



Appeal Decision

Site visit made on 25 November 2019

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/P2365/W/19/3235741

Bescar Goods Yard, Bescar Lane, Scarisbrick, Ormskirk L40 9QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Marshall of R and R Marshall and Son against the decision of West Lancashire Borough Council.
 - The application Ref 2018/1261/OUT, dated 13 April 2018 was refused by notice dated 25 February 2019.
 - The development proposed is infill development for up to 4 dwellings.
-

Decision

1. The appeal is allowed and outline planning permission is granted for infill development for up to 4 dwellings at Bescar Goods Yard, Bescar Lane, Scarisbrick, Ormskirk L40 9QN in accordance with the terms of the application, 2018/1261/OUT, dated 13 April 2018, subject to the conditions in the attached schedule.

Procedural Matters

2. I have, for completeness, used the postcode from the appeal form for the appeal site's address above.
3. The application was submitted in outline with all matters reserved for future consideration. I have considered the appeal on this basis.

Main Issues

4. The main issues are: (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; (ii) the proposal's effect on the openness of the Green Belt and the purposes of including land within it; and (iii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

5. The appeal site is a former railway goods yard associated with the adjoining Southport to Manchester railway line and Bescar Lane railway station. The site lies within the Green Belt. Moss Hall Farm and Bescar Moss Farm are to the north-west beyond established hedgerows and trees. Station Farm is to the north of the site. The rear garden of this residential property contains

- numerous outbuildings. There is a large agricultural building to the north of the farmhouse at Station Farm. Beyond here, and to the north of Bescar Lane, are the flat open moss lands of Martin Mere.
6. Planning permission was granted by the Council in 2013¹ for the erection of four semi-detached affordable homes. Unlike the proposal that is before me, this scheme was considered by the Council to accord with policies RS1 and GN5 of the West Lancashire Local Plan (Local Plan) which allow very limited affordable housing within the Green Belt subject to there being no suitable sites in non-Green Belt areas. The approved scheme has not been built out, but the appeal scheme and the scheme granted planning permission in 2013 are not the same given that market dwellings are not proposed.
 7. Scarisbrick / Bescar is a Small Rural Village within the Borough's settlement hierarchy. Local Plan Policy SP1 seeks to direct all new built development in the Borough to within the settlement boundaries defined by Local Plan Policy GN1. The site is outside the defined settlement boundary of Scarisbrick / Bescar and thus, the proposal conflicts with Local Plan Policy RS1. However, the proposal needs to be assessed against Local Plan Policy GN1 b) which says that development proposals within the Green Belt will be assessed against national policy and any relevant Local Plan policies.
 8. Framework paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Framework paragraph 145 confirms that the construction of new buildings in the Green Belt should be regarded as inappropriate development unless certain listed exceptions apply. One of these exceptions is where the development would be limited infilling in villages.
 9. The term 'village' is not defined in the Framework. The defined settlement boundary of Scarisbrick / Bescar extends southwards from the railway crossing on the eastern side of the lane, before spreading south, east and west of the crossroad junction of Bescar Lane, Drummersdale Lane and Woodmoss Lane. That said, the main parties dispute focusses on whether or not the appeal site is part of the village. In the case of *Julian Wood v SSCLG and Gravesham Borough Council*² it was held that the boundary of a village defined in a local plan may not be determinative for this purpose. A planning judgement is therefore needed just like in the decision³ reached when the scheme subject of the Court of Appeal judgment was re-determined.
 10. The Council say that the railway line provides a clear end of the village. The appellant contends that the village also includes the appeal site, Moss Hall Farm, Bescar Moss Farm and Station Farm. To the south of the railway line, there is a linear pattern of development focussed along Bescar Lane, Drummersdale Lane and Woodmoss Lane. While this development has an urban character, it is within a rural setting given that flat, open fields are typically within eyeshot or not far away. It is not a suburban character as the Council suggest. Beyond the railway line to the north, the pattern and form of development changes, reflecting the agricultural character of this part of the Borough. Development here is of a looser knit and screened by established hedgerows and trees. There is also a sense of leaving the village after crossing the railway line. However, the same experience is gained from Bescar Lane,

¹ Council Ref: 2013/0432/FUL

² *Julian Wood v SSCLG, Gravesham Borough Council* [2015] EWCA Civ 195

³ Appeal Decision Ref: APP/K2230/A/12/2186760

Drummersdale Lane and Woodmoss Lane. The change of character does not mean that the site is automatically outside of the village, especially given the rural context to Bescar.

11. From the appeal site, there is a clear line of sight to development within the settlement boundary. The proposed development would, when viewed on approach from Bescar Lane to the north of the agricultural building, appear in conjunction with development either side of the railway line. Hence, it would be read in conjunction with development within the settlement boundary. It is also notable, though not determinative, that the speed limit changes from national to 30 mph near to the agricultural building to the north of the farmhouse at Station Farm. The same change to the speed limit also takes place on Drummersdale Lane and Woodmoss Lane as you leave Bescar.
12. There are no footways beyond the railway crossing to the north, even though the road is lit part of the way towards Station Farm. From Bescar Lane railway station, there are lit pedestrian footways along Bescar Lane, Drummersdale Lane and Woodmoss Lane. Bescar Lane Methodist Church and a post box are both within the settlement boundary, but it would not be unrealistic for the occupiers of properties immediately to the north of the railway line from using these facilities regardless of the mode of transport. The railway station adjoins the settlement boundary, but like the appeal site it is outside of it. People living within the settlement boundary would travel outside of it to access train services. In short, everyday life is not bound by an arbitrary boundary line and movements either side of the settlement boundary allow members of the community to share common activities, and thus characteristics in common. This includes farm vehicles which widely use roads in the area.
13. Collectively, for these reasons, from what I could see on the ground, I consider that Bescar roughly terminates around Station Farm where the road bends to the north of Station Farm. I also consider that residents living in properties immediately to the north of the railway line would consider themselves to be part of Scarisbrick / Bescar, and not some other settlement.
14. An appeal decision relating to the site was reached in 2009⁴. The scale of development proposed in this scheme is fundamentally different to that before me. As a result of the proposed development's limited scale, it would fit between the railway line and Station Farm. There have also been changes to planning policy nationally and locally since 2009 and through case law. So, while I have made similar comments about the character of the site and the form of development to the north of the railway line, it does not necessarily follow that the same outcome is reached. I have reached a planning judgment based on the circumstances as I have found them.
15. The Council explore the potential effects of the appeal scheme in relation to the character and appearance of the area, but Framework paragraph 145 e) does not require consideration of the scheme in these terms and all matters have been reserved for future consideration.
16. Numerous other cases⁵ have been referred to by the main parties. However, a planning judgement is required based on the specific circumstances of each

⁴ Appeal Decision Ref: APP/P2365/A/09/2104246

⁵ Appeal Decision Refs: APP/K2230/A/12/2186760; APP/P2365/W/18/3216055; APP/P2365/W/ /3157784; APP/P2935/W/19/3231462; APP/D2320/W/18/3195499; APP/D2320/W/16/3154595; APP/H1033/W/15/3131988; and APP/A0665/W/18/3198387

case. From the available evidence, the situation on the ground varies between not only these schemes but also the proposed development. Principally the differences relate to the scale of development, the site's surroundings and the position of the development proposed to the road. I have considered the appeal scheme on its own merits having regard to the development plan and the considerations presented relating to this case.

17. For the reasons set out above, despite the conflict that would arise with Local Plan Policy RS1, I conclude that this would be outweighed by my finding that the proposal would be limited infilling within the village and would not therefore be inappropriate development in the Green Belt. As a result, the proposal would accord with Local Plan Policy GN1 and Framework paragraph 145 which permit limited infilling in villages.

Openness, purposes and other considerations

18. Given my conclusion on the first main issue it is not necessary for me to go onto consider the proposal's effect on the openness of the Green Belt, its effect on the purposes of including the land within the Green Belt or whether there are other considerations.

Other matters

19. There is an existing single access point from Bescar Lane into the appeal site. This may form the basis for an access to serve the proposed development, but there is no reason why a scheme could not be designed to ensure safe access and so that highway safety near to the railway crossing is not compromised. A scheme could also be designed so that the living conditions of nearby residents are not affected. I agree with the Council that matters relating to surface water, drainage, flood risk and ecology are capable of being addressed through planning conditions.
20. I have no reason to arrive at a different view to the Council about their ability to demonstrate a five-year supply of deliverable housing sites. However, the latest figures submitted as part of the appeal do not represent a ceiling and therefore the proposal would make a modest contribution to the supply of homes in the area.

Conditions

21. I have had regard to the planning conditions suggested by the Council and the appellant's comments. I have imposed conditions about commencement, reserved matters and the approved plan, in the interests of certainty. I have imposed an amended version of a condition to secure details of the finished floor levels in the interests of the character and appearance of the area.
22. In the interests of protecting the living conditions of nearby residents, I have imposed a condition to restrict the hours of construction. A condition is also necessary for wheel washing facilities in the site and so the road is kept clean in the interests of highway safety. Conditions concerning foul and surface water drainage are necessary to ensure existing and future occupiers are not put at risk from flooding as a result of the development. I have imposed conditions so that the development results in a net gain for biodiversity, but I have amended when these details are required. Given the site's previous use, a condition is necessary so that the land is assessed for any contamination and so that any required remediation is undertaken.

23. Planning conditions in respect of access, electric vehicle charge points, materials, landscaping, boundary treatments or vehicle parking are all not necessary as these are matters that would be dealt with through the submission of a future reserved matters application. I have not imposed conditions in respect of nesting birds and works to the highway as these duplicate other controls. Notwithstanding the Council's Development in the Green Belt Supplementary Planning Document, permitted development restrictions are not necessary in this case given the site's surroundings and as they would unreasonably remove future occupiers' ability to carry out small-scale alterations. The site is also not in a conservation area as the Council's reasons for these conditions would suggest.

Conclusion

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

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority (LPA) before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the LPA not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Location/site plan SAA/3005.5.
- 5) The reserved matters application shall be supported by drawings indicating the finished levels of all parts of the site, including the finished floor levels, first submitted to and approved in writing by the LPA. The development shall then be implemented fully in accordance with the approved details.
- 6) Construction work, which is audible from the boundary of any noise sensitive receptor, shall only take place between the hours of 08:00 to 18:00 on Monday to Friday inclusive, 08:00 to 13:00 on Saturdays with no such working on Sunday or local or national bank or public holidays. This includes the receipt of any materials or equipment for the construction on the site. Fixed and mobile plant used within the site during the construction period shall not incorporate 'bleeping' type warning devices that are audible at the boundary of any noise sensitive property.
- 7) For the full period of clearance and construction, facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.
- 8) The reserved matters application shall include details for the design and implementation of an appropriate foul drainage scheme. The approved scheme shall be implemented in full prior to the first occupation of the dwellings hereby permitted and retained, managed and maintained as such for the duration of the development.
- 9) The reserved matters application shall include details of the design of a surface water drainage system, based on sustainable drainage principles. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings or completion of the development, whichever is the sooner. The approved drainage system shall be retained, managed and maintained in accordance with the approved details for the duration of the development.
- 10) The recommendations and enhancement measures to achieve a net gain for biodiversity in accordance with the development proposals are set out in section 5 of the Ecological Survey and Assessment report prepared by ERAP (Consultant Ecologist) Ltd. Reference 2018-052 dated August 2018 shall be implemented in full throughout the duration of all phases of the development, including site preparation and construction, subject to any amendments required by Natural England at licensing stage. These include hand searches and/or appropriate trapping measures by suitably qualified persons to catch and remove animals out of harm's way immediately prior to the

commencement of any works.

- 11) The reserved matters application shall include details of a proposed lighting scheme which shall be designed to ensure no excessive artificial lighting shines over areas of ecological enhancement and any landscape planting as lighting overspill may deter use by wildlife such as foraging bats in line with recommendations within the Ecological Survey and Assessment report prepared by ERAP (Consultant Ecologist) Ltd. Reference 2018-052 dated August 2018 on pages 17 and 18. The approved scheme shall be implemented prior to the first occupation of the dwellings hereby permitted and maintained as such for the duration of the development.
- 12) The reserved matters application shall include a contaminated land assessment and associated remedial strategy, together with a timetable of works. The contaminated land assessment shall include:
 - a) A desk study detailing the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk strategy. The strategy shall be approved in writing by the LPA prior to investigations commencing on site.
 - b) The site investigation, including relevant soil, soil gas, surface and groundwater sampling shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with current guidance and best practice. The identity of the person shall be notified to the LPA prior to the site investigations commencing.
 - c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to and approved by the LPA prior to any remediation works taking place. The LPA must have approved such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature as to render harmless any identified contamination given the proposed end-use of the site and the surrounding environment including any controlled waters.
 - d) Any approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance in accordance with details to be first approved in writing by the LPA. A suitably qualified person shall be present on site to supervise investigation and remediation works when such works are taking place. If during the works contamination is encountered which has not previously been identified then the LPA shall be notified immediately and all works shall cease pending the submission of additional information on the nature of the contamination and proposal as to how the contamination shall be dealt with and an appropriate remediation scheme shall be approved in writing with the LPA and carried in accordance with agreed timescales.
 - e) Prior to the first occupation of the dwellings a closure and validation report shall be submitted to and approved in writing by the LPA. This report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

END OF SCHEDULE