



Appeal Decision

Site visit made on 12 October 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2020

Appeal Ref: APP/P4415/W/20/3255235

73 Common Road, Thorpe Salvin, Rotherham S80 3JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Shaun Boyling against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2020/0491, dated 25 March 2020, was refused by notice dated 22 May 2020.
 - The application sought planning permission for conversion and extension of workshop to form dwelling without complying with a condition attached to planning permission Ref RB2013/0068, dated 19 March 2013.
 - The condition in dispute is No 4 which states that: Notwithstanding the provisions of Classes A, B, C and E of Part 1 and Class A to Part 2 the Town and Country Planning (General Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), at no time shall any further alterations / extensions be made to the external appearance of the building other than those shown on the approved plans; neither shall any additional buildings or walls or other means of enclosure be constructed / erected within the area edged red (as identified in Condition 3) other than those granted by this permission.
 - The reason given for the condition is: in the interests of the visual appearance of the area of High Landscape Value and the openness of the Green Belt in accordance with UDP Policies ENV1 'Green Belts,' and ENV1.2 'Development in Areas of High Landscape Value.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is a former horticultural nursery business which was granted planning permission for the conversion of workshop buildings into a dwelling in 2013¹ subject to conditions, including the removal of permitted development rights, as set out in the banner heading.
3. The permission has been implemented with the former nursery buildings removed, the workshop building converted and the land divided between a paddock area and a domestic garden.
4. A shed and a summer house (outbuildings) have been constructed in the garden area of the appeal property and permission is sought for their retention

¹ RB2013/0068

- through the variation of condition 4. This condition restricts permitted development rights normally permitted under Classes A, B, C and E of Part 1 and Class A of Part 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) within an identified red line area described in condition 3 as the residential curtilage.
5. The application form sought to vary or remove the condition to accommodate the two outbuildings (Class E); variation in respect of the other Classes of the GPDO were not applied for and I have not considered the wider need for the condition in respect of these other Classes.
 6. The reason for the condition was to protect the openness of the Green Belt and the visual appearance of an area of high landscape value in accordance with Policies ENV1 and ENV1.2 of the former Unitary Development Plan. Since the approval of the original planning permission the Rotherham Local Plan Core Strategy 2013- 2028 (2014) (Core Strategy) and the Rotherham Local Plan Sites and Policies (2018) (Local Plan) have been adopted.
 7. The Council refers to Policy CS4 of the Core Strategy and Policy SP2 of the Local Plan which seek to ensure that Green Belt is protected from inappropriate development in accordance with the National Planning Policy Framework (the Framework). The former high landscape value designation is no longer in place. However, the Council also considers the outbuildings would be out of keeping with the rural character of the area in conflict with Policy SP55 of the Local Plan.
 8. The appellant considers that the condition is not reasonable or necessary and that the original planning permission for the conversion of the building should have been treated as 'not inappropriate' development in the Green Belt. Further, the condition is overly restrictive given that the surrounding land would need upkeep and maintenance and the GPDO does not seek to protect Green Belt as a special designation.

Main Issues

9. Having regard to the above the main issues are:
 - Whether the condition, in so far as it relates to removal of permitted development rights under Class E of the GPDO, is reasonable and necessary in the interests of protecting the character and appearance of the area and the openness of the Green Belt.
 - Whether the outbuildings are inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan;
 - the effect on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area; 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

10. The Planning Practice Guidance (PPG) and the Framework advise that conditions restricting future permitted development rights should only be used when there is a clear justification for doing so. Although such conditions are not precluded, their scope needs to be precisely defined. However, what may be 'a clear justification' is not explained and therefore it is necessarily a matter of planning judgement.
11. The GPDO does not treat the Green Belt as one of the defined areas within which permitted development rights should not apply. Accordingly, there is no basis in national policy for an assumption that the exercise of the permitted development rights under Class E would, in principle, be harmful to the Green Belt. Therefore, in granting permission for the dwelling, the use of a condition to remove those rights would be justified only if there is a clearly identifiable risk to harm to openness, having regard to the particular location and circumstances of the site.
12. The appeal site is set in open countryside beyond the main built up area of Thorpe Salvin. The area is characterised by open grazing and pastureland. The approach to the appeal site is via a rural road delineated by hedged boundaries. In accordance with the approved planning permission the former nursery buildings have been removed and the dwelling, which is of a modest scale, sits in a substantial garden area which is open to the rear, visible from the footpath to the south across the open fields and visible from the road frontage. There are glimpses of the site through the hedged boundaries adjacent to Southard's Lane and Common Road.
13. Due to the relatively open nature of the appeal site and its rural location it appears to me that the extent of the construction of outbuildings under Class E could have significant visibility in the landscape. In turn, there is potential for such works to harm the openness of the Green Belt, as well as the rural character and appearance of the area. Whether the original scheme was considered appropriate or inappropriate, the imposition of conditions to control future development in the interests of protecting the openness of the Green Belt and to protect rural character would be a reasonable approach where the garden area is of a substantial size. I consider that there was a clear justification for imposing the planning condition.
14. Therefore, I consider that the removal of permitted development rights under Class E of the GPDO, is reasonable and necessary in the interests of protecting the character and appearance of the area and the openness of the Green Belt. The imposition of the condition accords with the objectives of Policy CS4 of the Core Strategy and Policies SP2 and SP55 of the Local Plan with regard to the protection of Green Belt and the rural character of the area. It would also accord with the Framework.

Whether inappropriate development

15. Policy CS4 of the Core Strategy states that Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy. Policy SP2 of the Local Plan confirms that inappropriate development is by definition harmful to the Green Belt. The Framework explains that the Government attaches great importance to the Green Belt. Paragraph 133 identifies that the fundamental aim of the Green Belt is to prevent urban sprawl

and keep land permanently open. Paragraph 145 establishes that new development would be inappropriate unless it meets a listed exception. I have not been directed to any exception in paragraph 145 although the Council refers to the exception in paragraph 145d) where the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, is not inappropriate. There is no evidence that the outbuildings have replaced existing buildings following the implementation of the planning permission for the dwelling at the site, this exception is therefore not relevant.

16. Consequently, I conclude that the outbuildings would not meet any of the exceptions in paragraphs 145 of the Framework and would be inappropriate development within the Green Belt. As a result, it would conflict with Policy CS4 of the Core Strategy and Policy SP2 of the Local Plan. It would also conflict with the Framework.

Openness

17. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
18. The small shed has a minimal footprint and would have limited spatial impact on openness. However, the summerhouse is a larger footprint with external balcony raised above the ground level. Together the buildings have a small spatial effect on openness.
19. From Common Road and from Southard's Lane the outbuildings have limited visibility due to the appeal site's hedged boundaries. During my site visit I observed that the rear boundary of the site is open to the adjacent field and both buildings are visible from the public footpath located broadly to the south of the site. As a result, the development would be visible from the adjacent roads and public footpath and would result in a small loss of openness of the Green Belt.

Character and appearance

20. Policy SP55 of the Local Plan seeks to ensure that developments are of a high quality and contribute to the character and distinctiveness of the area. This is consistent with the Framework which similarly promotes good design and recognises the intrinsic character and beauty of the countryside.
21. The open undeveloped fields around the appeal site and the hedged boundaries contribute to the local distinctiveness of the area. The shed is located on the appeal site's rear boundary separated from the house. It is small and therefore has a limited impact in its environment except for the fact that it is constructed of plastic materials which are clearly at odds with its setting. Although small, the shed appears incongruous. The summerhouse is constructed of wood and its form is not unlike a stable structure, particularly from the rear. The surrounding balcony is somewhat ornate for its setting. Its siting, at an angle to the main house and to the field boundaries, accentuates its visibility in the landscape and for this reason it appears out of place.
22. I accept that the site was formerly occupied by a greater number of buildings, however, these buildings were associated with horticulture and such structures are not unusual or uncharacteristic in rural locations such as this.

23. Overall, I conclude that the outbuildings detract from the character and appearance of the area in conflict with Policy SP55 of the Local Plan and the Framework. Given their relatively restricted size in relation to the size of the garden area I consider the weight to be given to this harm to be limited.

Other considerations

24. I accept that the original approval for the development was amended to change the garage space to additional living space. Nevertheless, I appreciate that it may be necessary to store implements to maintain the land around the house. The provision of an appropriate building for storage of items such as a ride on lawn mower may be better than the storage of such items out in the open. However, the design of the outbuildings, particularly the summerhouse which is raised above ground level and is entered via steps over a balcony would not be suitable for the storage of a ride on lawn mower and the structure does not appear to be designed for that purpose. I do accept that smaller implements could be stored in the buildings and I attach a small amount of positive weight to the need to provide storage at the site.
25. The site has been cleared of the former horticultural buildings, but this was a requirement of the original planning permission and is not a matter to which I attach beneficial weight.
26. I have considered the other appeal decisions referred to by the appellant. In particular, I note that the decision at Shenstone was on a restricted plot and I do not find the site circumstances to be comparable. I consider that the issue of the appropriate use of permitted development rights is site specific in this case and the appeal decisions provided do not lead me to a different conclusion. The other decisions are neutral in the planning balance.

Green Belt Balance and Conclusion

27. I have concluded that the outbuildings are inappropriate development. Therefore, by definition, harmful to the Green Belt. I have found that the outbuildings result in a small amount of harm to the openness of the Green Belt and the effect of the development on the character and appearance of the area results in limited harm to the intrinsic character and beauty of the countryside. Collectively, these matters carry substantial weight.
28. I attach limited positive weight to the benefit of providing storage of implements to maintain the grounds around the dwelling, however, this other consideration would not clearly outweigh the harm. Therefore, the very special circumstances necessary to justify the proposal do not exist.
29. In addition, overall, I conclude that the removal of permitted development rights under Class E of the GPDO, is reasonable and necessary in the interests of protecting the character and appearance of the area and the openness of the Green Belt.
30. Therefore, for the reasons given above, the appeal is dismissed.

Diane Cragg

INSPECTOR