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## Appeal Decision

Site visit made on 1 February 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 3<sup>rd</sup> March 2017

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### Appeal Ref: **APP/P2365/W/16/3161611**

### **Tunley Brook Barn, Mossy Lea Road, Wrightington WN6 9RL**

- 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 M. Myers against the decision of West Lancashire Borough Council.
  - The application Ref 2016/0750/FUL, dated 8 July 2016, was refused by notice dated 5 September 2016.
  - The development proposed was originally described as the "erection of agricultural building (resubmission of 2015/0397/FUL)".
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of an agricultural building at Tunley Brook Barn, Mossy Lea Road, Wrightington WN6 9RL in accordance with the terms of the application, Ref 2016/0750/FUL, dated 8 July 2016, subject to the conditions listed at the end of this decision.

### Application for costs

2. An application for costs was made by Mr M. Myers against West Lancashire Borough Council. This application is the subject of a separate Decision.

### Preliminary Matter

3. The description of development in the header above has been taken from the original application form. However, in my formal decision I have amended this to remove superfluous elements not related to development.
4. The Council have suggested that the main issues for the appeal should include the consideration of whether the development would be inappropriate within the Green Wedge and whether any harm to the openness of the Green Belt would be outweighed by 'very special circumstances'. Policy GN1 of the Local Plan<sup>1</sup> (LP) states that development within the Green Belt will be assessed against national policy and any relevant Local Plan policies. Therefore, the policies of the National Planning Policy Framework (the Framework) are material considerations of considerable importance.
5. It is clear from both their officer report and appeal statement that the Council accept, as an agricultural building, the development would be not inappropriate in the Green Belt in terms of paragraph 89 of the Framework. As a result of this, there is no requirement within the Framework for there to be 'very special

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<sup>1</sup> West Lancashire Local Plan 2012-2027 – October 2013

circumstances' to justify the development in Green Belt terms. Furthermore, the courts<sup>2</sup> have held that where development is found to be not inappropriate, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land within the Green Belt. This has been accepted within the Council's appeal statement<sup>3</sup>. It is clear, therefore, that they accept that buildings that are not inappropriate in the Green Belt are not subject to any tests in relation to openness or the purposes of including land in the Green Belt. They also accept that 'very special circumstances' are not required to justify the development in this context. As such, it is not necessary for me to consider these matters further in relation to either local or national Green Belt policy.

6. As a result of this, it is not necessary to address whether the development is inappropriate or if it would harm the openness or purpose of the Green Belt. However, the Council have raised concerns over the siting of the development and its impact on the visual amenity of the Green Belt. I therefore consider this to be the main issue.

### **Main Issue**

7. The main issue is the effect of the development on the character and appearance of the area.

### **Reasons**

8. The appeal site is a small parcel of land adjacent to an open agricultural field. It sits near to a cluster of residential buildings, some of which have the appearance of converted stone agricultural buildings. The nearest of these is Ashwood Barn, which is on the same side of the track as the appeal site and is around 50m from the site. On the opposite side of the track is The Old Carriage House which is around 55m away. There are a number of out buildings associated with these in the vicinity of the site, including domestic garages that would be nearer to the development than the dwellings. The development would be accessed from a track that doubles as a public footpath, which links Mossy Lea Road with Tunley Lane and runs through the middle of the cluster of buildings.
9. Whilst the development would meet the general requirements of Green Belt policy, it must also be acceptable with regard to other policies in the development plan. The impact on the visual amenity of the Green Belt is referred to in the Council's reason for refusal. Whilst LP policy GN3 is not referred to, the Council argue that the development would conflict with the requirements of this policy. The Council have not objected to the design or scale of the development and do not consider that it would have any impact on nearby heritage assets. I saw nothing that would lead me to disagree with their conclusions on these matters.
10. Their main concerns relate to the siting of the building, which they consider would appear prominent and isolated in relation to other buildings in the area. The distance between the development and nearby dwellings is not sufficient for it to be considered or viewed as an isolated building. Whilst there would be some degree of separation, the development would still be well related to

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<sup>2</sup> *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1)* [2016] EWCA Civ 404

<sup>3</sup> Paragraph 4.5

nearby buildings and would not appear overtly disconnected or detached from the existing built form. The building itself would be only around 7m deep and thus would not constitute a significant or harmful encroachment of the built form into the countryside, either in its own right or the extension of the existing cluster of buildings. The expanse of open field to the front and side of the site would not be affected and thus the visual impact of the building would be minimal. The siting of the building toward the edge of the field and line of hedgerow would also complement the siting of Ashwood Barn and its outbuildings. This would also help to ensure that the building would not appear detached or isolated from the main built form of the area or that it would harm the open rural character of the wider landscape.

11. The development would not be a dominant feature when viewed from Mossy Lea Road. It would be seen against the backdrop of the buildings situated around the track. In addition to the buildings in the immediate vicinity of the site, a number of other domestic and agricultural buildings of different heights and styles are visible behind the site. The development would not, therefore, appear out of keeping with the prevailing rural character of the area or significantly alter the appearance of the grouping of buildings from any publically accessible vantage point.
12. While the buildings are on the brow of a gently rising slope, the development would not appear unduly dominant in its context. The footprint of the building would not be particularly large, nor would it be a tall building. The mono-pitched roof design would minimise the scale and mass of the building and help to ensure it would not be a prominent or incongruous addition to the landscape. The use of timber cladding would also help minimise the visual impact of the building. From further down the slope, the development would sit below other, larger structures that would be more prominent on the skyline. The verdant nature of the foliage lining the track and in the vicinity of the site would also not be affected. The development would not, therefore, harm the existing rural and agricultural character of the site or its immediate environs.
13. When approaching the buildings along the footpath from Mossy Lea Road, there would be a reasonable level of screening from the mature hedgerow which lines the edge of the field and track. This would not completely hide the building from view from users of the path, but would help to soften and break up its impact. The development would be more visible when approaching from between the existing buildings. Nevertheless, even from this vantage point the building would not appear out of place. Views over the fields toward Mossy Lea Road would not be harmed to any significant degree and the nature of the footpath and mature foliage would not be impacted upon.
14. In conclusion, the development would result in a relatively small, low profile agricultural building, which would be in keeping with the rural character of the area. Physically and visually, the development would relate well with the group of buildings in the immediate vicinity of the site and, as a result, would not cause material harm to the character and appearance of the area. Accordingly, there would be no conflict with Policy GN3 or Design Guide Supplementary Planning Document (SPD) which seek to ensure, amongst other things, that development has regard to the character of the local landscape and complements its surroundings. As there would be no conflict with Policy GN3, it follows that there would be no conflict with the requirement of Policy GN1 for

development in the Green Belt to be subject to national policy or any other relevant LP policies.

#### *Other matters*

15. A neighbour has raised objections relating to the effect of the development on their outlook and light. The Council did not raise any concerns relating to the impact on the outlook or visual amenity of the occupants of The Old Carriage House in their officer report and it was not included in the reasons for refusal. However, they have concluded in their appeal statement that there would be an unacceptable impact on the outlook of the occupants of this dwelling to the detriment of their living conditions
16. The Old Carriage House has a large picture window that faces the site. However, the development would be around 55m from this window and would not, as a result, be an overbearing feature. As noted above, it would not be a particularly large building in its own right and would not appear out of place in its context. The outlook of the occupants of The Old Carriage House would change to some degree as a result of the development, but the distance between the buildings and the scale of the development would be sufficient to ensure it would not result in material harm to their living conditions. For the same reasons, it is unlikely the development would have any material effect on sunlight entering the property.
17. Suggestions have been made by both the Council and a neighbour regarding the existence of alternative locations for the development. I am satisfied the development would not have an unacceptable impact on the visual amenity of the Green Belt and thus there would be no necessity to consider an alternative location in any event. I also note the Council's comments that any alternative locations would be subject to issues relating to a nearby listed building. Therefore, there is no guarantee other locations would be acceptable in this regard.
18. The Council have raised issues relating to the finishes of the detached garages granted under an earlier permission. This is not a matter before me and it would appear to have little relevance to my consideration of the appeal in terms of the effect of the development on the character and appearance of the area.
19. A neighbour has also raised concerns that some plans submitted with the appeal were misleading and did not relate to the proposal before me. It would appear these comments relate to the details of a previously refused application submitted for information with the appeal. I am satisfied I have considered the appeal based on the basis of the correct plans.

#### **Conditions**

20. I have considered the suggested conditions from the Council in accordance with the guidance contained in the Planning Practice Guidance (PPG). In addition to the standard condition which limits the lifespan of the planning permission, I have imposed conditions specifying the relevant drawings as this provides certainty. I have amended the dates of submission of the plans for accuracy.
21. In the interests of the character and appearance of the area, I have imposed a condition requiring the materials used to be consistent with those shown on the approved plans. For the same reason, I have imposed a condition requiring the

- agreement of the finished levels of the development. This condition is of necessity a pre-commencement one to ensure the development is carried out in accordance with the approved details. I have amended the suggested wording in the interests of clarity and precision.
22. A condition is also attached requiring details of drainage to be submitted to and approved by the Council. This is necessary to ensure the site is adequately drained. This condition is of necessity a pre-commencement one to ensure the development makes adequate arrangements in this regard.
23. It is intended that the development would be used for the keeping of livestock. I have, therefore, imposed a condition requiring the removal of bedding and manure and that no burning of hay, straw or bedding will take place. This is in the interests of the living conditions of nearby residents.
24. The Council have suggested a condition restricting the use of the building. The appellant has accepted the principle of this, but would prefer a less prescriptive wording. I recognise the site is within the Green Belt and the development of an agricultural building is an exception to new buildings being considered inappropriate. However, the description of the development is clear that it would be an agricultural building and thus any material change of use outside those permitted by the Town and Country Planning (General Permitted Development) Order (2015) (GPDO) would require planning permission. Moreover, any changes of use permitted under the GPDO would take account of the Green Belt and thus would not necessarily be considered inappropriate in their own right. The Council's concerns over openness and visual intrusion would also not be affected by any other appropriate or acceptable use of the building. As such, I do not consider there to be sufficient justification to warrant removal of permitted development rights in this case and conclude it would not be necessary.
25. The Council have suggested a condition requiring the submission and approval of details of boundary treatments prior to development taking place. There is nothing to suggest that any boundary treatment acceptable as permitted development would have an unacceptable impact on the character and appearance of the area. Thus, I do not consider such a pre-commencement condition to be necessary or reasonable in this case.
26. The Council have suggested four conditions relating to the protection of trees in the vicinity of the site. The appellant has objected to these, arguing that they are unnecessary and a condition requiring protection measures to be in place during construction would be sufficient. The Council have raised no concerns in their evidence regarding any impact on the trees mentioned and I have seen nothing in the plans that would lead me to conclude there would be any risk to trees in the vicinity of the site. Indeed, the Council's officer report is clear that there would not be any significant risk to trees or hedgerows as a result of development. As such, I am not convinced the suite of conditions suggested is necessary or reasonable in terms of the tests set out in the PPG.

## **Conclusion**

27. For the reasons given above I conclude that the appeal should be allowed.

*S J Lee* INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 140119-17 REV A received by the local planning authority on 11 July 2016, 140119-18 REV A received by the local planning authority on 11 July 2016.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 140119-18 REV A received by the local planning authority on 11 July 2016. The timber cladding shall not be painted. These materials shall be maintained as such for the duration of the development hereby approved.
- 4) No development shall take place until full details of the finished levels of all parts of the site, including floor levels of the building hereby approved, have been submitted to, and approved in writing, by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until a scheme for the foul and surface water drainage of the development hereby approved, including any necessary attenuation measures, has been submitted to, and approved in writing, by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No burning of hay, straw, soiled bedding or manure shall take place on the site. All bedding and manure shall be removed from the site at least once every four weeks.