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# Appeal Decision

Site visit made on 22 August 2023

**by J Gunn DipTP, DipDBE, MRTPI**

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

**Decision date: 30 August 2023**

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**Appeal Ref: APP/N4720/D/23/3319508**

**48 Leadwell Lane, Rothwell, Leeds LS26 0SS**

- 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 Mrs Angela Heap against the decision of Leeds City Council.
  - The application Ref 21/09390/FU, dated 11 November 2021, was refused by notice dated 2 March 2023.
  - The development is described on the application form as 'A garden outbuilding to be used as a summer house to the rear of the property at 48-50 Leadwell Lane, Rothwell, Leeds, LS26 0SS'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council has confirmed in writing that reason given for refusal 1 appears to be an error. They acknowledged that whilst the reasoning appears relevant, the development described appears to be different to that assessed within the application. That said, they assert that the Officer Report remains relevant and assesses the impact of the outbuilding. They indicate that the refusal reason should state: "The Local Planning Authority consider that the proposed outbuilding falls outside the noted exceptions at paragraph 149 of the Framework and therefore represents inappropriate development and is harmful by definition. The Local Planning Authority further consider that the size, scale and prominence of the outbuilding will result in harm to the openness of the Green Belt." This reason for refusal is similar, but not the same, as that given as reason for refusal 2. The appellant has been made aware of this situation and has had an opportunity to comment, and therefore I am content that no party is disadvantaged as a result.
3. During my site visit I saw that the floor and walls to the development had been erected, however the building had no roof, no windows or doors, and the walls had not been rendered. Whilst noting that the Council has referred to the application as being partly retrospective on their decision notice, I have not referred to this in the banner heading above as reference to this matter is superfluous.

## Main Issues

4. The main issues in this case are:
  - whether the development would be inappropriate in the Green Belt (GB);
  - the effect of the development on the openness of the GB; and

- if the development is inappropriate, whether the harm to the GB by way of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances to justify it.

## Reasons

5. The appeal site is located at the end of a row of terraced houses that front Leadwell Lane. The majority of the dwellings on the northern side of Leadwell Lane are two storeys in height and have white rendered walls. They are sited on a well-defined building line, a short distance back from the pavement behind landscaped front gardens. Open countryside, in the form of agricultural fields and allotments, lie to the north of the properties.
6. The appeal property comprises a detached house, set a modest distance back from the pavement behind an enclosed drive and parking area. The boundary fronting Leadwell Lane comprises a tall fence behind which there is a hedgerow of conifers. The side boundary, fronting onto the private lane that runs along the western boundary of the host property, comprises of a tall wooden fence, with the rear boundary comprising of a trellis style fence.

### *Whether Inappropriate Development*

7. Paragraph 149 of the National Planning Policy Framework (the Framework) establishes that new buildings in the Green Belt are inappropriate, subject to a number of exceptions. One of the exceptions set out in paragraph 149 is 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. The Framework defines 'original building' as meaning the building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally.
8. In the case of *Sevenoaks District Council v Secretary of State for the Environment and Dawe* (1997) the judge concluded that a proposed detached covered building for car parking should be considered in the same way as an extension to a house in the GB, even though it was sited some distance away. Furthermore, in *Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe* [2022] EWHC 2145 (Admin) the judge concluded that paragraph 149 (c) "... is not to be interpreted as being confined to physically attached structures but that an extension for the purposes of that provision can include structures which are physically detached from the building of which they are an extension." Therefore, whether a detached structure would amount to an extension of the existing building is a matter of fact and degree.
9. My assessment therefore requires me to consider whether the appeal development would, when taken in combination with any previous additions to the original building, result in a disproportionate addition in terms of its size. This exercise does not require me to consider the visual impact of the development or any effect on openness at this stage.
10. No quantitative guidance is provided in the Framework regarding what might be considered disproportionate. Saved Policy N33 of the Leeds Unitary Development Plan Review – Volume 1: Written Statement – Adopted July 2006 (UDP), deals with developments within the GB. Whilst it was adopted some time ago, its aims are nevertheless broadly consistent with the approach in the Framework insofar as this appeal is concerned. The UDP is supplemented by the Leeds Local Development Framework - Householder Design Guide

Supplementary Planning Document (SPD). Policy HDG3 of the SPD indicates, as a guide, that in order to be considered as limited development all existing and proposed extensions should not exceed a thirty percent increase over and above the original house volume.

11. The Council, in their officers report, assert that the overall percentage increase to the original building would be of the order of 37.54%, which would exceed the requirements set out in their guidance. That said, I have not been provided with a detailed breakdown as to how they arrived at that figure, including what they considered to constitute the original outbuilding, or what extensions and outbuildings they included in their calculations. Moreover, the methodology used by the Council refers specifically to the floor area of the original property and subsequent additions, whereas the Framework refers to 'size.' Consequently, in my assessment I am required to consider the overall size increase in terms of volume and external dimensions (as well as considering floorspace).
12. The appellant, in their appeal statement, disputes the methodology used by the Council and argues that calculation was not in line with the data submitted with the application. However, the appellant has submitted no calculations with the appeal to support that assertion.
13. Notwithstanding the above, I have taken into account a number of factors in my assessment. This included an analysis of what constituted the original dwelling house, including what outbuildings existed on 1 July 1948, and what additions were added after that date. Although the historic photo and plan submitted as Appendix D of the appellants evidence is undated, in my judgement, I consider it likely that the original building constituted a modest sized two storey dwelling house located towards the centre of the site, with a range of outbuildings to the north and north west. The outbuildings comprise of a two storey building close to the unnamed track to the west of the site and a group of smaller single storey structures. I accept the appellants assertion that the two storey building has not been extended. I also noted on my site visit that the single storey structures have since been demolished.
14. Additions over and above the size of the original building include a single storey rear and side extension wrapping around the rear of the property, a 2 two storey building comprising a 3 car garage with living accommodation above, a garden shed and a greenhouse. Whilst acknowledging that the 3 car garage and the first floor flat above benefits from a certificate of existing lawful development<sup>1</sup>, as a self-contained flat, it is clearly shown to fall within the appeal site, as defined by the red line on the submitted plan. Moreover, it has a dependency on the host property's driveway for its pedestrian and vehicular access. Consequently, in my view, the additional volume arising from that development, must be included in any calculation.
15. In the absence of volumetric calculations, I am unable to quantify with any certainty, the amount by which the original building might have been extended. That said, the amount of development currently present on the site, compared with that shown on the details submitted as Appendix D of the appellants evidence, together with what I saw on my site visit, clearly indicates that there have been a number of significant additions to the original building. Therefore, whilst the appeal development might be modest in size, when its volume is

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<sup>1</sup> Council reference 21/09072/CLE

added to previous extensions and outbuildings, the overall result is a disproportionate addition over and above the size of the original building.

16. For these reasons, the proposed development represents inappropriate development in the GB. Inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances.

*The effect of the proposal on the openness of the Green Belt*

17. Openness is an essential characteristic of the Green Belt. The appeal development has resulted in the erection of a building. Whilst structures may have previously occupied the space in which the new building has been erected, no evidence of them remains on site. Consequently, I am unable to make a direct comparison of their relative size in terms of the floor space, footprint, built volume, height, width, etc. In my view, the presence of the appeal building affects both visual and spatial openness in that it would be reduced.
18. On my site visit I observed that the appeal development was not visible from Leadwell Lane. However, there are glimpses of the development from the private lane and the access drive to the nearby allotments. I acknowledge that these views would be from a distance and would be restricted by existing hedges and other boundary treatments. Therefore, whilst the reduction in openness is modest and localised, and views from neighbouring areas limited, harm to the GB results.

*Other considerations*

19. The Framework makes it clear, at paragraph 148, that substantial weight is given to any harm to the GB. It establishes that 'very special circumstances' will not exist unless the potential harm to the GB by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
20. The development, when completed, would provide the appellant with additional leisure facilities in the form of a summer house which would be a personal benefit. I give this benefit limited weight in favour of the development, however it does not outweigh the substantial weight that I am required to give to any harm to the GB.

*Balancing of considerations and whether very special circumstances exist*

21. The development represents inappropriate development, which is by definition, harmful to the GB. Additionally, I have found there would be harm to the openness of this part of the GB. Limited weight has been given to the material considerations cited in support of the proposed development, and I conclude that they do not outweigh the harm the proposed development would cause to the GB. Consequently, the very special circumstances to justify the development do not exist. The development therefore conflicts with GB policy contained within the Framework and saved Policy N33 of the UDP and Policy DHG3 of the SPD. These policies seek, amongst other matters, to balance development pressure and requirements, with the desire to safeguard the purpose and function of the GB.

### **Other Matters**

22. The Council refer to the possibility that the development may fall outside of the curtilage of the established C3 planning unit. No evidence has been submitted in this regard. However, as I am dismissing the appeal for other reasons there is no need for me to go into this matter further.
23. I also note the appellants concern regarding the manner in which the Council dealt with the original planning application and the potential impact that their actions may have on the future saleability of the property. That said, I have dealt with this appeal on its planning merits giving full consideration to the development plan and all relevant material considerations.

### **Conclusion**

24. There are no other relevant material considerations that indicate the application should be determined in accordance with the development plan as a whole. For the reasons given above, I therefore conclude that the appeal should be dismissed.

*J Gunn*

INSPECTOR