



Appeal Decisions

Site visit made on 21 June 2022

by D Boffin BSc(Hons), DipTP, MRTPI, DipBldg Cons(RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 July 2022

Appeal A Ref: APP/R4408/C/22/3294786

Appeal B Ref: APP/R4408/C/22/3294787

118 Haigh Lane, Hoylandswaine, Sheffield S36 7JQ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended (the 1990 Act). Appeal A is made by Mr Jeffrey Cole and Appeal B by Mrs Katherine Cole against an enforcement notice issued by Barnsley Metropolitan Borough Council.
- The notice was issued on 1 March 2022.
- The breach of planning control as alleged in the notice is:
Without planning permission; The construction of a building in the approximate location shown hatched green on the Plan and shown in the photograph(s) attached in Appendix 1 of the enforcement notice.
- The requirements of the notice are to:
 - (i) Demolish, dismantle, or otherwise remove the building.
 - (ii) Remove any materials from the Land arising from performance of paragraph 5 (i) above.
- The period for compliance with the requirements is: 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (e) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act. Appeal B is proceeding on the grounds set out in section 174(2)(e) and (g) of the 1990 Act.

Summary decision: Appeal A is allowed, the enforcement notice (as corrected) is quashed, and planning permission is granted in the terms set out below in the formal decision.

The Notice

1. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
2. There is no dispute that the approximate location shown hatched green on the plan attached to the enforcement notice is not accurate as the building is turned through 90 degrees to that shown on the plan. It is unnecessary for the plan to indicate the position of the building as photographs of the building are attached to the enforcement notice. As such, I intend to delete the wording '*in the approximate location shown hatched green on the Plan and*' from section 3 of the enforcement notice. I also intend to substitute the plan attached to the notice with the amended plan annexed to this decision. Both parties were given the chance to comment on these corrections and they both stated that the corrections could be carried out without injustice to either of them. I have no reason to disagree with them.

Preliminary Matters

3. As set out above there are two appeals on this site. They relate to the same enforcement notice, therefore, to avoid duplication I have dealt with them together in the reasoning below unless specified differently.

The ground (e) appeal – Both appeals

4. The ground of appeal is that copies of the notice were not served as required by section 172 of the 1990 Act. The appellant's criticism is not that those required to be served by section 172 were not served but rather that the plan attached to the notice was not accurate. Regulation 5 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 (as amended) states that '*an enforcement notice issued under section 172 of the Planning Act shall specify—(c) the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise.*'
5. The inaccuracies cited by the appellant relate to the position of the building shown on the plan attached to the notice. As stated previously, I intend to correct the notice by deleting reference to the location of the building and substituting the plan attached to the notice. I consider that with those corrections the notice specifies the precise boundaries of the land to which the notice relates. In addition, the postal address of the property is given in the notice along with photographs of the building cited within section 3 of the notice. That is sufficiently clear and there is no suggestion that the recipients of the notice have not understood what is being attacked and where it is. The appeal on ground (e) fails.

The ground (a) appeal and deemed planning application – Appeal A only

Main Issues

6. Based on the evidence before me, I consider that the main issues are: -
 - Whether the development constitutes inappropriate development in the Green Belt, having regard to the development plan and the National Planning Policy Framework (the Framework);
 - If the development constitutes inappropriate development in the Green Belt its effect on the openness and purposes of the Green Belt;
 - The effect of the development on the character and appearance of the area;
 - If the development constitutes inappropriate development in the Green Belt whether the harm by reason of inappropriateness, and any other harm, clearly outweighed by other considerations. If so, whether this amounts to the very special circumstances required to justify the development.

Reasons

7. The appeal site comprises a former agricultural building that has been converted to residential use, its garden and parking areas. The building cited in the notice has timber walls and a dual pitch profile metal sheeting roof.

Inappropriate development

8. The site lies within the Green Belt. Policy GB1 of the Barnsley Local Plan (BLP) states, amongst other things, that '*Green Belt will be protected from inappropriate development in accordance with national planning policy*'. BLP Policy GB2 relates to replacement, extension and alteration of existing buildings in the Green Belt it states, amongst other things, that '*we will allow the following development in the Green Belt: ... Extension or alteration of a building where the total size of the proposed and previous extensions does not exceed the size of the original building.*' These policies are consistent with paragraph 149 of the Framework. That paragraph states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. A number of exceptions to this are given and at c) it states 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.
9. BLP Policy GB2 is not cited within the enforcement notice and the Council maintain that this policy is not relevant to the development as it did not entail a replacement, extension or alteration of an existing building. The appellant considers that the building should be assessed as an extension to the dwelling against BLP Policy GB2 and paragraph 149 (c) of the Framework. He relies on the *Dawe*¹ judgment and 4 appeal decisions² to support his argument that the building is not inappropriate.
10. Neither the Framework or the development plan make any specific reference to outbuildings or other ancillary domestic buildings as not being inappropriate development within the Green Belt. However, the *Dawe* judgment found that in that case '*the Inspector was entitled to hold that the garage was part of the "dwelling" in the sense that it was a normal domestic adjunct, and thus to treat the appeal proposal as an extension of it....the mere fact that any of these uses is physically separated from the main house does not prevent them from being part of the dwelling.*' I acknowledge that the development affected by the notice is not an extension to an existing garage or other outbuilding. Nonetheless, the judgment held '*that the words "extension of ...existing dwellings" are capable of having the meaning given to them by the Inspector*'.
11. Consequently whether the erection of a detached building should be considered a normal domestic adjunct to a dwelling is a matter of fact and degree for the decision maker to assess. The building is sited within the garden area of the dwelling, it is positioned close to that dwelling and its parking area. Moreover, it is visually associated with the dwelling as a fence runs from the building to the rear of the parking area and ends at the dwelling. It is currently used for storage associated with the dwelling and its garden, partly as a small workshop and the appellant has stated that another part of it will be used as a garden/sunroom. As such, it has a functional relationship with the dwelling and it has the appearance of a large timber shed that would not appear incongruous in a domestic garden. Therefore, in my judgment the building can reasonably be treated as a normal domestic adjunct and as an extension when applying Green Belt policies.
12. The change of use of the main building from an agricultural use to a dwelling was made through permitted development rights under Class Q of the General

¹ *Sevenoaks District Council v SSE and Dawe* [1997] EWHC Admin 1012

² APP/X0415/D/16/3146147, APP/X0415/D/16/3148561, APP/J3720/A/10/2125215 and APP/J1535/D/16/3159377

Permitted Development (England) Order 2015 (GPDO). The prior approval notification³ associated with the change of use was granted in 2016. Nevertheless, BLP Policy GB2 and paragraph 149(c) of the Framework refer to the original building. The definition of original building within the Framework is '*a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.*' There is no evidence before me to indicate when the agricultural building was constructed, in any case, it is clear from my observations that the part of the building that is now 118 Haigh Lane has not been extended at all, other than by the development before me. That development does not exceed the size of the dwelling that is 118 Haigh Lane and I have found below that it does not harm the character and appearance of the area.

13. I conclude therefore that the building does not result in a disproportionate addition over and above the size of the original building and that it is not inappropriate development in the Green Belt. As a result, it complies with BLP Policies GB1 and GB2 and paragraph 149 (c) of the Framework.

Character and appearance

14. The appeal dwelling is a single storey building with stone walls and a shallow pitched roof. It is now one half of a pair of dwellings that are within the former agricultural building. There is a third dwelling that is within another former agricultural building. These 3 dwellings are served by an access drive off Haigh Lane and they are to the north-east of the village. A large, detached dwelling is located between the village and the 3 dwellings, and its access drive utilises the same access point from Haigh Lane as that of the 3 dwellings. There are fields/ paddocks to the north, east and south of the 3 dwellings.
15. The building is located between the side elevation of the appeal dwelling and Haigh Lane. It is visible in views from Haigh Lane but a hedge that bounds the access drive screens it when approaching the site from the north. Nevertheless, the colours of the materials used within its construction are sympathetic to that of the appeal dwelling and it is of a subservient scale to that dwelling. The dwelling sits within a relatively generous plot and the building sits comfortably within that plot. Moreover, it is viewed in the context of the adjacent dwellings. Overall I consider that the building does not harm the character and appearance of the area. It follows that the building complies with BLP Policy GD1 which states, amongst other things, that proposals for development will be approved if they are compatible with neighbouring land.

Other Matters

16. BLP Policy BIO1 is cited within the reasons for issuing the notice but there is no other reference to the impact of the development on biodiversity or geodiversity within those reasons. As the building is located within the garden area of the dwelling, I have no reason to consider that the development has harmed a biodiversity or geological feature or habitat. Therefore, based on the evidence before me it is not apparent how or why this policy is relevant to this case. BLP Policy CB3 is also cited with the notice but as that policy relates to changes of use in the Green Belt it is not relevant to this case.

³ Application No: 2016/0229

Conclusion – ground (a) appeal and deemed planning application

17. I have found that the building is not inappropriate development within the Green Belt and that it does not harm the character and appearance of the area. It complies with the development plan when read as a whole. There are no material considerations that indicate that the development should be determined other than in accordance with the development plan.
18. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the building as described in the notice as corrected.
19. The appeals on ground (g) do not therefore fall to be considered.

Formal Decision

20. It is directed that the enforcement notice is corrected by:
- Deleting the wording '*in the approximate location shown hatched green on the Plan and*' from section 3 of the enforcement notice.
 - Substituting the plan attached to the notice with the amended plan annexed to this decision.
21. Subject to the corrections, Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the construction of a building shown in the photographs attached in Appendix 1 of the enforcement notice at 118 Haigh Lane, Hoylandswaine, Sheffield S36 7JQ as shown on the amended plan attached to the notice.

D Boffin

INSPECTOR



Amended Plan

This is the plan referred to in my decision dated: 12th July 2022

by D Boffin BSc(Hons), DipTP, MRTPI, DipBldg Cons(RICS), IHBC

Land at: 118 Haigh Lane, Hoylandswaine, Sheffield S36 7JQ

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Scale: Not to Scale

