
Appeal Decisions

Site visit made on 18 May 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 June 2022

Appeal Ref: APP/X4725/C/22/3292045 (Appeal A)

Land to the rear of 45 Grime Lane, Sharlston Common, Wakefield WF4 1EJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Richard Coldwell against an enforcement notice issued by City of Wakefield Metropolitan District Council.
 - The enforcement notice is dated 27 January 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a garden room on the land in the approximate location shown shaded blue on the plan attached to the enforcement notice.
 - The requirements of the notice are: i) Remove the garden room and any resultant debris from the land; and ii) Restore the land to its previous condition before the breach took place.
 - The period for compliance with the requirements is 8 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
-

Appeal Ref: APP/X4725/W/21/3287311 (Appeal B)

Land to the rear of 45 Grime Lane, Sharlston Common, Wakefield WF4 1EJ

- 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 Coldwell against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 21/00513/FUL, dated 25 February 2021, was refused by notice dated 20 July 2021.
 - The development is described as 'retrospective planning for a garden room, with storage, on a piece of land that is garden to the property but is not within curtilage of the house'.
-

Decisions

1. Appeal A is dismissed, the deemed planning application is refused, and the enforcement notice is upheld.
2. Appeal B is dismissed.

Preliminary Matters

3. The garden room has been constructed and appears to be in accordance with the submitted plans in terms of its physical form. However, in terms of use, the appellant confirms that the building became a hair salon during the coronavirus pandemic when he had to give up his city centre salon. On my visit, I saw that the building was still equipped as a salon with a small office area.

4. This existing use does not tally with the proposed use, which is annotated on the submitted plans as comprising a garden room, tool room and garden equipment room. Therefore, I have relied on the plans with regard to the proposed use of the development for my assessment.

Main Issues

5. The main issues are:

- whether the development amounts to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (NPPF) and any relevant development plan policies;
- The effect on the openness of the Green Belt;
- The effect of the development on the character and appearance of the area.
- 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

Whether or not the proposal would amount to inappropriate development

6. The development comprises a garden room on land to the rear of Grime Lane. It is associated with the residential property at 45 Grime Lane but is separated from it by an access lane. The wider area is characterised by a mixture of dwelling types including traditional terraced properties and more modern detached dwellings.
7. Policy CS1 of the Wakefield Local Development Framework Core Strategy (CS) requires development in the Green Belt to conform to national and LDF policies relating to the Green Belt.
8. Paragraph 147 of the NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF requires local planning authorities to ensure that substantial weight is given to any harm to the Green Belt, stating that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
9. NPPF Paragraph 149 sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate, but identifies a list of building types that may be considered to be exceptions.
10. The appellant does not advance a case that the development falls within any of the exceptions, and there is no evidence before me that it does. That being the case, I find that it amounts to inappropriate development in the Green Belt, contrary to the provisions of paragraph 149 of the NPPF.

Openness

11. The construction of buildings where there were not previously buildings necessarily reduces the openness of the Green Belt. The appellant argues that the site on which the garden building sits is not accessible to the public and only a small area is visible from the public realm. Whilst that is so, the

openness of the Green Belt has a spatial as well as a visual aspect. Therefore, regardless of the extent of public views of the building and the presence of planting, the land is less open than it would be without the structure, which causes harm to the openness of the Green Belt.

12. I have taken note of the location of the site amongst other residential properties and their outbuildings. On this basis, I find the overall harm to openness to be moderate in this particular instance.

Character and appearance

13. The garden room measures approximately 6.28m wide by 4.87m in depth and 3.48m in height. The appellant estimates that it takes up approximately 5% of the total area of the garden land.
14. The main body of the outbuilding is square on plan with a dual pitched roof. Additional floorspace is provided in a small lean-to element to one side. The structure has openings in the front and side elevations, including a glazed gable at one end. It is finished in timber cladding which has been painted green on the side and rear elevations, and pink on the front elevation. The roof is covered in green shingle and door and windows are in white uPVC.
15. In terms of the design, materials and appearance of the development, the Council are satisfied that it respects the site and does not harm the character or appearance of the wider surroundings. From my observations on my visit, I agree with this finding. As such, there is no conflict with that part of Policy CS 10 that requires good design as a key element of sustainable development.

Other considerations

16. In support of his case, the appellant addresses the five purposes of the Green Belt set out in the NPPF, which are: a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
17. Of these, I would agree that criteria (b) to (e) are not applicable in this case. With respect to criterion (a), one interpretation is that it refers to development on the edge of urban areas to check their sprawl outwards. However, from my reading, there is scope to interpret this also as sprawl across pockets of open land within urban areas. However, even if this reading is misdirected, NPPF paragraph 137 clearly states that the essential characteristics of Green Belts are their openness and their permanence. NPPF paragraph 147, as noted above, directs that inappropriate development should not be approved except in very special circumstances.
18. I appreciate that the appeal site is relatively secluded. The appellant stresses that in his view, it is not a typical Green Belt garden, and refers to the newer buildings at Heather Croft which likely were built on open land. However, NPPF paragraph 147 is engaged in this case and it applies to all inappropriate development within a Green Belt location. The NPPF confirms that 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. The appellant confirms that the garden room was built for the enjoyment of the household and to provide the garden with a form of indoor space. He refers to a neighbouring outbuilding, which I saw on my visit, but the LPA state that this building, presuming it is the same one, is exempt from enforcement action due to the passage of time. In any event, each case is to be considered on its individual merits.
20. I take into account that the appellant did not know that the site fell within the Green Belt when the garden room was built. I also acknowledge that the development is not a new dwelling of any kind. However, these circumstances have little to do with the planning merits of the case and carry limited weight.
21. My attention has been drawn to planning permission ref: 05/99/22964/D for a detached garage in the Green Belt at 105 Grime Lane, and another permission ref: 10/00576/FUL for a detached garage in the vicinity. However, few details of these cases have been provided, and so I cannot be certain of the circumstances in which they were found to be acceptable, or whether they offer a direct parallel to the case before me. In any event, they predate the current version of the NPPF, and these matters greatly limit the weight I can afford to these permissions.

Green Belt balance

22. Whilst a finding of inappropriateness in the Green Belt does not automatically lead to a total prohibition of development, the NPPF indicates that substantial weight should be given to harm to the Green Belt and 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.
23. There is limited visual impact arising from the development so I have found no harm to the character and appearance of the area. Nonetheless, I have found harm to the Green Belt by way of inappropriateness and to its openness. Whilst the harm to openness is moderate, in accordance with the NPPF, the overall harm to the Green Belt receives substantial weight.
24. For the reasons given, the other considerations discussed above do not clearly outweigh the harm to the Green Belt. As such, the very special circumstances necessary to justify the development do not exist. Consequently, the proposal does not accord with those policies of the NPPF relating to development in the Green Belt, or with the development plan as a whole.

Conclusion

25. I therefore conclude that Appeals A and B should be dismissed, and the enforcement notice upheld.

Elaine Gray

INSPECTOR