



Appeal Decision

Site visit made on 16 March 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Appeal Ref: APP/X4725/W/20/3264745

33 Almshouse Lane, Newmillerdam, Wakefield WF2 7ST

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jon Prashar against the decision of Wakefield Council.
 - The application Ref 20/01752/FUL is dated 21 August 2020.
 - The development proposed is Single storey rear and side extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council failed to determine the application within the required timeframe and therefore the appellant seeks determination of the proposal through the planning appeals system. I have identified the main issues in the appeal having considered the Council's Statements of Case, which sets out the putative reasons for refusal in relation to the scheme.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt having regard to the revised Framework and relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - If the appeal proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal; and
 - The effect on the living conditions of neighbouring occupants.

Reasons

Whether inappropriate development

4. The appeal site is located within the designated Green Belt. Paragraph 145 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green

Belt, subject to a number of exceptions. One such exception is paragraph 145 c) which explains that 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.

5. The Wakefield Local Development Framework Development Policies (LDF) Policy D23 asserts that extensions to existing dwellings may be appropriate where extensions are not disproportionate over and above the size of the existing building when originally constructed. It is thus consistent with the Framework.

The effect on the openness of the Green Belt

6. Assessing proportionality is primarily an objective test based on size. The proposal would substantially extend the original dwelling by both volume and footprint. The volume of which is set out by the Council is explained as approximately an increase of 48.3% to the original dwelling. This figure has not been disputed by the appellant.
7. Openness is an essential characteristic of the Green Belt. The effect on the openness of the Green Belt is considered in terms of its visual and spatial dimension. Visually, the mass of development proposed would be disproportionate to the scale of the modest size of the host dwelling, and whilst it would be seen within a spatial context of other built development, nonetheless, it would have a moderately harmful effect on the openness of the Green Belt. In accordance with the Framework, substantial weight is given to any harm to the Green Belt.
8. The proposal would be considered to be, by definition, inappropriate development within the Green Belt, and as per the words of the Framework, it should not be approved except in very special circumstances.

Other considerations

9. The appellant explains that they have personal health considerations. The Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 sets out the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The appellant is one with a protected characteristic for the purposes of the PSED. However, as a result, it does not follow that the appeal should necessarily succeed, but rather that I have a duty to consider the implications of my decision upon this person.
10. I have had due regard to the appellant's health circumstances. The desirability of enlarging their home to take into account their condition is an important consideration in this case as it is stated that it would be beneficial to have more internal space to circulate. However, I have not been provided with substantive evidence to demonstrate precisely in what way the appeal scheme would contribute positively to their condition, or how a negative appeal outcome would disadvantage their personal health. Furthermore, there is nothing before me to demonstrate that there are no other ways of achieving the appellant's objectives without relying on this particular scheme. I therefore apply limited weight to the health considerations based on the information before me.

11. The appellant has questioned whether the proposed development falls with permitted development as a fall-back position. However, there is no evidence provided of the real prospect of a fallback development being carried out should planning permission for the proposed development be refused, to allow me to apply full consideration of works that may be permitted development.
12. As a result of the proposal it may generate local employment and add to the local economy, although the benefits would be very limited.
13. All things considered, the other considerations I have identified do not clearly outweigh the totality of the harm to the openness of the Green Belt, therefore very special circumstances do not exist.
14. I therefore conclude that the proposal would have a harmful effect on the openness of the Green Belt in this location. This would conflict with LDF Policy D23 and the Framework in its aims to protect Green Belt land.

Living Conditions

15. The development proposed would be such that it would not lead to harm arising to the living conditions of the occupiers of No 31 Almshouse Lane. This is due to the scale of the proposal and the relationship with the neighbouring dwelling, as well as the position of their own garage.
16. The owner of No 31 has written a letter in support of the proposal as have the occupants of the attached dwelling of No 35. The proposed extension would extend to approximately 3.9m close to the shared party boundary. A sloping roof is proposed, and the overall height would exceed the height of the existing boundary fence, however this fence also increases in height as it steps up along the boundary towards the back of the garden.
17. A number of windows serve the rear space of the attached neighbour together with a wide glazed sliding door close to the party boundary. Whilst the proposed extension may not meet the 45 degree rule to this particular door, as set within the Council's Residential Design Guide Part 2 Supplementary Planning Document 2018 (SPG), however, together with the existing boundary treatment and the sloping nature of the proposed roof, I am not of the view that the proposal would result in such levels of overshadowing to harmfully compromise the living conditions of the neighbouring occupiers.
18. Therefore, to conclude on this main issue, the development would not result in harm arising to the living conditions of neighbouring occupiers by virtue of overshadowing. Therefore, it would not be contrary to the broad amenity aims of Policy D10 of the LDF.

Other Matters

19. The letter of objection is noted, however as I am dismissing the proposal, there is no requirement of me to comment further on the matters raised.
20. Issues regarding the Council's service should be in the first instance referred to the Council.

Balance and Conclusion

21. In the final balance, I have found that the proposal would not lead to harm arising to the living conditions of neighbouring occupiers. However, even so, I have concluded that it would lead to harm arising to the openness of the Green Belt to which substantial weight is given to any harm to the Green Belt. Taking account of the appellant's personal health circumstances, the potential of the fall-back position and the small employment and economy potential the development would bring, there are no very special circumstances that exists to lead me to find in favour of the development. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. There are no material considerations presented to lead me to a different conclusion.
22. Bringing all matters together, for the foregoing reasons, the appeal is dismissed.

Alison Scott

INSPECTOR