



# Appeal Decision

Hearing held and site visit made on  
27 January 2009

by **David Pinner** BSc (Hons) DipTP MRTPI

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

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Decision date:  
9 February 2009

## Appeal Refs: APP/W4223/C/08/2082220 - 3 Carr Head Farm, Standedge Road, Diggle, Oldham OL3 5NB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Ralph Brierley, Mr Joseph Brierley, Ms Natalie J Heath and Ms Suzanne Turner against an enforcement notice issued by Oldham Metropolitan Borough Council.
- The notice was issued on 27 June 2008.
- The breach of planning control as alleged in the notice is without planning permission, building operations to a dilapidated farm ruin, located within the Green Belt such that the reconstruction is contrary to Policy OE 1.7 of the Oldham Unitary Development Plan 2006 and Planning Policy Guidance 2 (Green Belts).
- The requirements of the notice are to cease all building operations immediately after this notice takes effect and demolish all building work and remove demolition materials from the site within 1 month of the date when the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
- In respect of the appeal by Mr Ralph Brierley, an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.

## Decision

1. I direct that the enforcement notice be corrected by the deletion of the words "located within the Green Belt such that the reconstruction is contrary to Policy OE 1.7 of the Oldham Unitary Development Plan 2006 and Planning Policy Guidance 2 (Green Belt)" from section 3 of the notice (the allegation) and by the addition of the words "The building is located within the Green Belt and the extensive reconstruction undertaken is contrary to Policy OE 1.7 of the Oldham Unitary Development Plan 2006 and Planning Policy Guidance 2 (Green Belts)" to section 4 of the notice (the reasons for issue).
2. Subject to these corrections I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission, on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the undertaking of building operations to a dilapidated farm ruin and works for its completion to form a dwelling at Carr Head Farm, Standedge Road, Diggle, Oldham OL3 5NB subject to the following conditions:
  - 1) the works that have been carried out to the front elevation of the building are specifically excluded from this permission;
  - 2) no further development shall be undertaken until a detailed scheme and method statement has been submitted to and agreed in writing by the local planning authority. The scheme shall provide drawings and precise

- details and specifications of the architectural features of the building, including proposals to replicate the original front elevation of the building as far as can be ascertained, and of the construction methods and processes to be employed in the completion of the restoration of the building as a dwelling;
- 3) no further works shall take place until full details and specifications of the following have been submitted to and approved in writing by the local planning authority:
    - i) the extent of the curtilage of the dwelling;
    - ii) boundary treatments, which shall be completed in dry stone walling unless agreed otherwise by the local planning authority;
    - iii) any access improvements;
    - iv) parking and turning areas, including the surfacing and drainage of such;
    - v) landscaping of the site and adjoining land in the same ownership, including the removal of the caravan and surplus building materials on the land;
    - vi) the demolition of the barn attached to the dwelling hereby approved and the after treatment of the site of the barn;
    - vii) provisions for foul drainage.
  - 4) all development shall be carried out strictly in accordance with the approved details unless the local planning authority has given its prior written consent to any variation;
  - 5) the building shall not be occupied as a dwelling until all the works included in conditions 2 and 3 above have been completed in accordance with the approved details;
  - 6) all external window frames and doors shall be of timber construction with a painted finish in accordance with details and specifications that shall have first been approved in writing by the local planning authority. Any future replacement windows and doors shall be of similar construction and finish unless agreed otherwise in writing by the local planning authority;
  - 7) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development within classes A to E or H of Part 1 or any class of Part 2 of Schedule 2 of that Order shall be carried out without the prior written consent of the local planning authority.

### **Procedural matters**

3. The words after "ruin" in the alleged breach of control do not describe the breach and should be incorporated into the reasons for issuing the notice. The fact that the development was carried out within four years before the date of the notice is not, on its own, an adequate reason for taking enforcement action. I shall correct the notice accordingly. I am satisfied that this will not prejudice either party.

4. I have considered the deemed application on the basis that any permission granted would authorise the completion of the building works and use of the building as a dwelling.

#### **Ground (a) and the deemed application**

5. The appeal site is within the Green Belt where there is a presumption against inappropriate development. The appeal concerns a building that was originally constructed as a farmhouse but which has not been lived in since it was acquired by the appellant's grandfather in 1937. Over the ensuing years it fell into an advanced state of disrepair. The roof had been taken off completely and a large part of the front wall had collapsed. The Council's view is that the building had become too derelict to be considered capable of being made habitable without major reconstruction and that its renovation therefore falls outside the scope of those Green Belt policies that favour the reuse of existing buildings.
6. The relevant policies in the Oldham Unitary Development Plan 2006 closely follow the advice in paragraph 3.8 of Planning Policy Guidance note 2 *Green Belts*. The re-use of buildings is not inappropriate development in the Green Belt if four criteria are met. The crucial one in this case is that the building should be of permanent and substantial construction and be capable of conversion without major or complete construction. The other three criteria (no material effect of the new use on openness, strict control over extensions and form, bulk and design to be in keeping with the surroundings) are either met or could be met through the imposition of conditions.
7. Although the building was in a ruinous state, three of its walls, a single storey extension and part of the ground floor front elevation remained at the time when works commenced. The appellant's agent calculated that about 70% of the external walling was still standing. The Council's officer described the remains of the building as an eyesore, so it clearly was substantial enough to have a detrimental impact on the landscape. I was told that the roof had probably been taken off for safety reasons many years ago so the deterioration of the rest of the structure had been very slow. There is no reason for me to believe that the ruin would have ceased to have any substantial presence in the foreseeable future. I therefore conclude that even as a ruin, the building was of permanent and substantial construction.
8. What constitutes major reconstruction has to be assessed as a matter of fact and degree. In this case, it is clear that a great deal of reconstruction has been necessary, particularly with regard to the complete roof structure, including the gables, and the front elevation where even the remaining part has been replaced. On the other hand, the majority of the extant building has been retained without reconstruction, although the inner skin of the building is almost entirely of new construction using insulated blocks. Overall, I think this is a marginal case and I have therefore considered the extent to which other considerations weigh for or against the scheme.
9. The building is in a very prominent location and the works have the potential to improve its appearance so that it would no longer be an eyesore. It is readily accessed from a major road and it is in close proximity to other residential properties. Its use as a dwelling would result in a general tidying up of the

area around and beyond the building in accordance with the appellant's offer to remove a caravan and various items of general clutter. A public footpath runs immediately behind the building and it would be preferable that the building was in a safe condition rather than a derelict ruin that people might be tempted to explore. The external building materials have almost all been recovered from the building itself, or from the attached barn which is to be demolished. The demolition of the barn, which is of no architectural worth, would increase the openness of the Green Belt by more than it has been reduced due to the reconstruction of the roof and front wall of the building.

10. Weighing against the scheme is the fact that the most prominent elevation of the building has been rebuilt in a way that makes it look like a modern dwelling. In my view, the heads, sills and mullions of the windows are incompatible with the age of the original building because of their smooth-sawn finish and lack of depth. The previously surviving six-light mullioned window at ground floor level has been replaced with a four-light window, and this has altered its proportions to the extent that the glazed area appears to be too much. The uPVC window frames and front door are completely at odds with the age of the building and the first floor windows are also too big and not in keeping with the local vernacular architectural style appropriate to the time when the house was originally built. The works that have been carried out have therefore completely missed the opportunity to rid the area of an eyesore by replacing the ruin with a building that is not in keeping with its surroundings.
11. The appellant pointed to the adjoining dwelling which has recently been extended by the almost complete reconstruction of a demolished cottage that previously joined the house to a barn. The works have been carried out so well that the new building looks as though it has always been a part of the group. There is no reason to suppose that the appeal property could not also have been made to look as though it had been there for years and had never fallen into disrepair. Had that been the case, I would have had no hesitation in concluding that the benefits of the scheme potentially outweigh any harm to the Green Belt.
12. It is essentially the treatment of the rebuilt front elevation that leads me to the conclusion that the works are unacceptable, but I am conscious that this matter is capable of being rectified without having to resort to the demolition of all the works that have been carried out. This could be achieved through a condition. It would be essential that no further works are undertaken until a fully detailed scheme for the completion of the development, including the remodelling of the front elevation, has been approved by the Council. In this respect, I would not expect the Council to approve any half-measures. The remodelling of the front elevation will undoubtedly involve the appellant in considerable additional expense, including professional fees for research and design to replicate the original front elevation as far as is possible. However, that is a situation of his own making and underlines the risk of proceeding without the necessary planning permission.
13. I have also considered the facts that Carr Head Farm, including the appeal building, has been in the appellant's family ownership for three generations; that he derives part of his income from farming the small amount of land attached to the farm and that he and his family currently have to share the

living accommodation there with his brother. These are personal circumstances which add slight weight in favour of granting permission but which are not sufficient to warrant the restriction of the occupancy of the renovated building to the appellant.

14. The Council suggested a number of conditions that relate to the submission of further details and specifications before further works are carried out. In the absence of such details, conditions are essential. It is also necessary to restrict future permitted development rights to ensure that the building is not extended or altered in an unsympathetic way. I have included other conditions as I consider necessary to achieve an appropriate standard of development.

### **Conclusion**

15. I conclude that, in combination, the extent of rebuilding works and the unsatisfactory appearance of the front elevation of the appeal building are such that the scheme represents inappropriate development in the Green Belt. However, the harm by reason of inappropriateness would be outweighed by the improvements to the appearance of the area and the openness of the Green Belt if the scheme were to be completed in an acceptable manner. I conclude that very special circumstances exist to justify the grant of planning permission. There is therefore no need to consider grounds (f) and (g) of the appeals.

*David C Pinner*

**Inspector**

## APPEARANCES

### FOR THE APPELLANT:

Graham Hitchin	Appellants' agent
Ralph Brierley	Appellant
Joseph Brierley	Co-appellant

### FOR THE LOCAL PLANNING AUTHORITY:

David McArtney	Principal Planning Officer, Oldham MBC
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## DOCUMENTS

- 1 List of those present at the hearing
- 2 Council's letter of notification of the appeal and list of those notified
- 3 Aerial photographs 1989
- 4 Aerial photographs 1997