

Application Number:	2023/0240	Application Type:	Full
Proposal:	Replacement stable plus open sided food store (Retrospective)	Location:	Land Off Hall Street Hall Fold Whitworth
Report of:	Head of Planning	Status:	For Publication
Report to:	Development Control Committee	Date:	25.07.2023
Applicant:	Ms J Radcliffe	Determination Expiry Date:	27.07.2023
Agent:	Hartley Planning & Development Associates		

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	No
Member Call-In Name of Member: Reason for Call-In:	Yes Councillor RA Neal Address incorrect; Impact on Green Belt; Impact on residential amenity; Loss of views; cannot demonstrate true ownership of land; damage to watercourse, flora, fauna; no removal of animal waste; anti-social activities; High Court prosecution; Impact on human rights
3 or more objections received	Yes
Other (please state):	

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

That the application be refused for the reasons specified in Section 9.

APPLICATION DETAILS

2. SITE

The application site is an irregularly shaped plot of land of approximately 0.14 hectares in area. It is located approximately 260 metres north west of the junction of Hall Fold and Hall Street on land forming part of the Green Belt as identified by the Council's adopted Development Plan.

The land slopes gradually downwards from the north western to the south eastern boundaries but 'drops' by approximately two additional metres on its eastern side adjoining Hall Street. It is largely open but there are three timber buildings in the south western corner, two of which are the subject of this application.

There are a number of other items at the site including play equipment, hutches, tyres and domestic furniture.

3. RELEVANT PLANNING APPLICATION HISTORY

2015/0339 - Demolition of stables and erection of a detached dwelling & associated detached garage: Refused. Appeal Dismissed

2016/0489 - Demolition of stables and erection of a detached dwelling: Refused. Appeal Dismissed

2018/0514 - Formation of vehicular access from Hall Street, entailing changes to ground levels, and boundary wall/gate (REVISED SCHEME): Refused

2019/0098 - Vehicular Access (Resubmission of refused application no. 2018/0514): Approved

2020/0249 - Approval of Details Reserved by Conditions 2 (height, design and position of all retaining walls) and 3 (draining surface water) pursuant to Planning Approval 2019/0098.

4. PROPOSAL

The application is a retrospective one and includes the following elements:

1. Replacement of a wooden shed adjoining the main stable block with a wooden building.
2. An overhang to the roof of the main wooden stables block
3. Construction of an open fronted hay store.

POLICY CONTEXT

National Planning Policy Framework

Section 2 Achieving Sustainable Development
Section 4 Decision Making

- Section 11 Making Effective Use of Land
- Section 12 Achieving Well Designed Places
- Section 13 Protecting the Green Belt
- Section 15 Natural Environment

Development Plan

Local Plan Policies

- Policy SS: Spatial Strategy
- Policy SD1: Presumption in Favour of Sustainable Development
- Policy SD2: Urban Boundary and Green Belt
- Policy ENV1: High Quality Development in the Borough
- Policy ENV3: Landscape Character and Quality
- Policy ENV6: Environmental Protection
- Policy ENV10: Tree and Hedgerows

Other material considerations

National Planning Practice Guidance

5. CONSULTATION RESPONSES

Consultee	Summary of Comments
LCC Highways	No objection subject to conditions
RBC Environmental Health	No objections
Whitworth Town Council	Object on the following grounds: Impact on the green belt, open countryside and inappropriate access. There is also no mention of how animal waste will be removed. There is also an apprehension of the destruction of an ancient PROW. This was moved by Cllr Neal and seconded by Cllr Baron.

6. REPRESENTATIONS

To accord with the General Development Procedure Order a site notice was posted on 14/06/2023 and neighbour letters were posted out on 01/06/2023. The application was advertised on 23/06/2023.

Five objections have been received on the following grounds

- Location Plan is incorrect as the applicant does not own all of the land.
- There is no private parking so the applicant and her visitors park in designated area of parking that is for private use.
- The state of the lane up is so poor it's hardly accessible by foot or motorised vehicle.
- It is not a replacement stable, it is a new building.
- Concerns that it is being used as a livery.
- Application is needed for the raising of the land levels that has been carried out
- Comments in relation to a court case in respect of land ownership.
- Comments in relation to the previous application for the access.
- Use of the land has intensified.
- Site is very visible in the landscape.

Nowhere to store animal waste
Manure has been deposited down an embankment creating a bio hazard.
No water supply to the site.
No grazing land available for 4 horses

7. ASSESSMENT

The main considerations in this case are as follows:

- 1) Principle;
- 2) Visual Amenity;
- 3) Neighbour Amenity;
- 4) Access, Parking and Highway Safety

Principle

The application site lies outside of the Urban Boundary, as identified by the Council's adopted development plan, and wholly within the Green Belt.

Section 13 of the NPPF states that '*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open*' adding that '*the essential characteristics of Green Belts are their openness and their permanence*'.

The general thrust is that any form of development within the Green Belt is inappropriate and therefore by definition harmful to it unless it represents one of the exceptions identified in paragraphs 149 and 150 of the Framework or 'very special circumstances' can be demonstrated for allowing it.

Paragraph 148 adds that '*when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations*'.

Paragraphs 149 and 150 identify the nature of development that can normally be viewed as an 'exception' to Green Belt policy and therefore acceptable in principle.

Paragraph 149 (b), (d) and (g) include the following exceptions:

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

g) 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 than the existing development;

Paragraph 138 identifies the five purposes of including land within the Green Belt which are:-

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

In terms of the development that has been carried, an overhang has been provided over the existing stables and a small shed has been replaced by a larger building to provide additional stabling.

The agent has indicated that the replacement buildings are of a similar height and footprint to the original building.

Calculating the original footprint and proposed footprint from the submitted site plans, they are as follows:

Footprint of original buildings – 60.87 m²
Footprint of current buildings – 88.528 m²

This represents an increase in footprint of 45%.

Therefore the application does not fall within 149 d) as it is materially larger. As a building for outdoor sport and recreation, or the redevelopment of previously developed land, the development has to preserve the openness of the Green Belt, or have no greater impact than the original buildings.

Impact on openness

Openness is an essential characteristic of the Green Belt which can be considered as meaning an absence of built or otherwise urbanising development

Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

‘Openness’ is open-textured and several factors can be relevant when it comes to applying it to the facts of a specific case. Prominent among these will be factors relevant to how built up the green belt is, and how built up it would be if the root

development occurred together with factors relevant to visual impact on the aspect of openness that the green belt presents.

In the Supreme Court judgment on the application of *Samuel Smith Old Brewery and others*, the case ruled that there was not a conceptual distinction between openness and visual impact. Rather, there is an interaction between a development's visual effect and harm to the openness. In some cases, visual effects may lead a decision-maker to a conclusion that there is harm to openness.

The application site is highly visible in the landscape, due to the surrounding topography. The increase in footprint results in an increase in the massing of the buildings on the site, which impacts on the openness of the Green Belt. The increase in footprint/massing intensifies the visual presence of built form at the site.

The previous buildings reflected the low level use of the site, which was appropriate in the Green Belt. It is considered that the increase in the massing of the buildings has a detrimental impact on the openness.

As such, the proposed development is inappropriate development within the Green Belt and in accordance with paragraph 147 of the Framework it is considered to be harmful by definition. Substantial weight must be afforded to this harm, in accordance with paragraph 148 of the Framework.

Therefore the proposed development would constitute inappropriate development in the Green Belt and by definition be harmful to the Green Belt by virtue of loss of openness. The proposal therefore fails to comply with the requirements of the NPPF and the Rossendale Local Plan.

Visual Amenity

Paragraph 130 of the Framework states that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

Policy LT5 relates to equestrian development and includes a number of criteria against which an application is also assessed, including impact on visual amenity and character of the area, size of development, a scale proportionate to that proposed, meets national standards of horse welfare amongst others

The storage building, the increase in size of the stables and the open fronted hay store add additional footprint and massing to a highly visible site.

The hay store is constructed in timber, with a timber roof, the stables are constructed in timber with a corrugated steel roof, and the additional building is constructed in timber with a corrugated steel roof and a white upvc door.

The upvc door brings an urban feel to the site which is detrimental to the visual amenity of the countryside.

The development is considered to impact on the visual amenity of the site and on the wider landscape character, through the intensification of built form at the site and the use of materials that result in an urban feel. The development is contrary to Policy ENV1 and LT5 of the Rossendale Local Plan and the NPPF

Residential Amenity

Policy ENV1 (c) requires development to be sympathetic to surrounding land uses, avoiding demonstrable harm to the amenities of a local area; and (d) states that the scheme should not have an unacceptable adverse impact on neighbouring development by virtue of it being over-bearing or oppressive, overlooking, or resulting in an unacceptable loss of light;-nor should it be adversely affected by neighbouring uses and vice versa;

The proposed buildings due to their height and their use will not impact on the residential amenity of surrounding dwellings

In view of the above it is considered that the proposals are acceptable in terms of the residential amenities currently enjoyed by the occupiers of nearby properties. It is therefore considered that the proposal is in accordance with Policies ENV1, and ENV6 of the Rossendale Local Plan in neighbour amenity terms.

Access, Parking and Highway Safety

It is not envisaged that the proposals will give rise to any undue highway safety concerns.

Comments have been made in relation to no parking available to the applicant.

The highway authority have commented that they have no objections subject to the imposition of a condition restricting the use to personal and not livery

Other Matters

Representations have been made in relation to the storage of manure, there is an existing manure store on site which is not part of the application.

Other comments relating to land ownership disputes are not matters which are planning considerations in determining the application. The agent has signed Certificate B and served notice on the owner, which is the requirement for a planning application.

Comments in relation to the previous application for the access are not relevant to this application

Policy LT5 relates to equestrian development and includes a number of criteria against which an application is also assessed, including impact on visual amenity and character of the area, size of development, distance to nearest dwelling, a scale proportionate to that proposed, meets national standards of horse welfare amongst others

The Animal Welfare Act 2006 requires you to ensure that any horse or pony for which you are responsible, whether on a permanent or a temporary basis, has:

- a suitable environment to live in
- a healthy diet (including fresh clean water)
- the ability to behave normally
- appropriate company
- protection from pain, suffering, injury and disease

The site is 0.14 ha in size. There is a history of horses being kept at the site for a considerable number of years, however, animal welfare is considered under other legislation and not a planning matter. The nearest residential property will be 18m from the stables which is less than the 30m minimum advised in the policy.

This together with the impact on visual amenity results in the development being contrary to Policy LT5 of the Rossendale Local Plan.

Conclusion

The proposed development is inappropriate development in the Green Belt due to the impact on the openness and has an impact on the visual amenity of the area. As such, the proposal does not satisfy the requirements of Policies ENV1, and LT5 of the Rossendale Local Plan and the NPPF.

8. RECOMMENDATION

That planning permission be refused for the following reasons:

9. REASONS FOR REFUSAL

1. The development represents and intensification of built form that has a detrimental impact on the openness of the Green Belt. It is therefore inappropriate development in the Green Belt. No very special circumstances have been demonstrated which would outweigh the resulting harm. As such, the development is contrary to Section 13 of the National Planning Policy Framework and Policies SD2 and ENV1 of the Rossendale Local Plan.
2. The intensification of the built form and the use of inappropriate materials impacts harmfully on the visual amenity of the site and the wider area. As such the development would not accord with Section 15 of the National Planning Policy Framework and Policies ENV1 and ENV3 of the Rossendale Local Plan

10. INFORMATIVES

1. The proposal would not comply with the development plan and would not improve the economic, social and environmental conditions of the area. There were no amendments to the scheme, or conditions which could reasonably have been

imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.