite likely to take on a suburban character and appearance through, for example, residential-style landscaping and the placing of domestic paraphernalia. The imposition of planning conditions would be unlikely to be effective in preventing this.
14. I conclude on this issue that the proposal would represent a significant and harmful encroachment of residential development and associated domestic land uses into the countryside, contrary to one of the purposes of including land in the Green Belt. As such, it would be inappropriate development for the purposes of national and development plan policy which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances².

Other Considerations and Balancing Exercise

15. The site is on the edge of the countryside outside the urban area around 300 metres from the nearest bus stop, and around one kilometre from a good range of shops and facilities on the A58 to the west. Frequent bus services run along the main road, but the distances to the bus stop and commercial area, along with the nature of the route which would initially be along an unmade rural track, mean that most trips to and from the proposed dwelling would be likely to be made by private car.
16. The appellant has sought to respond to advice provided by the Council, and minimise the impact of the proposal through the siting, design and choice of materials. The scheme would make economic use of the site and replace a building that has been neglected for many years. Additional trees would be planted, and the site would be likely to take on a more tidy appearance.

² NPPF paragraph 87.

However, for the reasons already given, the existing character and appearance of the site is not out of keeping with the surrounding rural area, and the likely overall effect of the proposal would be to result in a site with a markedly residential and suburban nature.

17. I have found that the proposal would be inappropriate in the Green Belt, that it would represent a harmful encroachment into the countryside that would detract from the rural character and appearance of the area, and that it would be likely to lead to most trips being made by private motor vehicle. The substantial harm that this would cause would not be clearly outweighed by the other considerations that I have identified, and therefore very special circumstances to justify the proposal do not exist³.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

William Fieldhouse

INSPECTOR

³ NPPF paragraph 88.

Costs Decision

Site visit made on 3 March 2015

by William Fieldhouse BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09/04/2015

Costs application A in relation to Appeal Ref: APP/T4210/W/14/3001347 9 Taylors Lane, Bolton BL2 6QS

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Miss Elizabeth Haslam for a full award of costs against Bury Metropolitan Borough Council.
 - **The appeal was made against the refusal of planning permission for "demolition of equestrian/storage building, regrading of land, and replacement with bungalow, stables with tack room, store, kennels and washroom and manege".**
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Costs application B in relation to Appeal Ref: APP/T4210/W/14/3001347 9 Taylors Lane, Bolton BL2 6QS

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Bury Metropolitan Borough Council for a full award of costs against Miss Elizabeth Haslam.
 - **The appeal was made against the refusal of planning permission for "demolition of equestrian/storage building, regrading of land, and replacement with bungalow, stables with tack room, store, kennels and washroom and manege".**
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Decisions

Costs Application A

1. The application for an award of costs by Miss Elizabeth Haslam against Bury Metropolitan Borough Council is refused.

Costs Application B

2. The application for an award of costs by Bury Metropolitan Borough Council against Miss Elizabeth Haslam is refused.

Reasons

3. Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process¹. I shall, therefore, consider whether this has occurred in relation to this appeal with respect to the behaviour of both the

¹ Planning Practice Guidance ID16-028.

appellant and the Council.

Background

4. The appeal, which relates to a former poultry farm, arose in response to the **Council's decision to refuse planning permission in July 2014 for a proposal that followed pre-application discussions and a withdrawn application for a similar scheme in 2013.**
5. Both applications for costs mainly relate to the issue of whether the lawful use of the site is for equestrian or agricultural purposes, and how this issue was dealt with by the other party at the application and appeal stages.
6. The application that led to the appeal clearly states that the current use of the **site is "equestrian/storage", whereas the Council's delegated officer report** concludes that the lawful use of the site is for agriculture. That report refers to the application that had been withdrawn in 2013 and enforcement investigations in 2009 and 2010, but not to any earlier planning history.
7. Both parties provided additional information relating to the lawful use of the site during the course of the appeal to that which had been referred to at the planning application stage. This information makes clear that planning permission was granted for the change of use from a chicken house to stables and retention of fenced paddock in 1991. However, there is disagreement over whether that planning permission was implemented, and over whether the site has been used for equestrian purposes for at least the last ten years. Both parties submitted evidence to support their views, but I concluded, in determining the appeal, that in the absence of a lawful development certificate I could not be sure that the lawful use of the site is anything other than agricultural.

The Appellant's Costs Application

8. The appellant claims costs on both substantive and procedural grounds:
 - the Council did not properly consider whether the proposal would be inappropriate development in the Green Belt in the context of national and local planning policy, mainly because it treated the lawful use as agricultural rather than equestrian;
 - the Council's **second reason for refusal relating to the site not being in a sustainable location** represents a generalised and inaccurate assertion;
 - **the Council's approach at the planning application stage was inconsistent** with the pre-application advice; and
 - the Council introduced new evidence during the appeal stage by referring to earlier planning history relating to the site.
9. The appellant claims that the whole appeal could have been avoided, and therefore claims all of the costs associated with the appeal including those of employing a planning consultant.

The Council's Costs Application

10. The Council also claims costs on both substantive and procedural grounds:

- if the **appellant's** justification for the application was based on the lawful use of the site being equestrian then supporting evidence should have been provided as part of the proposal, the proper process being a lawful development certificate; and
- the appellant introduced late evidence at the appeal stage and substantially altered the case as put forward in the grounds of appeal.

11. The Council claims that had the application been supported by proper evidence of the lawful use, the whole appeal process could have been avoided, and that the introduction of information at the appeal stage led to additional costs as the **Council's appeal statement had to reviewed and changed.**

Substantive Issues

12. When the planning application was made the appellant, who had already been in contact with the Council, believed that the lawful use of the site was equestrian, that this was accepted by the Council, and that the site would therefore be considered to be previously developed land. Whilst it may have helped her case to provide more supporting information at that stage, the fact that she did not was not unreasonable.

13. The Council determined the planning application on the basis of the information before it, and it was entitled to come to a different view as to the lawful use of the site. In coming to a view, the Council claims to have taken account of the planning history of the site, notwithstanding the fact that this is not fully set out in the officer report. Moreover, in the absence of a lawful development certificate, or any other substantive information provided as part of the application, I am not persuaded that it was unreasonable for the Council to assume that the lawful use of the site was agricultural given the nature and location of the site.

14. Having come to the view that the lawful use of the site was agricultural, the officer report assesses the proposal against relevant policies in the Bury Unitary Development Plan and the National Planning Policy Framework relating to development in the Green Belt. This was the correct approach, and whilst its interpretation of, and assessment of the proposal against, these policies can be questioned in some respects this does not mean that it acted unreasonably, particularly bearing in mind the judgments that had to be exercised.

15. **The Council's second reason for refusal** is that the site is outside the urban area and as such is not in a sustainable location. UDP policy H1/2, which is referred to in the decision notice, is aimed at directing development to the urban area, and as the site is in the Green Belt outside any defined urban boundary it was reasonable to conclude that the proposal was contrary to this policy. The Council provided further information at the appeal stage about the accessibility of the site to local services and facilities to substantiate the reason for refusal which, to my mind, is clear and specific in its meaning and based on a reasonable interpretation of the UDP.

Procedural Issues

16. The Council provided pre-application advice, and it appears that this focussed on how to minimise the impact of the proposal on the openness of the Green

Belt. However, such advice cannot reasonably be expected to be totally comprehensive and binding on the Council, and the fact that additional issues were later raised does not mean that the planning application was handled in an inappropriate way. Furthermore, the planning history of the site is a matter of public record meaning that the appellant, who had professional representation at both the application and appeal stage, could have referred to that earlier in the process in support of her case.

17. During the appeal stage it seems that both parties came to the view that the issue of whether the site should be regarded as previously developed land was of greater importance than had perhaps been apparent during the course of the planning application. Accordingly, further information was provided in support of **both sides' cases and in response to the other side's arguments**. The exchange of information was made more protracted due to the fact that competing costs applications were made relatively late on in the appeal process. However, both parties have adhered to the deadlines set throughout the process, and focussed their comments and any additional information appropriately in response to that provided by the other.
18. It may well be the case that communication between the Council and the appellant could have been better and that more information could have been exchanged prior to and during the course of the planning application. However, there is little to suggest that either side acted unreasonably in this regard, or indeed that this would have led to the appeal being avoided altogether or a significant reduction in the amount of work required at the appeal stage.
19. Based on all that I have read, I am of the view that it was reasonable for the appellant to submit the planning application in the form that she did; that the Council determined it in an appropriate way; that both sides provided relevant evidence at the appeal stage; and that both sides followed relevant procedures and the prescribed timetable during the course of the appeal.

Conclusion

20. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Both applications for awards of costs are accordingly refused.

William Fieldhouse

INSPECTOR

Appeal Decision

Site visit made on 11 February 2015

by Richard Clegg BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07/04/2015

Appeal Ref: APP/T4210/A/14/2223911

Land at 252 Turton Road, Tottington, Bury, BL8 4AJ

- 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 P Nuttall against the decision of Bury Council.
 - The application Ref 57261, dated 14 February 2014, was refused by notice dated 11 April 2014.
 - The development proposed is described as 'erection of a dwelling (resubmission of planning application 56641)'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. On the application form the location of the site is given simply as 252 Turton Road. It is clear from the submitted plans and my visit that the site does not include the whole of that property, and accordingly I have identified it as land at No 252 Turton Road in the appeal details above. The proposed development is more clearly described simply as the erection of a dwelling, and I have considered the appeal on this basis.

Main Issues

3. I consider that the main issues in this appeal are:
 - (i) Whether the proposal would be inappropriate development in the Green Belt.
 - (ii) The effect of the proposed development on the character and appearance of the area.
 - (iii) The effect of the proposed development on the living conditions of nearby residents and future occupiers, with reference to overlooking, dominance and amenity space.
 - (iv) If the proposal would be inappropriate development in the Green Belt, whether the 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 development.

Reasons

Inappropriate development

4. The appeal site is part of a small group of properties which lie within the Green Belt on the north-east side of Turton Road. The main built-up area of Tottington extends along the south-west side of Turton Road and is outside the Green Belt. Policy OL1/2 of the Bury Unitary Development Plan (UDP) explains that the construction of new buildings in the Green Belt is inappropriate development unless it is for one or more specified purposes, including limited infilling in existing villages. Under Policy OL1/3, infilling in existing villages is restricted to named villages in the Green Belt, and Tottington is not included in the list of villages set out in the justification to the policy. Accordingly, irrespective of the relationship of the proposed dwelling to existing buildings, the proposal would conflict with Policies OL1/2 and OL1/3 of the UDP.
5. National policy on Green Belts in the National Planning Policy Framework (NPPF) is more recent than the UDP, which was adopted in 1997. Paragraph 89 of the NPPF lists categories of new building which are not inappropriate development. The penultimate category includes limited infilling in villages, and there is no qualification specifying that the policy only applies to villages which lie wholly within the Green Belt. I note that in an appeal decision for three dwellings referred to by the Appellant, the Inspector found that the site, which was within the Green Belt, was part of the village of Willaston, the majority of which was inset from the Green Belt. That proposal represented infill development and, having regard to paragraph 89 of the NPPF, was not considered to be inappropriate.
6. Each proposal must be considered on its own merits. Whilst the provision for limited infilling in paragraph 89 of the NPPF may provide an opportunity for development where the settlement concerned is not wholly washed over by the Green Belt, it is an opportunity which is restricted to villages. I note that the Council affirms that Tottington has the status of a town, and, although it is not included as having a town centre in Policy TC1 of the UDP, Tottington is shown as a key centre on figure 22 of the Publication Core Strategy. The extent of the built-up area and the level of facilities and services apparent on my visit support the position that Tottington is a higher order settlement than a village. Consequently I do not consider that the appeal proposal is consistent with the fifth category in paragraph 89 of the NPPF, and I conclude that, whether the proposal is considered against the UDP or the NPPF, it would be inappropriate development in the Green Belt.
7. Paragraph 79 of the NPPF explains that the essential characteristics of Green Belts are their openness and their permanence. The presence of an additional dwelling, on land which currently forms part of a garden, would encroach on the openness of this part of the Green Belt. The position of the proposed dwelling beyond the nearby frontage development, and with gardens and other open land extending to the north-east and south-east, reinforces my concern in this regard.

Character and appearance

8. The proposed dwelling would occupy a substantial part of the plot which would be formed from the eastern part of the rear garden area of No 252 Turton Road, and it would be positioned relatively close to the boundaries, except to the south-east. A short distance to the west is No 252 and No 254 is to the north of the plot. Nearby, to the west of these properties are three other dwellings. The addition of the proposed dwelling at the south-east corner would not materially alter the balance of built form and space of this relatively compact group of properties. I consider the adequacy of amenity space below (para 12), but in townscape terms the building would not be too close to the existing dwellings at Nos 252 and 254 Turton Road.
9. The new dwelling would be set back from Turton Road, behind No 252, and it would be built into the sloping garden at a lower level than the road. Due to the presence of existing properties and trees extending back to the rear of No 250 there would be only restricted views from the road. A public footpath runs along a lane to the north of No 254. It is set at a lower level than the adjacent land, and tree cover at the side of the lane and the presence of the intervening house would provide screening from this direction. The dwelling on the appeal site would not be a prominent feature in the locality. I conclude that it would not be harmful to the character and appearance of the area, and that in this respect it would not conflict with Policies H2/1, H2/6 and EN1/2 of the UDP.

Living conditions

10. The proposed dwelling would not directly face the rear elevation of No 252, and would be partly offset to the north. Moreover it would be built at a somewhat lower level, and I do not consider that the new dwelling would appear overbearing in the outlook from No 252, or that there would be any material loss of sunlight for the occupiers of the existing property. In the south-east side elevation three windows would face towards the boundary with No 250. Although the living accommodation is on a single level, this is raised above a garage at the eastern side of the building, responding to the fall in ground levels across the site. At its nearest point the proposed dwelling would be about 12m from the boundary with the rear garden of No 250, which is marked by several trees and other planting cover. In consequence I do not consider that the proposed dwelling would appear dominant from the rear of No 250, or that it would cause a loss or privacy to the occupiers.
11. Whilst the house at No 254 Turton Road is situated to the north of the appeal site, part of the rear garden extends alongside the north-east boundary. In the north-west elevation of the proposed dwelling a bedroom window would be about 5.7m from the boundary and about 16m from the conservatory on the side of the adjacent house. There is a tall hedgerow adjacent to the north-west boundary, and, taken together with the separation distance, I am satisfied that there would be no material loss of privacy in this direction for the occupiers of No 254. I am, however, concerned about overlooking of that part of the **neighbours' garden to the north-east** of the site. Two principal windows at the equivalent of first floor level would be only 3m from the boundary, and, at about 1.9m, the larger lounge window would be even closer. All of these windows would afford a view over the boundary fence and hedge into the neighbouring garden.

12. I turn now to consider the provision of amenity space for the proposed dwelling, which would be a two bedroom property. The Council has calculated that there would be 388m² of amenity space, but it has not put forward any minimum size. Although the amenity space would be in the form of a series of strips between the dwelling and boundaries, there would be sufficient space for certain outdoor domestic activities, and I do not consider that the proposal is inadequate in this regard.
13. I conclude that the proposed development would unacceptably worsen the living conditions of the occupiers of No 254 Turton Road, due to a significant loss of privacy. In this respect, it would conflict with Policy H2/6 of the UDP.

Other considerations

14. The Appellant is planning to occupy the proposed dwelling on his retirement. It would be smaller than his current property, but there is nothing before me to indicate that there is no other means of obtaining accommodation for his retirement, nor that there is a shortage of suitable smaller properties in this part of Bury. Accordingly this is a matter which carries limited weight.
15. In its report on the planning application, the Council acknowledges that there is not a five years supply of housing land in Bury. However the contribution of a single dwelling to meeting the shortfall would be limited.
16. Construction of the dwelling would involve investment in the local economy and employment in construction work. No detailed assessment of the extent of these benefits is before me, but the construction of a single dwelling would only generate limited benefits over a relatively short period of time.
17. The Council seeks a planning obligation to provide for a contribution of £3,421.33 towards open space provision, referring to Policy RT2/2 of the UDP and Supplementary Planning Document 1 – Open Space, Sport and Recreation Provision in New Housing Development (SPD1). Policy RT2/2 applies to developments of 10 or more dwellings and it is not, therefore, relevant to the appeal proposal. The SPD, on the other hand, applies to all proposals where there would be a net gain in the number of dwellings, and it refers to the **Council's Greenspace Strategy** which found deficiencies in open space provision throughout the Borough. The Strategy, however, was published in 2010, and no recent information has been submitted concerning the adequacy of open space provision in the vicinity of the appeal site. In this circumstance, the absence of a planning obligation does not count against the appeal proposal.

Conclusions

18. The NPPF establishes that very special circumstances to justify inappropriate development in the Green Belt will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
19. The proposal would amount to inappropriate development and it would encroach on the openness of the Green Belt. The NPPF makes it clear that any harm to the Green Belt involves substantial weight. In contrast the role of the **proposal in providing accommodation for the Appellant's retirement, its contribution to meeting housing need, and the economic benefits associated with its construction, each carry only limited weight.** I conclude that the harm arising from the appeal proposal would not be clearly outweighed by other

considerations, and that very special circumstances to justify inappropriate development in the Green Belt do not exist in this case. For the reasons given above, and having regard to all matters raised, the appeal should be dismissed.

Richard Clegg

INSPECTOR

Appeal Decision

Site visit made on 3 March 2015

by William Fieldhouse BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 March 2015

Appeal Ref: APP/T4210/W/14/3000767

141 Stubbins Lane, Ramsbottom, Bury BLO OPR

- 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 Peter Clarke against the decision of Bury Metropolitan Borough Council.
 - The application Ref 57263, dated 14 February 2014, was refused by notice dated 30 June 2014.
 - The development **was originally described as** "proposal is to construct a single two-storey detached eco home on land to the rear of 141 Stubbins Lane which is currently used as a garden".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development set out in the header above is taken from the **planning application form. The Council's decision notice, and the appeal form, simply refer to "the erection of a two-storey dwelling".**
 3. The planning application describes the existing use of the site as a garden, and the appellant has put forward evidence to support the contention that it has been used as such in conjunction with 141 Stubbins Lane since he and his wife bought that property in 2004, and also before that time. A number of third parties, in responding to the planning application, refer to the site as a garden. However, other local residents, including some living close to the site, claim it has never been used as a garden. An application for a lawful development certificate was withdrawn in 2013 following advice from the Council that there was insufficient evidence. The Council has provided evidence at the appeal stage to support its view that the site has not been actively used as a garden over the last ten years or more. In the absence of a lawful development certificate, and in the light of the conflicting and inconclusive evidence before me, I attach little weight to the fall back position that the appeal site could be lawfully used as a residential garden.
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Main Issues

4. There is no dispute that the site is in the Green Belt, and therefore the main issues are:
 - whether the proposal is inappropriate development for the purposes of national and development plan policy relating to Green Belts;
 - the effect that the proposal would have on the openness, character and appearance of the area;
 - the effect on the living conditions of the occupants of 141 Stubbins Lane;
 - if the proposal represents inappropriate development in the Green Belt, whether the 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 it.

Reasons

5. The site is an area of rough grassland with some hardstanding, trees and hedges located on a small plateau higher up on the hillside to the west of the essentially linear residential development along Stubbins Lane. An unmade track provides access from Coniston Close, a residential estate, to the south. To the north is the rear part of the garden to one of the Stubbins Lane properties beyond which is an area of woodland and an industrial site. To the west are agricultural smallholdings, which include various sheds and other small buildings, and fields further up the hillside.
6. The proposal would involve the erection of a factory engineered “**Hanlo Haus**” which would be of modern design with simple white walls and a flat roof, part single-storey and part two-storey. Ground levels would be reduced by 1.5 metres so that the building would sit within the hillside. A loose stone surfaced driveway would be provided from Coniston Close to serve the dwelling and also a new parking area for 141 Stubbins Lane. The dwelling would achieve level 5 of the Code for Sustainable Homes, and the area of the site around the house would be landscaped to complement the existing trees and hedges which would be retained.

Whether the Development would be Inappropriate in the Green Belt

7. The National Planning Policy Framework (“**NPPF**”) **makes it clear that** the erection of new buildings in the Green Belt is inappropriate other than for a number of defined purposes. Whilst predating the NPPF, policies OL1/2 and OL1/3 of the Bury Unitary Development Plan (1997) adopt a similarly restrictive approach to development in the Green Belt.
8. It is clear that the proposal would not fall within any of the purposes defined in the first four bullet points of NPPF paragraph 89 or the first three clauses in UDP policy OL1/2. UDP policy OL1/3 permits limited infilling only in a number of named villages, the list of which includes neither Stubbins nor Ramsbottom. However, this is a somewhat more restrictive approach to that set out in the NPPF which refers to “limited infilling in villages”. In this case, the site is to the rear of, and physically separate from, the dwellings along Stubbins Lane, not least due to its position higher up on the hillside. It is also some distance

from the residential estate to the south, and whilst it adjoins a residential garden to the north it is clearly to my mind part of the mainly open land outside the built up area. The erection of a dwelling in this location would not represent infilling, but rather a form of development quite divorced from, and out of character with, the pattern nearby.

9. The NPPF also requires consideration of whether the proposal would represent **“the partial or complete redevelopment of previously developed sites (brownfield land)”**. However, the definition of previously developed land is that which is or was occupied by a permanent structure, including the curtilage of the developed land¹. Whilst I am advised that there was a timber shed on the appeal site, there is nothing to suggest that it has been occupied by a permanent structure. Moreover, even if I accepted that the site forms part of the curtilage of No. 141, which I do not as it has not been proven, given that the existing permanent building on the site (the house) is to be retained, the proposal would not represent the partial or complete redevelopment of the site.
10. Accordingly, I do not consider that the erection of a dwelling on the site would represent any of the exceptions set out in NPPF paragraph 89.
11. I conclude on this issue, therefore, that the proposal would be inappropriate development for the purposes of national and development plan policy which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances².

Openness, Character and Appearance

12. Openness is an essential characteristic of Green Belts³ and depends essentially on the amount of built development in the area. The fact that the proposed house would be on lowered ground and located between the existing dwellings on Stubbins Lane and buildings on the smallholdings to the west would reduce its visual prominence. However, this would not alter the fact that it would increase the amount of development in the area and thereby materially reduce the openness of this part of the Green Belt.
13. Furthermore, whilst the proposal would not be easily seen from the public highway or other vantage points to the east, it would be visible from a number of the properties on Stubbins Lane and the smallholdings to the west. Whilst the buildings and fences associated with the smallholdings mean that this land is not entirely open, it is essentially rural in character. The new house, driveway, parking areas, garden, and associated domestic paraphernalia would be located up the hillside quite separate from the dwellings to the east and south meaning that it would represent an encroachment of residential development into the rural landscape.
14. I conclude on this issue that the proposal would lead to a material loss of openness to the area. This would be contrary to the aims of UDP policy OL1/2 and undermine one of the essential characteristics of Green Belts as defined in the NPPF⁴. Furthermore, it would represent an encroachment into the countryside and materially harm the rural character and appearance of the

¹ NPPF Annex 2

² NPPF paragraph 87.

³ NPPF paragraph 79.

⁴ NPPF paragraph 79.

area, contrary to one of the purposes of including land in the Green Belt and the objectives of national policy which seeks to retain and enhance the visual amenity of the Green Belt⁵.

Living Conditions

15. Due to the topography, the ground floor of the proposed house would be approximately level with the top of the roof of No. 141. The existing house has two windows in the side elevation facing the site, one to a kitchen and the other to a living room. These windows at present face towards a retaining wall and embankment within the garden of the property.
16. The upper parts of the proposed dwelling would be likely to be visible from certain positions in the rooms served by these two windows, and the specific requirements for separation distances between habitable room windows and blank walls set out in Council guidance⁶ would not be met due to the relative height differences. However, the two-storey part of the proposed house would be over 15 metres from the side windows, and the main aspect from No. 141 is to the south rather than towards the site meaning that the effect, to my mind, would be limited.
17. I conclude on this issue that the proposal would not lead to unacceptable living conditions in No. 141 and would be consistent with the objectives of national policy⁷ and UDP policies EN1/2, H2/1 and H2/2 which collectively seek to ensure a good standard of amenity for the occupants of dwellings and that proposals have regard to the height of, and space between, buildings and the relationship with the surrounding area.

Other Considerations and Balancing Exercise

18. I am advised that the site is located around 0.4 miles from Ramsbottom town centre, 4 miles from Bury town centre, and over 460 metres from the nearest bus stop. Given these distances it seems likely to me that that any future residents of the site would chose to make most trips by private car if one were available.
19. Whilst the site is of limited size, the apparently active smallholdings nearby suggest that land in this location can be put to a viable use.
20. The current proposal is the culmination of a lengthy design and planning process over two years, and the appellant has sought to respond to advice provided by the Council. The construction method would mean that the project could be completed in a short period of time and any disruption would be minimised. Level 5 of the Code for Sustainable Homes has not been achieved before in the Borough, and therefore the proposal would set a new standard in this regard and represent high quality, innovative design. A spacious, four bedroom family home would be provided in an attractive setting, helping to meet housing needs. I attach moderate weight to these benefits.
21. On the other hand, I have found that the proposal would be inappropriate in the Green Belt, that it would be likely to materially harm the openness,

⁵ NPPF paragraphs 80 and 81.

⁶ SPD6 Alterations and Extensions to Residential Properties (2010).

⁷ NPPF paragraph 17, 4th bullet point.

character and appearance of the area, and that it would be likely to lead to most trips being made by private car. The substantial harm that this would cause would not be clearly outweighed by the other considerations that I have identified, and therefore very special circumstances to justify the proposal do not exist.

Conclusion

22. For the reasons given above, I conclude that the appeal should be dismissed.

William Fieldhouse

INSPECTOR



Appeal Decision

Site visit made on 9 March 2015

by **J D Westbrook BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 March 2015

Appeal Ref: **APP/T4210/D/14/2222071**

73 Bury Old Road, Prestwich, Manchester, M25 0FG

- 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 Rohail Nawaz against the decision of Bury Metropolitan Borough Council.
 - The application Ref: 57456, dated 25 March 2014, was refused by notice dated 17 June 2014.
 - The development proposed is the erection of a front porch, a two-storey/first-floor extension at the side and a single-storey extension at the rear.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a front porch, a two-storey/first-floor extension at the side and a single-storey extension at the rear at 73 Bury Old Road, Prestwich, Manchester, M25 0FG, in accordance with the terms of the application, Ref 57456, dated 25 March 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 01, 02, 03.

Procedural Matters

2. The development for which permission has been applied has already been carried out and this appeal therefore relates to a retrospective planning application. Permission for development was originally given in 2012, but the development as constructed does not conform to the approved plans in their entirety. In addition, there are certain minor discrepancies between the drawings as submitted with the current proposal, but these do not impact significantly on the planning merits of the scheme and I have decided this appeal on the basis of the proposal as already constructed and in existence.
 3. An objection has been received from the occupier of the neighbouring No 71 relating to issues concerning the construction of the extension on the boundary between the two properties. However, this raises matters of a purely legal nature and I have confined my considerations solely to the planning merits of the case.
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Main Issue

4. The main issue in this case is the effect of the proposed development on the character and appearance of the area around Bury Old Road.

Reasons

5. No 73 Bury Old Road is a semi-detached house in the middle of a short row of 5 pairs of semi-detached houses located to the north of a parade of shops on the western side of the road. The shops are set forward of the building line of the houses to the north and have a service road and pavement in front of them. The semi-detached houses are set well back from the highway behind a wide pavement and long front gardens.
6. The extensions as constructed differ from the approved plans chiefly with regard to a projecting canopy at the front of the property, a variation to the roof over the rear single-storey extension, and a first-floor set back to the front of the side extension which is less than the previously approved 1.5 metres. The Council has indicated that it has no significant concerns regarding the front canopy or the rear roof elements, and I concur with that view. The main concern, therefore, is with regard to the first floor set back of the side extension, which is only around 1 metre, as opposed to the 1.5 metres required in the Council's Supplementary Planning Document 6 on Alterations and Extensions to Residential Properties (SPD6). The reason for the requirement is to avoid the appearance of uncharacteristic terracing.
7. SPD6 indicates that there are circumstances where the requirement for a 1.5 metre set back may be relaxed. These include very short rows of houses and situations where there is a very irregular building line along the street. In this case, the appeal property is one of a short row of semi-detached houses. Moreover, the building line of the row of houses is well behind the building line of the shops a little further south down the street. In addition, the houses have bay windows and there is a new, large projecting porch at No 67 Bury Old Road which, as with the canopy at the appeal property, breaks the building line. Finally, the houses are set well back from the road, such that they are not prominent in the overall street scene.
8. As a result of the above, I find that the reduced set back in the side extension at No 73, as constructed, is sufficient in this particular case to adequately avoid any appearance of uncharacteristic terracing. It is therefore not significantly harmful to the character or appearance of the area along this part of Bury Old Road, and it does not conflict with guidance in the SPD6 or with Policy H2/3 of the Bury Unitary Development Plan, which relates to house extensions.

Conditions

9. I have attached a condition relating to plans for the avoidance of doubt and in the interests of proper planning.

J D Westbrook

INSPECTOR

Appeal Decision

Site visit made on 9 March 2015

by Geoffrey Hill BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 March 2015

Appeal Ref: APP/T4210/A/14/2229116

134 Rochdale Road, Bury BL9 7BD

- 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 Arshad Mahmood against the decision of Bury Metropolitan Borough Council.
 - The application Ref 57721, dated 27 June 2014, was refused by notice dated 29 August 2014.
 - The development proposed is a single storey side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The extension has already been constructed and the appeal relates to an application for retrospective planning permission.

Main Issue

3. The main issue is the effect of the operation of the shop extension on the safety of pedestrians and on the safety and convenience of users of the adjacent car park and nearby roads.

Reasons

4. The Council's reasons for refusal refer to Policies HT 2/5 and HT 6/2 of the Bury Unitary Development Plan (UDP). The UDP was adopted in 1997 however the policies referred to are broadly consistent with the objectives of the National Planning Policy Framework (NPPF), which include the creation of safe and secure layouts which minimise conflicts between traffic and pedestrians. In which case, and in accordance with paragraph 215 of NPPF, the UDP policies can be given full weight in this appeal. The two UDP policies – in general terms – seek to minimise pedestrian/vehicular conflict and to safeguard public car parking.
5. The extension has been constructed with open trading frontage which faces onto the eastern edge of the public car park at the junction of Rochdale Road and Heywood Street. The arrangement is clearly intended to maximise the visibility of the store to passing shoppers and hence to attract a higher level of sales. The consequence of this is that shoppers visiting the store have to

approach through the car park, and to queue – or at least wait whilst being served – on part of the car park. In effect, the car park is being used as part of the trading area of the business.

6. This is a busy suburban shopping centre, and I saw that the car park is well used. This being so, vehicles will be arriving at and departing from the car park fairly regularly. Cars will be manoeuvring into and out of parking spaces and perhaps needing to turn round and exit if no spaces are available. That is, with this level of vehicular movement, and drivers primarily interested in using the parking spaces, there is a very high risk of an accident – albeit at low speed – between vehicles and pedestrians visiting and standing in front of the store.
7. In addition, the Council has put forward evidence of deliveries being made to the store via the car park, with vans standing in front of the store obstructing access to a number of car park spaces. Because of the limited visibility for the driver, large vehicles such as this manoeuvring across the car park add to the dangers for pedestrians as they may not be seen by the driver, especially when reversing. For the same reason, there is the risk of collision with cars in the car park. At the very least, large vehicles using the car park to service the appeal premises would be an inconvenience for users of the car park, not least because they would obstruct access to, or departure from, the marked spaces.
8. Because the delivery vehicles are unable to turn within the car park when cars are parked, this requires drivers of the vans to either reverse into, or out of the car park. The potential dangers and inconvenience of reversing vehicles has been noted above, but the situation is compounded when vehicles have to manoeuvre at the entrance to the car park, causing obstruction and delay to other road users in Kershaw Street and at the junction of Kershaw Street and Heywood Street. Such obstruction may also interfere with the free flow of traffic at the Heywood Street junction with Rochdale Road if vehicles on Heywood Street have to wait whilst manoeuvres are carried out.
9. A dedicated loading space in Kershaw Street at the rear of the store would, I am sure, ameliorate some of the problems noted above, but it would not address the matter of pedestrians accessing the shop across the car park, which is not part of the public highway.
10. The appellant offers to install bollards and / or railings across the raised edge in front of the shop. However, this would not overcome the principal problem of customers using the car park as the approach to the shop. I note that other stores in the vicinity have customer access across car park areas, but these are car parks under the management and control of the shop, with the shop directly responsible for safety and any attendant liabilities in the event of accident and injuries.
11. The Council contends that it may install a fence or barrier across the boundary of the car park and a height restricting barrier at the entrance. Clearly this would be at public expense and, if it could be avoided then this could be seen to be beneficial. However, this is not a land use planning matter and this does not influence my decision in this case.

Conclusion

12. The circumstances discussed above relating to customer access across the car park and the use of the car park for delivery and servicing are in direct conflict with the objectives of the development plan policies. Apart from the dedicated delivery bay markings in Kershaw Street – which would not, in any event, be under the control of the appellant - the remedies offered by the appellant would not overcome the safety concerns. That is, the operation of the shop extension unacceptably jeopardises the safety of pedestrians and the safety and convenience of users of the adjacent car park and nearby roads. Accordingly, the appeal should be dismissed.

Geoffrey Hill

INSPECTOR