
Appeal Decisions

Site visit made on 8 September 2020

by P H Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2020

Appeal Refs APP/P4415/C/19/3240398 & APP/P4415/C/19/3240399 Land at Woodlands Farm, Rotherham Baulk, Gildingwells, Worksop S81 8DB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Mark Simpson (APP/P4415/C/19/3240398) and Mrs S Simpson (APP/P4415/C/19/3240399) against an enforcement notice issued by Rotherham Metropolitan Borough Council.
 - The enforcement notice was issued on 4 October 2019.
 - The breach of planning control as alleged in the notice is, without planning permission, the unauthorised erection of a gazebo and decking area.
 - The requirements of the notice are to remove the gazebo and associated decking and any support structure/foundations from the land, and return the land to its former condition.
 - The period for compliance with the requirements is 2 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. It is directed that the enforcement notice be corrected by deleting the words 'paragraph (a) of' from section 1. Subject to this correction the appeals are dismissed and the enforcement notice is upheld, and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matters

2. There are two appeals but, other than the names of the appellants, they are identical and I have dealt with them together.
3. The enforcement notice refers to paragraph (a) of section 171A(1)(a) of the Act. It should, however, simply refer to section 171A(1)(a). Nevertheless, the meaning is clear and there can be no injustice arising from my correcting the error, which I shall do.
4. The appellants have raised a concern regarding the area defined by the red line on the plan attached to the enforcement notice, which includes the house and garden at Woodlands Farm. However, the position of the appeal building is clearly identified on the plan and lies within the area edged red. The appellants have not identified any actual difficulties arising from the site plan and I see no need to change it.

Reasons

Main Issues

5. The site lies within the Green Belt. As a consequence, the main issues are:

- Whether the development is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- The effect of the development on the openness and purposes of the Green Belt; and
- Whether any harm due to 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.

Whether the development is inappropriate within the Green Belt

6. The Framework advises at Paragraph 145 that, other than in the case of a number of specified exceptions, the construction of new buildings within the Green Belt is inappropriate. The gazebo/decking is of wooden construction and falls to be considered under this paragraph. Accordingly, unless one of the exceptions at Paragraph 145 apply, it is inappropriate development in the Green Belt. Policies CS4 and SP2 of the Rotherham Local Plan support the approach set out in national policy.
7. Land at Woodlands Farm is used for coaching horse riders. The appellants contend that the gazebo is used exclusively in connection with this use. On that basis it is said to comply with Paragraph 145 due to the exception set out at 145(b), which concerns *the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it*. Local Plan Policy SP10 reflects this approach.
8. The use claimed by the appellants is to provide a shelter for those accompanying the riders being coached. However, there is nothing about the building to indicate that it was constructed with that in mind. The function of the building as a shelter is compromised by the fact that 2 sides of it are open. This would be understandable if it was designed to offer good views of the horse riding area - something those accompanying the riders, parents for example, are likely to want. However, the open sides of the building are to the north and east, whereas the areas used for equestrian coaching lie to the south and west. The building has solid walls with no windows on the south and west elevations. Thus, views of the riding area from within the building are limited and the building seems fundamentally unsuited to the use the appellants claim.
9. The appellants argue that the building is orientated to maximise the protection it provides from the weather. However, from the information before me I can see no reason why this particular building, which does not even have a window directly facing the riding area, would have been constructed if it was designed to provide shelter for those associated with the riding. Nor does the fact that the appellants have another gazebo for their own recreational use lead me to the view that this one must have been built to serve the equestrian use.

10. I have no reason to doubt that people who visit the site in connection with rider training shelter in the building in poor weather, as indicated in letters and a petition in support of the development. However, that does not make the building an appropriate facility for outdoor sport or outdoor recreation, as described in the Framework. There is nothing about the design or orientation of the building to suggest that it was provided with that specific purpose in mind. Indeed, for the reasons I have already given, it seems fundamentally unsuited to use in connection with the equestrian activity on the site.
11. For these reasons I conclude that the building is not an appropriate facility for outdoor sport or outdoor recreation. Accordingly, and since none of the other exceptions in Paragraph 145 apply, the building is inappropriate development within the Green Belt. My finding places the development at odds with Local Plan policies CS4, SP2 and SP10. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances.

Openness and purposes of the Green Belt

12. Although only a modest building and unobtrusively located, away from public view, the gazebo/decking introduces new built form to the site. Consequently, it has a small adverse effect on the openness of the site and the Green Belt and also causes a small degree of encroachment of the countryside. The Framework advises at Paragraph 133 that openness is one of the essential characteristics of Green Belts. Safeguarding the countryside from encroachment is one of the 5 purposes of Green Belt, as set out in the Framework. Accordingly, there is a degree of additional harm to the Green Belt, commensurate with the scale of the development.

Other considerations

13. I accept that the building provides shelter for people visiting the equestrian facility, but since the building is plainly not designed as a viewing facility, it seems to offer little benefit over waiting in a car, and I attach little weight to that consideration.
14. The appellants suggest that the lack of any change of use allegation in the notice makes the Council's position confused. However, the enforcement notice seems entirely clear to me. The allegation is of operational development in the form of a building and decking area and the notice seeks its removal. I cannot see that this has any bearing on the lawful use of the land but, even if it did, it would not alter my assessment of the harm to the Green Belt.

Conclusion

15. I attach substantial weight to the harm to the Green Belt. Having considered all matters raised in support of the development I conclude that, collectively, they do not clearly outweigh that harm. Accordingly, very special circumstances do not exist, and the development is at odds with the Green Belt policy set out in the Development Plan and the Framework. I therefore conclude that the appeals should not succeed. I shall uphold the enforcement notice as corrected and refuse to grant planning permission on the deemed applications.

Peter Willows INSPECTOR