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## Appeal Decision

Site visit made on 1 September 2020

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 October 2020**

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**Appeal Ref: APP/X4725/D/20/3253709**

**The Granary, Hundhill Lane, East Hardwick, Pontefract, West Yorks WF8 3DZ**

- 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 Richard Walker against the decision of City of Wakefield Metropolitan District Council.
  - The application Ref: 19/02643/FUL, dated 19 November 2019, was refused by notice dated 18 March 2020.
  - The development proposed is a dog kennel.
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### Decision

1. The appeal is allowed and planning permission is granted for a dog kennel at The Granary, Hundhill Lane, East Hardwick, Pontefract, West Yorks WF8 3DZ in accordance with the terms of the application, Ref: 19/02643/FUL, dated 19 November 2019, in accordance with the following approved Plans: Location Plan and Proposed Plans; and subject to the following condition:
  - 1) The kennel hereby permitted shall be used for domestic purposes only, ancillary to the residential use of the dwelling known as The Granary.

### Procedural Matter

2. I observed on my site visit that the kennel has already been erected. I have therefore determined the appeal on the basis that the development proposed has already occurred and having regard to the plans submitted with the application.

### Main Issue

3. The main issue is 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.

### Reasons

4. The appeal site is located within a predominantly rural landscape. It is bordered to the east by Hundhill Lane, to the north and south by residential properties and their curtilages and to the west by a railway line with open fields beyond. The appeal site includes a large, two-storey dwelling, The Granary, which is a converted agricultural building, along with associated outbuildings, all set within a generous curtilage. The development which is the subject of this

appeal comprises a dog kennel for domestic use associated with The Granary to house the appellant's dogs.

*Whether inappropriate development in the Green Belt.*

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Paragraph 145 of the Framework sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to a number of exceptions. These include exception c) 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.
7. Policy D23 of the City of Wakefield Metropolitan District Council Local Development Framework Development Policies Document 2009 (DPD) states that, in relation to existing uses within the Green Belt, extensions and/or free standing buildings within an existing developed site and extensions and/or alterations to existing dwellings may be appropriate where: a) extensions are not disproportionate over and above the size of the existing building(s) when originally constructed; b) the scale, materials and general design are in keeping with the character of the buildings and their surroundings; and, c) it does not lead to a major increase in the developed proportion of the site. As such, the Policy is broadly consistent with the Framework.
8. The kennel is a separate free-standing building located in the north-western corner of the appeal site. It is constructed of facing bricks and a black metal roof, with an adjoining low brick wall and black painted wrought iron railings and gates. The Council states that it measures approximately 5.5m in width x 4.7m in depth x 2.3m in height (maximum ridge height). This evaluates to a floorspace measuring approximately 26m<sup>2</sup> and a volume measuring approximately 59.5m<sup>3</sup>. However, it is noted that part of the kennel structure is open, namely the area bordered by the low wall and railings. As such, the floorspace and volume of the actual enclosed kennel are less than these measurements.
9. Case law confirms that free-standing buildings can be considered as extensions or normal domestic adjuncts to existing dwellings. In addition, in the context of the Green Belt, they are accepted under Policy D23 of the DPD, subject to three criteria. The Council asserts that the separation of approximately 7.5m between The Granary and the kennel is too distant for the kennel to be considered as an extension or alteration to the existing building. However, no substantive evidence has been provided by the Council to demonstrate why, in the context of the appeal site, it considers this to be the case.
10. The kennel is within the existing developed site and defined curtilage of The Granary. Taking into account the kennel's relative proximity to The Granary, its functional connection with the main dwelling and the clear and direct relationship of the two buildings when viewed from Hundhill Lane and from within the appeal site, I consider that the kennel can reasonably be treated as an extension to the existing dwelling when applying Green Belt policy.

11. In that event, Policy D23 of the DPD and the Wakefield District Residential Design Guide Supplementary Planning Document: Part 2 2018 (SPD) are relevant. The Council considers that the scale, siting, design, height and materials of the kennel are in keeping with the character of the area, and I have no reason to disagree. In addition, given the size and scale of the kennel relative to the generous size of The Granary's residential curtilage, it does not lead to a major increase in the developed proportion of the site. Consequently, the development does not conflict with parts b) and c) of Policy D23 of the DPD.
12. In relation to part a) of Policy D23 of the DPD, the Council's SPD states that a maximum extension of up to 50% of the volume and 50% of the floorspace of the original house may be regarded as proportionate over and above the size of the original house. There is limited evidence before me regarding the original size of The Granary and any later extensions. Whilst the kennel may be considered large for domestic purposes, given the form, bulk and height of The Granary as observed on site, the planning history of the appeal site, the floorspace of The Granary and later extension as declared by the appellant, as well as the size and scale of the actual enclosed kennel structure, I am of the opinion that the kennel does not constitute a disproportionate extension over and above the size of the existing building when originally constructed.
13. Accordingly, I conclude that, in meeting exception c) of Paragraph 145 of the Framework and the requirements of Policy D23 of the DPD and the SPD, the development is not inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies.
14. Given my findings above, there is no need for me to consider the effect of the development on the openness of the Green Belt and it is not necessary to demonstrate very special circumstances to justify the development.

### **Other Matters**

15. I have given careful consideration to the representations made by interested parties regarding the dog kennel and the associated noise and disturbance from barking dogs emanating from the appeal site, which has been the subject of a complaint to the Council's Environmental Health team. As there is the potential for my decision to affect a person who shares a protected characteristic, I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. This specifies the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
16. Whilst the location of the dog kennel adjacent to the shared boundary with a neighbour may give rise to some noise from the dogs barking, there is no substantive evidence before me to confirm that this is any greater than if the dogs were not housed within the kennel or that it is at a level which is harmful to the living conditions of the occupiers of the neighbouring property.
17. I have had regard to the domestic nature of the kennel, the Council's comments in relation to this matter and the fact that there is separate legislation outside of the planning process through which any future noise complaints could be dealt with. On this basis and subject to the imposition of a condition to ensure that the kennel shall be used for domestic purposes only in

association with The Granary, I am satisfied that the kennel would not be likely to give rise to noise and disturbance that would materially harm the neighbours' living conditions.

18. I am aware of the additional representations made by an interested party with regard to the effect of the kennel on the character and appearance of the appeal site and area; living conditions, with regard to outlook; and property values. I also note the comments made in relation to the alleged actions of the appellant.
19. The Council concluded that the kennel does not have a harmful effect on the character of the area or an overbearing effect on neighbours, and there is nothing before me which would cause me to take a different view. In addition, it is a well-founded principle that the planning system does not exist to protect private interests such as the value of property. The other representations raised are civil matters and not ones for me to consider in the context of an appeal under Section 78 of the Town and Country Planning Act 1990.

### **Conditions**

20. I have had regard to the conditions suggested by the Council and considered them in light of the advice set out in both the Framework and the Planning Practice Guidance. As the development has been built, the standard commencement condition is not necessary. The relevant drawings are specified as this provides certainty. In the interests of the living conditions of existing and future neighbours, a condition securing the use of the kennel for domestic purposes only is necessary.

### **Conclusion**

21. Accordingly, for the reasons given above and subject to conditions, I conclude that the appeal should be allowed.

*F Cullen*

INSPECTOR