The Planning Inspectorate

Appeal Decision

Site visit made on 21 February 2020

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 07 April 2020

Appeal Ref: APP/N4720/C/19/3238265
The Bungalow, Moor Knoll Lane, East Ardsley, Wakefield WF3 2DT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr David Troops against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 4 September 2019.
- The breach of planning control as alleged in the notice is *Without planning permission the erection of an outbuilding to the front*.
- The requirements of the notice are to:
  (1) Demolish the unauthorised outbuilding to the front.
  (2) Make good the parts of the land to which the unauthorised outbuilding was erected upon.
  (3) Remove from the site any resulting material, rubbish and equipment arising from compliance with Steps 1 and 2.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary Decision

1. The appeal is dismissed and the enforcement notice is upheld with variations.

The appeal on ground (a)

2. The appeal site lies within the Green Belt, and accordingly the main issues for consideration in the appeal on ground (a) are:

   - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.
   - The effect of the proposal on the openness of the Green Belt;
   - Whether any harm arises to interests other than the Green Belt;
   - Whether, if the development is inappropriate in the Green Belt, 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 necessary to justify the development.

Whether inappropriate development in the Green Belt

3. The development alleged in the notice is the construction of an outbuilding to the front of the dwelling at The Bungalow. I saw at my site visit that this comprised a mostly wooden building of modest proportions in the front garden, split into 2 separately-accessed sections. The first, larger, part, housed a

hydrotherapy pool together with a sunbed and a few other items. The second part was a garden store housing a lawnmower and other incidental items.

4. A number of developments have taken place at the property in the past, with and without planning permission, including extensions to the dwellinghouse. Policy N33 of the Urban Development Plan provides that approval will be given for only limited extensions or alterations to existing dwellings except in very special circumstances. This reflects paragraph 145 of the National Planning Policy Framework, providing that new buildings in the Green Belt are to be regarded as inappropriate except where comprising (among other possibilities) extensions or alterations to buildings provided that disproportionate additions do not result.

5. The Council's Householder Design Guide does not expressly state that outbuildings are to be regarded as capable of falling within this exception, but refers to a 30% increase over and above the original house volume as amounting to a limited extension. It is clear from the documents before me that 'disproportionate' extensions to the original dwelling have previously taken place, and therefore that the outbuilding the subject of the notice cannot reasonably fall within any of the policy exceptions to what amounts to inappropriate development in the Green Belt. As a new building in the Green Belt, the outbuilding is inappropriate, and I give substantial weight to the harm by reason of inappropriateness.

Effect on openness

6. The Council's reasons for issuing the notice referred only to the harm by reason of inappropriateness, and did not cite any additional harm by reason of the loss of openness. Nonetheless the Council in its case on the appeal avers that the position, size and scale of the building is considered to have an adverse impact on the openness of the green belt by introducing a building to a previously undeveloped part of the site. As the appellant points out, however, the building is a modest single storey structure almost totally screened from the roadside having a minimal impact on the openness of the Green Belt. I saw on my site visit that the building lies close to the house and does not appreciably add to the impression of built development at the site. As a result I concur with the appellant that the impact on the openness of the Green Belt is slight. Nonetheless I give this harm to openness, limited though it is, substantial weight.

Other interests affected

7. Although the Council refer to the adverse impact on the 'character' of the Green Belt, it does not appear to me that any appreciable harm arises other than that to the Green Belt, by reason of inappropriateness and the limited loss of openness discussed above.

Other considerations and very special circumstances

8. The principal matter brought to my attention is the stated need for the development to provide hydrotherapy treatment for a disabled resident of the premises. It appears from the documents before me that extensions to the dwelling have previously been permitted on the basis of very special circumstances. However, none of the evidence previously relied upon to establish those circumstances is directly before me for consideration.

9. Thus very special circumstances, by reason of the need for the building to accommodate the requirements of a disabled resident, are asserted, but are not supported by evidence. It is said by the appellant that further health information could be provided if required. However, even if further health information were to be provided, it would only go so far. The appellant has not set out why the building needs to be located in its present position, or why the hydrotherapy accommodation it provides could not be provided elsewhere in existing buildings at the premises. The asserted health needs could only justify the part of the building housing the hydrotherapy pool and would not relate to the other part of the building that is used as a garden shed. Therefore, even if I were to find that personal circumstances justified the hydrotherapy pool aspects of the building in this particular location, these would not amount to the very special circumstances required to justify the whole of the particular building that has been erected, which is appreciably larger than is required to meet those asserted needs.

10. Therefore, on present information and having regard to the particular building that has been constructed, I am unable to find that other considerations exist that could amount to the very special circumstances needed to outweigh the harm to the Green Belt. Therefore I conclude that the appeal on ground (a) should not succeed. Subject to the other matters considered below, I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Other matters

11. The appeal is brought only on ground (a) and not on any other grounds, but both: (i) the current public health circumstances; and (ii) the possibility of the appellant being able to demonstrate the very special circumstances required to justify a building to accommodate the identified health needs, lead me to consider whether the period for compliance with the notice should be extended. The appellant's case is that hydrotherapy treatment is required and, although no evidence has been supplied to support this contention, neither is it disputed by the Council. In the current circumstances any public pools are likely to be shut, possibly for some weeks or months to vulnerable persons. I shall therefore extend the period for compliance with the notice to 12 months and vary the notice accordingly.

Formal Decision

12. It is directed that the enforcement notice be varied by deleting "Two months" from paragraph 6 and substituted with "Twelve months". Subject to that variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR