



Appeal Decision

Site visit made on 15 July 2019 by L Wilson BA (Hons) MA

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

Appeal Ref: APP/X4725/D/19/3228671

The Briars, Intake Lane, Woolley, Wakefield, WF4 2LG

- 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 R V Fletcher against the decision of Wakefield Council.
 - The application Ref 19/00050/FUL, dated 10 January 2019, was refused by notice dated 19 March 2019.
 - The development proposed is for a two-storey side extension.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. An application for costs was made by the appellant against the Council. The application is attached as a separate decision.

Main Issues

4. These are as follows: (1) Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy, (2) the effect of the proposal on the openness of the Green Belt and (3) if the development would be inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons for the Recommendation

5. The Briars is a newly constructed 1.5 storey detached property which is set back from the highway. Paragraph 145 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. One exception is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Similarly, Policy D23 of the Local Development Framework Development Policies (LDF) follows the same path.
6. The appeal parties dispute what constitutes the original building. The Framework defines an original building as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. There is broad agreement that when the

replacement dwelling was built this constituted the original building¹. Subsequently, planning permission was granted for a link extension between that replacement dwelling-house and an existing outbuilding². The appellant argues that the original dwelling-house comprises the replacement dwelling that came about as a result of implementing planning permission ref: 13/01131/FUL and 13/02548/NMC together with the link extension (as approved under ref 15/00368/FUL) and the pre-dating outbuilding. The latter was constructed onsite utilising permitted development rights prior to the previous application to demolish an existing bungalow on the site and erect a replacement dwelling.

7. However, the evidence presented shows that the replacement dwelling was occupied and used as a single dwelling-house. The annexe was used in connection with that residential use and not occupied as a separate dwelling-house or unit of accommodation. In practice, the link extension created an internal physical connection between the replacement dwelling-house and annexe so that the latter could be used as accommodation. There is nothing before me to indicate that when the annexe was physically linked to the dwelling a new unit of accommodation or planning unit had been created as a matter of fact. The replacement dwelling and ancillary outbuilding are part of the same planning unit. The replacement dwelling should be considered the original building.
8. Based on the available evidence, the proposal, taking cumulatively with the previous extension, would result in an increase in the footprint of the original building of around 93.6% and an increase in the volume of around 72.2%. The extension would add to the overall width of the dwelling and would add significant bulk, mass and scale. Consequently, the extension would result in disproportionate addition over and above the size of the original building.
9. The appellant refers to High Court judgements³ and an appeal decision⁴. These cases have been considered in reaching the above finding. However, they can be distinguished on the facts. For instance, in *Brentwood* the Court found that an Inspector had correctly interpreted the relevant planning policies and was right to assess the extension against the replacement bungalow rather than the original dwelling, when granting planning permission for the extension of a bungalow on land designated as the Green Belt.
10. *Sevenoaks* relates to a replacement dwelling which was erected before the introduction of Local Plan Policy H14 and H15. The former allowed the replacement of existing dwellings in the countryside while the latter allowed the extension of existing dwellings, but not those provided under Policy H14 subject to criteria concerning size and design. The Inspector considered that the criteria referred to the size of the extension in relation to the replacement dwelling, not the original dwelling, and concluded that the extension did not conflict with Policy H15. The Court found the Inspector had correctly applied Policy H15.
11. The appeal decision is not comparable because Red Croft was originally a dwelling which included an annexe. The dwelling and annexe were subdivided in accordance with a planning permission with the former annexe now comprising the dwelling that was the subject of that appeal. As explained elsewhere, this is not the circumstance in this case.

¹ 13/02548/NMC.

² 15/00368/FUL.

³ *Sevenoaks DC v Secretary of State for the Environment & Clarke & Dawe* [1997] EWHC Admin 1012 and *Brentwood BC v SSETR & Churley* [1999] WL 34854709.

⁴ APP/X4725/D/17/3190991.

12. Drawing all of the above points together, I find that the proposed development would constitute inappropriate development. Accordingly, the proposal would conflict with the Framework and LDF Policy D23.

Openness of the Green Belt

13. The essential characteristics of Green Belts are their openness and their permanence. The proposal would have both a visual and spatial impact upon the openness of the Green Belt given the dwelling's location and siting. The extension would result in an erosion of space where there are currently no buildings. Furthermore, given the height of the 1.5 storey extension the proposal would have a visual impact on the openness of the Green Belt. Additionally, the scheme would not safeguard against the encroachment of development into the countryside, which is contrary to the third purpose of including land within the Green Belt as set out at paragraph 134 of the Framework.

Conclusion and Recommendation

14. Substantial weight should be given to any harm to the Green Belt. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. Apart from the case-law and appeal decision, which have already been considered, there are no other considerations advanced in support that would need to be taken into the planning balance.
15. The development constitutes inappropriate development in the Green Belt, which carries substantial weight. Additional weight is given to harm to openness and the development would represent encroachment, which is a serious planning objection. There is conflict with local and national planning policy cited above. There are no very special circumstances to justify the development.
16. Therefore, for the reasons above, I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too concur that the appeal should be dismissed.

A U Ghafoor

INSPECTOR



Costs Decision

Site visit made on 15 July 2019 by L Wilson BA (Hons) MA

Decision by Ahsan U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Costs application in relation to Appeal Ref: APP/X4725/D/19/3228671 The Briars, Intake Lane, Woolley, Wakefield, WF4 2LG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr R V Fletcher for a full award of costs against Wakefield Council.
 - The appeal was against the refusal of planning permission for a two-storey side extension.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The argument is that the application was unreasonably refused thereby causing unnecessary and wasted expense in making an appeal. There was a significant dispute as to what is the original building. The dispute required an exercise of planning judgement and my Decision above explains the reasons why I have found favour with the respondent's case. The written representations suggest all relevant information, including case-law, were considered when deciding the application. The case-law and appeal decision have limited comparison and sufficient weight was given to them. The respondent sought legal advice, which has not been shared with the applicant, but this is generally privileged.
3. The refusal reason was clear and sufficient evidence was submitted to support the respondent's stance. The evidence presented does not show unnecessary delay during the application process. It did not unnecessarily prevent development given the conflict with national and local policy. The applicant has not shown that the respondent's refusal of planning permission was unreasonable resulting in unnecessary and wasted expense as set out in the Planning Practice Guidance. A full or partial award is unjustified.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

4. Having considered the submitted evidence and the Appeal Planning Officer's report, for all the above reasons, I too concur that this application should be refused.

A U Ghafoor

INSPECTOR
