



Appeal Decision

Site visit made on 27 April 2021

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 24th May 2021

Appeal Ref: APP/P4415/W/20/3253062

638A Upper Wortley Road, Kimberworth, Rotherham S61 2TA

- 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 Sahiel Ali against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2019/1886, dated 29 November 2019, was refused by notice dated 31 January 2020.
 - The development proposed is the change of use of land to extend garden area at 638A Upper Wortley Road, Kimberworth, Rotherham.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal site has been incorporated into the curtilage of the host property. I have no evidence to suggest that the extent of land that has been incorporated into the residential curtilage of the host property has been otherwise undertaken than in accordance with the submitted plans. I have therefore determined this appeal on the basis of the plans considered by the Council and that retrospective planning permission is sought.

Main Issues

3. The main issues in the appeal are:
 - Whether the change of use constitutes inappropriate development in the Green Belt.
 - The effect on the openness of the Green Belt.
 - If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

4. Paragraph 143 of the National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the Green Belt

and should not be approved except in very special circumstances. The meaning of inappropriate development is contained in paragraphs 145, 146 and 147 of the Framework. Certain forms of development are identified within those paragraphs which are deemed not inappropriate.

5. Paragraph 146 identifies some such 'not inappropriate' forms of development, and this includes, at part e, material changes in the use of land provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. In this connection, outdoor sport and recreation, cemeteries and burial grounds are cited as examples. These examples are expressly preceded by the words "such as...". In my view, this particular list is therefore not intended to be exhaustive. I can see no apparent reason why a change of use to a domestic garden, which is essentially what is proposed in the present appeal, should fall outside this category of material changes in the use of land.
6. As set out above, in order to be considered not inappropriate development under the paragraph 146 exceptions, the change of use must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

Green Belt Openness and Purposes

7. The Framework identifies the protection of the Green Belt as a core planning principle. It says that one of the fundamental aims of the Green Belt is to keep land permanently open, and openness is one of its essential characteristics. Furthermore, checking the unrestricted sprawl of large built-up areas and safeguarding the countryside from encroachment are among the 5 purposes it says the Green Belt serves.
8. I accept that the appeal site may have formerly comprised of an area of unmanaged land. Nonetheless, the adjoining land to the north and east has also an unmanaged appearance of rough grass and occasional bushes and trees prior to its transition into managed agricultural land. In my view, this is characteristic of the appearance of the open countryside in the vicinity of the appeal site that forms part of the Green Belt.
9. The change of use has resulted in the appeal site being raised in level from that of the adjoining countryside to a level that is approximately commensurate with that of the garden of the host property. It now appears as a relatively flat area of lawned grassland, partly occupied by a 'chicken enclosure' and beehives, with laurel hedge planting along the north eastern boundary.
10. Whilst the area of land that is now incorporated into the garden is not extensive, it does represent an expansion of residential activity into what was previously open countryside. As such, it conflicts with one of the purposes of the Green Belt as set out in paragraph 134 of the Framework which is to safeguard the countryside from encroachment.
11. Openness is an essential characteristic of the Green Belt. The change of use to residential curtilage has effectively domesticated the site. It has changed its character from a scrub appearance, which is characteristic of this part of the countryside, to part of an enclosed domestic garden. The former rural character has been detrimentally eroded and the openness of the site reduced in the sense of the change from being undeveloped to being developed. In this

regard, and considering that even the smaller garden area is still capable of being legible in a wider context of open land to the north and east, I conclude that the change of use fails to preserve the openness of the Green Belt.

12. Therefore, the change of use constitutes inappropriate development as a consequence of the loss of openness of the Green Belt and the purposes of including land within it.
13. Furthermore, the extension of the residential curtilage would establish permitted development rights on this area of land. This could enable outbuildings, domestic paraphernalia and in this case a 'chicken enclosure' and beehives within the extended curtilage being located on this land which would inevitably further reduce the openness of the Green Belt.
14. I have carefully considered whether permitted development rights could be removed by a suitable planning condition to prevent such items being placed on the land. However, it would be difficult to frame a condition that would only restrict permitted developments rights on this part of the curtilage. In addition, in my experience, it can be difficult to enforce such a restriction, as some garden structures can be sizeable and yet portable or temporary in nature. Consequently, I am not persuaded that such a condition would meet the terms set out in paragraphs 54 and 55 of the Framework.
15. I therefore conclude that the change of use is materially harmful to openness and the purposes of including land within the Green Belt. Consequently, it is contrary to a fundamental aim of Green Belt policy set out in the Framework. It is also at odds with Policy CS4 of the Rotherham Local Plan Core Strategy (2014). This Policy, amongst other things, indicates that land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy.

Other considerations

16. The appellant's case is founded mainly on the assertion that the area of land lost from the Green Belt is minimal and was previously unkempt in its appearance. Also, that the intention is not to use the land as a conventional garden but for the purposes of rearing chickens and the keeping of bees. Although the land may have been unkempt, it was nonetheless part of the character of this part of the countryside and the land is now undoubtedly domestic and managed in appearance.
17. For the reasons outlined above, the rearing of chickens and keeping of bees further contributes to the loss of openness and the encroachment into the countryside that has occurred. No other considerations have been cited to suggest that there are any very special circumstances that would outweigh the substantial weight to be given to Green Belt harm as identified in the Framework. I therefore attach limited weight to these other considerations.

Conclusion

18. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The change of use has resulted in an adverse impact on openness and the Green Belt purpose of safeguarding the countryside from encroachment. Substantial weight should be given to these harms and very

special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

19. I have taken into account the possibility of removing permitted development rights and the appellant's intentions for the future use of the land for chicken rearing and bee keeping. As explained above, I have given only limited weight to the material considerations cited in support of the change of use. I conclude that these do not clearly outweigh the substantial weight to be given to Green Belt harm sufficient to demonstrate very special circumstances.
20. For the reasons given above and taking all matters into account, I conclude that the development would not accord with the Green Belt protection aims of the Framework. In addition, there is also conflict with Policy SP2 of the Rotherham Local Plan: Sites and Policies (2018). This policy, amongst other things, identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in exceptional circumstances.
21. There are no material considerations of such weight as to warrant a decision other than in accordance with the aforementioned Framework and development plan. Consequently, the appeal is dismissed.

Stephen Normington

INSPECTOR