
Appeal Decision

Site visit made on 20 February 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 21 March 2017

Appeal Ref: APP/P4415/W/16/3162567

7 Bluebell Wood Lane, Sunnyside, Rotherham S66 3RX

- 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 Matthew Sayers against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2016/0669, dated 15 June 2016, was refused by notice dated 11 August 2016.
 - The development proposed is extension of residential garden and erection of wooden garden fence.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt and purposes of including land within it;
 - Whether the proposal would set a precedent for other garden extensions into the Green Belt; and
 - If the development is inappropriate, 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

3. The appeal property is a dwelling which is part of a residential estate which backs onto an open landscaped area. I saw on my site visit that the proposed garden extension and fence are in place.
 4. The boundary of the Green Belt follows the rear boundary of the estate as originally built, so that the host dwelling and original garden are outwith the Green Belt, but the appeal proposal is within the Green Belt.
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Whether Inappropriate Development

5. The Framework states in paragraph 89 that new buildings are inappropriate in the Green Belt with some limited exceptions. Paragraph 90 goes on to explain that five other forms of development are not inappropriate in the Green Belt subject to specified tests. Policy CS 4 of the Rotherham Local Plan Core Strategy 2014 (RLPCS) states that the Green Belt will be protected from inappropriate development as set out in national planning policy.
6. The proposal involves the change of use of land to residential purposes and this does not fall within the exceptions listed in paragraph 89 of the Framework or the other forms of not inappropriate development listed in paragraph 90. It is therefore clear that the proposed change of use to a residential garden can only be inappropriate development in the Green Belt for the purposes of the Framework.
7. For the reasons set out above, the proposal would comprise of inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt.

Openness and Green Belt Purposes

8. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to prevent urban sprawl by keeping land permanently open. The extension of the residential garden into the Green Belt has led to the extension of the boundary fence beyond the well-defined boundary established by the residential estate. I saw on my site visit that although existing vegetation and mounding provides some degree of screening, the development is visible from the surrounding area, including from footpaths leading through the open landscape to the rear.
9. The proposal consists of the encroachment of development into the open landscape and has a small impact on the related Green Belt purpose. I therefore conclude that the proposal does not preserve the openness of the Green Belt and impacts on the purpose of preventing urban sprawl.

Precedent

10. The Council state that the proposal could set a precedent for other properties to extend their gardens into the Green Belt. Whilst each application and appeal must be treated on its individual merits, I can appreciate the Council's concern that approval of this proposal could be used in support of similar schemes. I consider that this is not a generalised fear of precedent, but a realistic and specific concern as I saw on my site visit that there are a number of dwellings in the area with gardens which border the Green Belt and which present similar circumstances to the current appeal. Allowing this appeal would make it more difficult to resist further planning applications for similar developments and I consider that their cumulative effect would exacerbate the harm I have described above.

Other Matters

11. I recognise that the development was put in place by a previous owner of the dwelling and that the issue of planning permission was not identified when the appellant purchased the property. This is therefore a situation that the appellant has inherited rather than one that he has sought to create. I am also

mindful that the appellant has taken positive steps to regularise the situation through the submission of a planning application. However, these matters do not overcome the harm that I have identified above.

Other Considerations

12. The appellant contends that works to relocate the boundary would impact on wildlife in the area. However, in my view, such works would be limited in scope and would have minimal impact on wildlife. On this basis I give this matter little weight.
13. The appellant has also referred to illegal motor vehicles being able to access the area once the boundary is relocated, with a subsequent impact on neighbours and the Silverwood reserve. However, no substantive evidence has been provided to me that this is an on-going issue or has been in the past. I therefore give this matter little weight.
14. The limited weight to be given to the impact on wildlife and from potential illegal motor vehicles is far outweighed by the substantial weight that must be given to the harm arising from inappropriate development; the small degree of harm to the openness of the Green Belt and the harm resulting from conflict with the purposes of including land in the Green Belt. Very special circumstances to justify the proposal do not therefore exist.

Overall Balance and Conclusion

15. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. For the reasons stated above I consider that the proposal is inappropriate development. It does not preserve the openness of the Green Belt and conflicts with the purposes of including land within it. Very special circumstances to justify the proposal do not exist. The proposal therefore conflicts with Policy CS 4 of the RLPCS which states that the Green Belt will be protected from inappropriate development as set out in national planning policy. It is also contrary to the provisions of the Framework in relation to the protection of the Green Belt. It also conflicts with the advice of the Development in the Green Belt SPD¹ in regard to extending gardens beyond property boundaries.
16. For the reasons given above, and having regard to all other matters raised, it is concluded that the appeal is dismissed.

David Cross

INSPECTOR

¹ Development in the Green Belt Supplementary Planning Document (SPD) 2013