
Appeal Decision

Hearing and site visit held on 4 June 2014

by Paul Jackson B Arch (Hons) RIBA

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

Decision date: 18 June 2014

Appeal Ref: APP/M0655/A/14/2212224

Former M & S Discount Store, Six Acres, 312 Warrington Road, Glazebury, Warrington WA3 5LB

- 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 Kenryn Developments Ltd against the decision of Warrington Borough Council.
 - The application Ref 2013/22491, dated 19 September 2009 (Certificate dated 18 September 2013), was refused by notice dated 15 November 2013.
 - The development proposed is demolition of existing disused retail building, petrol filling station canopy and office building and erection of 14 No. 3/4/5 bedroom homes and landscaping.
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Preliminary matters

1. Prior to the Hearing, a new site layout drawing ref 1694.PL03/Rev D, associated landscaping plans and a 'Staveley' house type plan ref 1694-STA2-01 were submitted to address reasons for refusal relating to highway safety and privacy. I concur with both the main parties and the occupiers of the neighbouring property (who attended the hearing) that the proposed changes would answer the Council's objections and would not prejudice anyone else's interests. The appeal has been considered on the basis of the revised drawings.

Decision

2. The appeal is allowed and planning permission is granted for demolition of existing disused retail building, petrol filling station canopy and office building and erection of 14 No. 3/4/5 bedroom homes and landscaping at Former M & S Discount Store, Six Acres, 312 Warrington Road, Glazebury, Warrington WA3 5LB in accordance with the terms of the application, Ref 2013/22491, dated 19 September 2009, subject to the conditions in the schedule at the end of this decision.

Main Issues

3. The main issues are as follows:
 - Whether the proposed demolition and development constitutes inappropriate development in the North West Green Belt for the purposes of national guidance and development plan policy;
 - The effect of the proposed development on the openness and character and appearance of the area; and

- If the proposed development is inappropriate in the Green Belt, 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 necessary to justify the development.

Reasons

Policy background

4. The development plan consists of saved policies of the Warrington Unitary Development Plan (UDP) of 2006. The replacement Warrington Local Plan Core Strategy (CS) is at an advanced stage; immediately prior to the Hearing, the Inspector's report was issued following examination hearings held in June 2013 and March 2014. It is expected to be adopted by the Council very shortly and as such I give the replacement CS considerable weight.
5. Saved UDP policy GRN1 says that planning permission will not be granted for inappropriate development in the Green Belt except in very special circumstances. It explains that development will be inappropriate unless it is for certain specific purposes set out in bullet points. The proposed housing scheme does not form one of the identified purposes, which derive from the now superseded Planning Policy Guidance Note 2. Policy GRN2 seeks to guide development primarily to the built up areas of the borough. Amongst other things, it also seeks to maintain the attractiveness and diversity of the landscape and encourages the redevelopment and improvement of degraded sites. Policy GRN3 controls development proposals in the countryside generally and relates to compatible siting, the need to avoid intrusion in the landscape and respect local landscape character, amongst other objectives.
6. Emerging CS policy CC 1 notes that the settlement of Glazebury is excluded from the Green Belt. At this point, I note that the village in the vicinity of the site takes the form of a 'ribbon' of mainly houses, mostly on the west side of the A574 Warrington Road. The Green Belt boundary is shown as bisecting the appeal site approximately half along its depth and appears to reflect the general extent of existing built development on either side of the site. CC 1 advises that development proposals will be subject to national Green Belt policies, now set out in the National Planning Policy Framework (the Framework). Policy CC 2 sets out criteria to be used when considering development in the countryside, including that it should relate satisfactorily to its rural setting, in terms of scale, layout and use of materials; and that it should respect local landscape character, both in terms of immediate impact, or from distant views.
7. Emerging CS policy CS1 is a general spatial strategy with a range of policies that aim for a high quality of sustainable development with priority afforded to the protection of the Green Belt and the character of the countryside. Policy CS5 advises that development proposals within the Green Belt will be allowed where they accord with relevant national policy.
8. The Framework advises at paragraph 87 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to say 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, is clearly outweighed by other considerations.

Whether the proposed demolition and development constitutes inappropriate development in the Green Belt

9. The appeal site comprises a disused and largely derelict former filling station with ancillary buildings, last used as a retail outlet. The buildings are in poor condition. They all lie within the settlement area of Glazebury outside the Green Belt, the boundary of which passes behind them. To the rear is a large open hardstanding of compacted gravel on a very mixed hardcore infill which is within the Green Belt, outside the settlement area. This area has the benefit of planning permission for car parking granted in 1981. Part of the car park has been used for dumping building materials and other waste.
10. On each side of the site are detached dwelling houses and these define the character of the street scene in the immediate locality, though a short distance to the south is Millbrook Close, a cul-de-sac extending behind other houses in Warrington Road, consisting of a mixture of smaller terraced dwellings and detached houses. The current state of the appeal site is a significant detractor to the character and appearance of the area, at front and rear.
11. Paragraph 89 of the Framework says that new buildings are inappropriate in the Green Belt, except when they fall within certain categories of development, one of which is *'limited infilling or the partial or complete redevelopment of previously developed sites (brownfield 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 purpose of including land within it than the existing development'*. This scheme would comprise the complete redevelopment of a redundant previously developed brownfield site, approximately half of which is in the Green Belt. However it would be a step too far to conclude that it would be appropriate development in the Green Belt. Firstly, the impact on openness of the part of the site within the Green Belt would be greater, because the new housing would be up to 9 metres (m) high. The existing ground may well not be 'green' and is probably incapable of supporting growth, but it remains designated as Green Belt and its condition does not affect that important fact.
12. Secondly, on the face of the evidence, because the new houses would extend well beyond the settlement boundary, the development would fail to assist in safeguarding the countryside from encroachment, which is one of the purposes of the Green Belt set out in paragraph 80 of the Framework. Accordingly, the rear part of the scheme would be inappropriate development in the Green Belt.

The effect on openness and character and appearance

13. There would be a distinct improvement in openness at the front of the site, which would be enhanced by the replacement of large areas of concrete and unattractive structures with houses and gardens, seen from Warrington Road. Although this could be achieved by developing the front part of the site in the settlement area on its own, the rear part would then remain as a hardstanding with mounds of waste. The proposed scheme would replace this with a view through to planting and greenery in the front gardens of the dwellings at the rear. The proposed rear gardens would be preferable to contaminated hardcore and dumped building materials. The footprint of the proposed houses would be similar to the footprint of the existing buildings but large areas of hardstanding and concrete would be removed and replaced with gardens. The effect on openness at the rear would be detrimental, but the overall impact of

replacing the industrial buildings and the forecourt canopy with a larger area of housing would have, on balance, a beneficial impact on openness and character and appearance. This is a strong factor in favour of the scheme.

14. It is a minor point, but the Green Belt boundary passes along the eastern, opposite side of Warrington Road and the introduction of more openness at the front of the site would improve the perception of openness more generally in this part of the village.
15. The removal of a substantial quantity of made up contaminated ground at the rear including mounds of waste, is a significant factor in favour. That would be insufficient on its own to justify new buildings in the Green Belt; there are many places in it where land is neglected and contaminated. Importantly, in this case, I also give significant weight to the likelihood that continuing use for retail purposes or development within the settlement boundary only would mean that the rear hardstanding part of the site would continue in use as a vehicle parking area. Whilst parking is normally a transient activity, there would still be an impact on openness, as well as an effect on the noise environment for those living nearby. That would be less than would be caused by houses but in combination with the mounds of builders waste, which are likely to remain, there would be a noticeably negative impact. The effect on character and appearance would also be harmful. Planning permission exists for parking which would not necessarily be associated with a use that would be appropriate in the Green Belt; it could be for any purpose.
16. Furthermore, there would only be a very minor sense of encroachment, because the nearby Millbrook Close already extends further towards the next settlement of Culcheth which is in any case almost a kilometre away. The intervening area of farmland would remain undeveloped and the new houses at the rear of the site would have only a very minor effect on the character of the countryside seen from nearby footpaths. Moreover there would remain a gap between Millbrook Close and the appeal site which would also have the effect of diluting the impact on the rural character of the area.
17. The Council points out that the houses towards the rear of the site would be higher than those at the front on the street frontage. The appellant has no clear reason for this, but it is of little consequence. The difference would be relatively small and would not be easily perceived from ground level. There would be an insignificant effect on openness. The houses at the front facing onto Warrington Road would fit in to the street scene. I conclude that the proposed development would comply with the design quality and countryside protection objectives of UDP policies GRN2 and GRN3 and CS policies policy CC 2 and CS 1 but would be inappropriate development in the Green Belt.

Other considerations

18. In addition to the points set out above relating to the effect on openness and character and appearance, the appellant advises that there have been expressions of interest from potential retail operators for the site. Such use would not require planning permission but would have implications for the openness, character and appearance of the rear 'Green Belt' part of the site, which would be more likely to be used for vehicle storage and deliveries by HGV, as it has been in the past. In those circumstances there would be no reason why a new occupier would wish to remove the contaminated fill or the waste, which includes the invasive Japanese knotweed. Nor would the old

filling station underground storage tanks necessarily be removed; the Framework seeks to avoid adverse effects from unacceptable levels of soil and water pollution. This is an additional benefit of the scheme.

19. The provision of new windfall housing in a sustainable location is anticipated and desirable in Warrington according to the emerging CS. The proposed contribution towards affordable housing is needed to help satisfy demand. This is a factor in favour.

Other matters

20. I have taken into account all the other matters raised. A signed and dated Section 106 Undertaking (S106) has been provided which has the objectives of providing a 10m woodland belt west of the site outside the boundary and making provision for contributions to affordable housing and open space. The former would enhance biodiversity and help screen the rear houses. The contribution to open space provision in Warrington has local application in Glazebury. The S106 would also facilitate the management of the woodland and of the access road, should it not be adopted by the Highway Authority in the first instance. Having regard to Warrington's Supplementary Planning Documents *Open Space and Recreation Provision* and *Affordable Housing* of 2007, the provisions of the Undertaking are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make the development acceptable. They meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010) and paragraph 204 of the Framework.
21. I have had regard to the potential for an impact on bats and wildlife generally but do not find any evidence that this development would significantly threaten local populations of these species or any other aspects of biological diversity. Indeed the creation of a significant area of gardens is likely to be beneficial.

Final balance

22. Cumulatively, the advantages of the proposed redevelopment of this contaminated brownfield site with housing very significantly and demonstrably outweigh the harm caused by reason of inappropriateness, the effect on openness at the rear and the minor effect on rural character; and constitute the very special circumstances necessary to justify the development, as set out in the Framework.

Conditions

23. The suggested conditions have been considered in the light of planning guidance and the model conditions in Appendix A of Circular 11/95, which remains extant. Conditions are necessary to control the external appearance of the new buildings, boundary treatment and landscaping. A restriction on permitted development is necessary in view of the site location near the southern edge of the village where openness is important and the amount of new building development needs to be controlled, though restrictions need not be imposed on waste pipes, meter boxes, heating flues, solar panels, wind turbines, satellite dishes, TV or radio antenna which are unlikely to be detrimental.
24. The required visibility splays would be available across the public footway and a condition is not necessary to impose a requirement in this regard. Acoustic

glazing is necessary in dwellings facing Warrington Road to avoid undue noise disturbance from traffic. It is an offence under the Wildlife and Countryside Act 1981 (as amended) to disturb birds whilst they are breeding and no condition is necessary to ensure no disturbance occurs. A detailed survey of the contamination on the site and measures to ensure its remediation are necessary. There is a likelihood that bats could be occupying roof voids of the existing buildings and conditions ensure that appropriate action is taken to protect their interests and provide permanent accommodation in the replacement buildings, along with bird boxes.

25. The parking and turning areas shown on the drawings must be provided and retained for that purpose in the interests of highway safety. A construction method statement is necessary to control the works on site in view of the close proximity of other dwellings. For the same reason another condition restricts hours of working. A suggested condition ensures that the access meets the Council's requirements as set out in the UDP. Finally, the development is to be carried out in accordance with the approved drawings, for the avoidance of doubt and in the interests of proper planning.

Conclusion

26. Very special circumstances exist to justify the proposed development and the appeal should be allowed.

Paul Jackson

INSPECTOR

Schedule of 16 conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels; boundary treatment; hard surfacing materials; refuse or other storage units, signs and external lighting.

- 4) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
- 6) All planting, seeding or turfing comprised in the above scheme of landscaping shall be carried out no later than the first planting and seeding season following the beneficial occupation of any building, or the substantial completion of the associated phase of development, whichever is sooner; and any trees or plants which, within a period of 5 years from the completion of the development die, are removed, uprooted or destroyed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives its written consent to any variation.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order) no extensions, porches, garages, outbuildings, sheds, decking, greenhouses, oil tanks, hardstandings, fences, gates, walls, soil stacks, dormers or any other alteration to the roof (other than those expressly authorised by this permission) shall be constructed.
- 8) Prior to the commencement of development a scheme shall be submitted to and approved in writing by the Local Planning Authority for the acoustic glazing of lounge, dining study and bedroom windows facing Warrington Road in plot numbers 1, 13 and 14 as shown on drawing number 1694. PLO3 Rev D. The development shall be constructed in accordance with the measures identified in the approved scheme before occupation of the dwellings on these plots.
- 9) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. A report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority.
- 10) Prior to commencement of site demolition works, a working method statement detailing best practice for roof removal to avoid potential impacts on bats shall be submitted for written approval by the Local

Planning Authority. If bats or signs of bats are found during demolition all work on that part of the site must cease and Natural England or a licensed bat consultant contacted immediately and their advice followed.

- 11) No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority for on-site bat and bird boxes. The approved scheme shall be implemented before completion and retained thereafter.
- 12) No part of the new buildings shall be occupied until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and turned. The parking/turning areas shall not thereafter be used for any purpose other than the parking and turning of vehicles.
- 13) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - a) The parking of vehicles of site operatives and visitors;
 - b) Loading and unloading of plant and materials;
 - c) Storage of plant and materials used in constructing the development;
 - d) Details of appropriate access arrangements and traffic management measures to be used in the construction of each element of the scheme;
 - e) Measures to control the emission of dust and dirt during demolition and construction works;
 - f) Measures to control noise and vibration arising out of the construction process;
 - g) The location and operation of plant and wheel washing facilities; and
 - h) Security measures and hoarding.
- 14) No construction works shall take place other than between the hours of 08.00 and 18.00 Mondays to Fridays and between 08.00 and 13:00 on Saturdays. No works shall take place on Sundays or Bank Holidays.
- 15) Prior to the commencement of development, full construction details of the access road serving the development shall be submitted to and agreed in writing by the Local Planning Authority. The access road shall be constructed in accordance with the agreed construction details, prior to first occupation of the development, unless otherwise agreed in writing by the Local Planning Authority.
- 16) Except as otherwise specified in this decision and conditions, the development hereby permitted shall not be carried out otherwise than in accordance with the approved plans numbered:

Proposed Site Plan:	1694.PLO3 D
Site Location Plan:	1694.PLO1
Aynesome House Type:	1694 AYN 01

Cartmel House Type: 1694 CML 01
Finsthwaite House Type: 1694 FIN 02
Grizedale House Type: 1694 GR1 01
Hawkeshead House Type: 1694 HAW 01
Langdale House Type: 1694 LAN 02
Staveley House Type: 1694 STA2 01
Landscape Masterplan: Figure 14
Detailed Planting Plan — Overall Plan and Area 2: Figure 13
Detailed Planting Plan — Area 1: Figure 12

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

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TEP

FOR THE LOCAL PLANNING AUTHORITY:

Andrew McGlone MCD MRTPI

Warrington Borough Council

INTERESTED PERSONS:

Richard Duncombe
Angela Duncombe
Jacqui Johnson

Local resident
Local resident
Culcheth and Glazebury Parish Council

DOCUMENTS

- 1 Signed and dated planning obligation
- 2 Warrington Supplementary Planning Documents 'Open Space and Recreation Provision' and 'Affordable Housing' of 2007
- 3 Suggested condition relating to the access road
- 4 Appellant's closing statement