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## Appeal Decision

Site visit made on 26 April 2022

**by Graham Wraight BA(Hons) MSc MRTPI**

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

**Decision date: 16 May 2022**

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**Appeal Ref: APP/Z4718/W/22/3290235**

**Mulberry Brook, Manchester Road, Slaithwaite, Huddersfield HD7 6LP**

- 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 S Murphy against the decision of Kirklees Metropolitan Council.
  - The application Ref 2021/62/91136/W, dated 17 March 2021, was refused by notice dated 9 August 2021.
  - The development is described as: The proposed holiday accommodation is located within Mulberry Brook's upper garden space. A mobile home, height 3210 mm, length 12,500mm and width 3,960mm has been sited on the area originally approved for 6 cat pens (2019/62/93032/W) Further, two decking / raised platform areas have been constructed in tanalised cedar wood, partially enveloping the south and west facing side of the mobile home. Section 1 measures 2690 mm in width, 17,540mm in length and elevated to a height of 550mm. Section 2 measures 3420mm in width, 7,600mm in length and 550mm in height. The decking area also supports a temporary cedar wood covered "Tiki Bar", measuring 2160mm at the highest point to the roof, 2050 mm at the lowest point of the roof, 1280 mm in width and 1660 mm in length. A pergola has also been constructed on the second section of the decking area, covering a six person hot tub. This measures 3420 mm to the apex of the ridged tiled roof and 2,550 mm to the lowest point of the roof which is 3420 mm in width and 7600 mm in length. The scale of the proposal is modest in relation to the main house and the rest of the gardens, with a development area of 121 square metres.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The development has been undertaken and therefore I have determined this appeal on the basis that it is a retrospective proposal.
3. I have used the description of development from the planning application form in the banner header above, although this differs from that on the appeal form and decision notice. Those descriptions include reference to the formation of a vehicular access from Manchester Road with electronic gates and associated surfaces. It is clear from the submissions of the appellant and the Council that these elements formed part of the application, so I shall proceed to consider them as part of the appeal.
4. There is no dispute between the main parties that the development represents inappropriate development in the Green Belt as defined in the National Planning Policy Framework (the Framework). I concur with that position.

## **Main Issues**

5. The main issues are:

- (i) The effect on the openness of the Green Belt; and
- (ii) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

## **Reasons**

### *Openness*

- 6. A fundamental aim of Green Belt policy, as set out by the Framework, is to prevent urban sprawl by keeping land permanently open. Openness is, in effect, the absence of development and it has both a spatial and visual aspect to it.
- 7. Prior to the development having been undertaken, the appeal site was an area of apparently undeveloped garden land used in association with the dwellinghouse at Mulberry Brook. It sits in an area that has a rural character, notwithstanding its relative proximity to larger settlements. The development has led to the installation of the sizeable mobile home, a large pergola, a bar, decking area and fencing, in addition to the works associated with the new access. All of this development is prominently located, with the access on the site frontage with Manchester Road and the built development sitting in an elevated position above the public highway.
- 8. The scale of development that has taken place and the location of it has led to moderate harm to Green Belt openness, both in a visual and a spatial sense. This harm would not be overcome by landscaping, alternative surfacing materials or further details of fencing and the gates. Whilst I note that there are some other accesses already along Manchester Road, these are infrequent in the immediate locality and do not lessen the impact of the new access at the appeal site. The harm that would arise to openness means that the proposal is contrary to the specific guidance in the Framework in that respect.

### *Other considerations*

- 9. Planning permission was granted in 2020 for the erection of 6 cattery buildings in a similar location as the mobile home, in connection with a business that was intended to be established. However, the enclosures that were permitted were each small buildings of only a limited height and footprint. Consequently, what was previously permitted would have had a much lesser volume and overall bulk than the appeal development. Furthermore, the provision of a separate access was not sought nor permitted to serve them. The impact of this fallback would be significantly less than the appeal proposal, and it carries only limited weight in support as a result.
- 10. A fallback of the use of permitted development rights associated with a dwellinghouse has also been advanced in support of the proposal. This proposition is that the appellant could utilise such rights to erect outbuildings within the garden of the dwelling at Mulberry Brook, potentially even exceeding the scale of the built form that is associated with the appeal development.

There are however no firm details before me as to what might be erected under permitted development rights or a clear indication that the appellant would have an intention to construct such buildings. Such development would also not be likely to require an individual access, nor a driveway and parking areas of the scale that are necessary for the appeal development. I am not therefore persuaded that there is a real prospect that permitted development would be erected if the appeal were to be unsuccessful or, even if it were, that it would have the same, or a more harmful, impact than the appeal development. This fallback position too therefore carries only limited weight.

11. It is contended that the development provides economic benefits for which there is support in both local and national planning policy and helps address a shortage of tourist accommodation in the surrounding area. There is also a suggestion that it sustains several jobs, although this seems optimistic given the scale of the enterprise and that the land would previously have needed maintenance anyway as garden land. There is not a compelling case that there is a dearth of holiday accommodation in the area, as only one source of information is referenced. Nonetheless, a small degree of employment is likely to be generated and visitors would undoubtedly spend money in the local economy. However, whilst I also acknowledge the support of a local Councillor in these respects, these are benefits that would be limited given the size of the accommodation.
12. Reference has been made to the flooding of Manchester Road which is said to affect the existing access to Mulberry Brook at certain times. There is anecdotal information from interested parties that highway works have been undertaken to attempt to resolve this, but regardless, the new access and parking have been designed only to meet the requirements of the holiday accommodation. Therefore, any remaining matters of flooding and access to the dwelling at Mulberry Brook have not been addressed. This consideration therefore carries limited weight.

## **Conclusion**

13. The Framework at Paragraphs 147 and 148 establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
14. The development is inappropriate development in the Green Belt and has resulted in moderate harm to its openness. Having regard to the reasons I have set out, I find that the other considerations in this case, taken both individually and cumulatively, do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.
15. For the reasons given above, I conclude that the development conflicts with the objectives of the Framework where it seeks to protect the Green Belt. Therefore, the appeal should be dismissed.

*Graham Wraight*      INSPECTOR