
Appeal Decision

Site visit made on 14 December 2016

by Karen L Ridge LLB (Hons) MTPI Solicitor

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

Decision date: 30 December 2016

Appeal Ref: APP/W4325/W/16/3158019

2 Cardus Close, Moreton, Wirral CH46 5NY

- 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 Roy Mackay against the decision of Wirral Metropolitan Borough Council.
 - The application Ref. APP/16/00525, dated 18 April 2016, was refused by notice dated 8 July 2016.
 - The development proposed is the 'change of use to garden'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The change of use has already occurred. Nevertheless I have considered the application on its merits having regard to the development plan and all other material considerations.

Main Issues

3. The appeal site is within an adopted Green Belt. I therefore consider that the main issues are:
 - whether or not the proposal amounts to inappropriate development in the Green Belt;
 - the effect of the proposal on the openness and appearance of the Green Belt; and
 - in the event that the proposal is inappropriate development, whether any material considerations in favour of the development clearly outweigh the harm identified so as to amount to the very special circumstances necessary to justify development.

Reasons

Whether or not the proposal constitutes inappropriate development

4. The National Planning Policy Framework (The Framework) seeks to control development within Green Belts and it sets out a general presumption against inappropriate development. It provides that inappropriate development is, by definition, harmful to the Green Belt and it should not be approved except in very special circumstances. The Framework further provides guidance as to

the types of development which constitute inappropriate development and any exceptions. Policy GB2 of the Unitary Development Plan for Wirral (UDP) reiterates the general presumption against inappropriate development unless development falls within specified purposes.

5. The change of use of land to domestic garden does not fall within any of the exceptions listed in the Framework or policy GB2 and as such the proposal must be considered to constitute inappropriate development. The Framework confirms that inappropriate development is harmful to the Green Belt and it further provides that substantial weight should be given to any harm to the Green Belt.

The effect of the proposal on the openness and appearance of the Green Belt

6. The Framework states that the essential characteristics of Green Belts are their openness and their permanence. The appeal site essentially comprises a long strip of land to the rear of the Appellant's property which has been annexed and brought within the garden. The appeal site takes in quite a significant area some 120 metres long and between 10 and 20 metres wide running behind the rear of other residential properties on Cardus Close and Carrow Close.
7. The land is now lawned with a leylandii hedge on part of its boundary with the agricultural land to the west and post and rail fencing on much of the boundary with other domestic properties. Whilst there are no structures readily visible on the land it has a domestic appearance completely at odds with the agricultural green belt land of which it was formerly part. For these reasons I agree with the Council's assessment that the change of use represents encroachment in the Green Belt and it further causes some moderate harm to the Green Belt.

Other considerations advanced by the Appellant

8. I have concluded that the proposed change of use constitutes inappropriate development in the Green Belt. I have also set out the presumption against such development within the Framework. In addition there is some limited harm to the openness of the Green Belt and to its character and a moderate degree of encroachment. Substantial weight should be given to this harm.
9. Inappropriate development is, by definition, harmful to the Green Belt and should be not approved except in very special circumstances. I now turn to consider whether there are any factors in support of development such that very special circumstances arise.
10. The Appellant confirms that he has recently completed a triple garage for which he obtained planning permission. I do not know the circumstances in which the Appellant obtained permission for the garage or whether this structure is on Green Belt land. It does not set a precedent for the application which led to this appeal. The Appellant further states that 'the local planning inspector' advised him to change the use of the appeal site land to garden but the Council is not generally bound by advice given by individuals and again the context in which any comments were made are not apparent. Finally the claim that the Appellant has owned the land for 13 years forms no part of my assessment in this appeal and the lack of any objections does not weigh in favour of the proposal.

11. Taking all of the above findings into consideration, I conclude that all of the other factors, taken either individually or collectively, do not clearly outweigh the harm to the Green Belt which I have identified both in terms of inappropriateness and the limited harm to openness and character and moderate encroachment. Accordingly, very special circumstances do not arise and the appeal must be dismissed.

Karen L Ridge

INSPECTOR