

**REPORT FROM: ASSISTANT DIRECTOR PLANNING, BUILDING CONTROL
AND REGULATORY SERVICES**

TO: BARROWFORD AND WESTERN PARISHES COMMITTEE

DATE: 5TH MARCH 2025

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**24/0484/FUL – FULL: DEMOLITION OF EXISTING VACANT SHOP AND THE
ERECTION OF 6 NO. DWELLINGS WITH ASSOCIATED INFRASTRUCTURE AT
ROAMING ROOSTERS, HIGHAM**

PURPOSE OF REPORT

To determine whether the Council should defend the appeal against the refusal of planning permission 24/0484/FUL - Full: Demolition of existing vacant shop and the erection of 6 no. dwellings with associated infrastructure at Roaming Roosters, Barrowford Road, Higham.

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 5TH MARCH 2025

Application Ref: 24/0484/FUL

Proposal: Full: Demolition of existing vacant shop and the erection of 6 no. dwellings with associated infrastructure.

At: Roaming Roosters, Barrowford Road

On behalf of: Mr Charles McDermott

Date Registered: 2/10/24

Expiry Date: 27/1/25

Case Officer: Neil Watson

Background

This application was submitted in October 2024. It was presented to Committee in November and December 2024 with the application being refused in a decision notice dated 9th December 2024.

The reason for refusal was:

The proposed development would have a **greater impact** on the openness of the Green Belt than the existing development. It would not preserve the openness of the Green Belt and would thus amount to inappropriate development as it would not be one of the developments set out in the National Planning Policy Framework that would not be inappropriate development. The development is more spread out than the existing development and thus the development does not accord with any exceptions set out in the National Planning Policy Framework or with Policy ENV2 of the adopted Pendle Local Plan Part 1 - Core Strategy which requires new development to maintain openness.

The words in bold have been highlighted as they are pertinent to the issue described in more detail below.

The refusal has now been appealed and the Council has to defend its decision based on prevailing planning policy.

Planning Policy

Planning Policy is contained in two principal forms. The Local Plan contains specific policies relating to Pendle. The Local Plan goes through an examination process to ensure that it is in conformity with national planning policy.

National planning policy is principally contained in the National Planning Policy Framework (“the Framework”). That changes from time to time when Government wishes to their view on development. The Framework was updated on 12th December 2024. This was posting the decision on the application being taken.

The development was refused on the basis of it being inappropriate development in the green belt. What constitutes inappropriate development is set out in the Framework and it is that which has changed and necessitates the Council looking at its decision.

The section of the Framework which determined what was and what was not inappropriate development at the time the application was determined was in paragraph 154. It stated that a local planning authority should, regard the construction of new buildings in the green belt as inappropriate development unless:

- 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;

The revised Framework has amended that. Para 154 (g) now reads:

- g) limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.

The test for considering whether or not a redevelopment in the green belt is acceptable or not has altered from that of having an impact that is merely greater than the existing development to now having to cause substantial harm.

The reason for refusal refers to the development having a greater impact on the openness of the greenbelt than the existing development. That was a correct application of the then policy framework.

The appeal will however be determined based on the new policy which requires there to be substantial harm to the openness of the green belt.

The previous scheme on the site proposed 8 houses. The current scheme has been reduced in both overall volume and height. The Inspector into the last appeal refers in paragraph 10 and 11 to the scale of impact. He refers to the 8 unit scheme having a notably greater impact than that of the exiting development. He was not however asked to look at whether the development has a substantial impact as the policy test was only that of having to be a greater impact.

Impact of the proposed development on Green Belt

The policy test has shifted away from a development having only to have a greater impact than the existing building. The test now is more rigorous. Substantial harm means that the development would need to be shown to have not only a greater impact but an impact so much greater that it amounts to substantial harm. Substantial would be given the normal dictionary definition in terms of how it would be defined. In ordinary terms it would mean an impact much larger and much more defined than the existing development.

The report to Committee defined the nature and scale of the development. The reduction in height, the repositioning of dwellings and hence a reduction in volume of buildings compared to the existing buildings was outlined. Committee concluded that there would be a greater impact on the greenbelt which was a reasonable conclusion to reach.

However, the scheme was closely aligned to the existing build form. To defend the appeal as being one that causes substantial harm would need to be evidenced. With the size and scale being below that of the exiting use the development would not be one that would cause substantial harm.

At best it would be greater in size than the existing but there is no evidence to conclude that the development would cause substantial harm.

It is recommended therefore that the Council does not defend the appeal based on the development causing substantial harm to the green belt. This would not result in a costs award as the national policy changed post the determination of the application. Were the Council to continue to defend the appeal and it not be able to demonstrate that there was substantial harm, that could be a scenario that would be seen as unreasonable and lead to an award of costs against the Council.