

Appeal Decision

Site visit made on 27 February 2017

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 6th March 2017

Appeal Ref: APP/X4725/W/16/3164996

Priory Barn, Hardwick Lane, West Hardwick, Wakefield WF4 1RG

- 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 Rupert Comrie against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref: 16/01751/FUL, dated 19 July 2016, was refused by notice dated 7 September 2016.
 - The development proposed is described as '*proposed garden design scheme to introduce residential scale vegetable planting, fruit trees, goat house, hen house, tortuous house (sic), compost area, small decking area, and small open seating pavilion (please see supporting drawings 1295-101/102C). The proposal also introduces some low level agricultural fencing to divide up the space (please see supporting drawings 1295-101/102C).*'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application form describes the current use of the land as "*a walled field/grass cover*" and the associated appeal statement refers to the change of use of the land to private garden and its suitability for domestic purposes forming part of the main garden of Priory Barn. I shall therefore determine the appeal on the basis that the proposal involves change of use of the land from agricultural to domestic curtilage.
 3. The statement also identifies a number of structures and features on the submitted drawings which the appellant advises no longer form part of the proposal, including a goat house, a large hen house, climbing rocks and a compost area. As the Council has had the opportunity to comment on these amendments, I shall take them into account in my determination of the appeal.
 4. The open-sided 'pavilion' structure on the site does not accord with the submitted drawings in terms of design, size and orientation. Furthermore, whilst there are two timber structures in the enclosed area on the western side of the site, their siting and size does not accord with the details shown on the block plan. I shall therefore confine my detailed considerations to the refused drawings.
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Main Issues

5. The main issues in this case are:

- (i) whether the proposal amounts to inappropriate development in the Green Belt for the purposes of the *National Planning Policy Framework* and development plan policy;
- (ii) the effect of the proposal on the openness of the Green Belt and the purposes for including land within it;
- (iii) the effect on the character and appearance of the area; and
- (iv) if it is inappropriate development, 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

Whether inappropriate development

- 6. The appeal site comprises a rectangular parcel of land to the north-east of Priory Barn and is generally enclosed by low stone walls and fencing. A narrow strip of land containing a shed and planting beds adjoins the southern boundary of the site and forms no part of the appeal proposal.
- 7. Paragraph 89 of the *National Planning Policy Framework* ('the Framework') establishes that the construction of new buildings in the Green Belt is inappropriate development unless it is for one of a number of specified purposes. The proposed pavilion, hen house and tortoise house do not fall within any of the specified purposes and therefore comprise inappropriate development. Paragraph 90 refers to certain other forms of development which are not inappropriate in the Green Belt. However, it does not include changes of use of land, and as such this element of the appeal proposal also constitutes inappropriate development.
- 8. According to paragraph 87 of the Framework inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on the openness of the Green Belt

- 9. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence. Openness is the absence of buildings or development. As such, there is a clear distinction between openness and visual impact, and the partial screening of the site by walls and landscaping has no bearing on this assessment.
- 10. The proposed pavilion and raised decking would form a sizeable structure. The hen and tortoise houses would be markedly smaller. Individually and cumulatively these structures would reduce openness, which would be further compounded by the proposed fencing. The loss of openness adds to the harm by reason of inappropriateness. The proposal would also conflict with one of the purposes of the Green Belt, namely to assist in safeguarding the countryside from encroachment.

Effect on the character and appearance of the area

11. Amongst other things, Policy D8 of the LDFDPD¹ notes that landscape is an important and highly valued environmental resource within the District, and states that development within the countryside and on the edge of settlements shall contribute towards the protection, maintenance and enhancement of the character of the landscape. Policy D9 includes a requirement for new development to make a positive contribution to the environment and amenity of its locality by virtue of high quality design, layout and landscaping.
12. Although it would be open sided, the pavilion would have a significant presence in the street scene being clearly visible above the walls and through the gate from the road fronting the site. The hen and tortoise houses would be smaller and would therefore have less visual impact. Nevertheless, in conjunction with the pavilion, decking and fencing proposed for the site they would impose a marked domestic character which would be alien to the rural nature of the site and its surroundings. As such, the proposal would cause material harm to the character and appearance of the area in conflict with the LDFDPD policies I have referred to.

Other considerations

13. The appellant submits that account should be taken of potential 'fallback' position relating to permitted development rights for some of the proposed structures. However, this is not an issue for me to determine in the context of a section 78 appeal, and it would be open to the appellant to apply for a determination under sections 191/192 of the Act to determine the matter. This consideration therefore carries very little weight in favour of the proposal.

The Green Belt balance

14. The proposal amounts to inappropriate development in the Green Belt. Substantial weight is to be attached to such harm according to the Framework. I have also concluded that there would be harm to the openness of the Green Belt and the character and appearance of the area. There are no other considerations which clearly outweigh the harm that would arise as a result of the development, and the very special circumstances necessary to justify the proposal do not therefore exist.

Conclusion

15. For the reasons set out above, and notwithstanding the absence of local objections, I conclude that the proposal is unacceptable and the appeal should fail.

Michael Moffoot

Inspector

¹ Wakefield Local Development Framework: Development Policies Document (2009)