



Appeal Decision

Site visit made on 7 November 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2023

Appeal Ref: APP/X4725/W/23/3320963

65 Aberford Road, Stanley, Wakefield, West Yorkshire WF3 4NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
- The appeal is made by Darryl Hunt against the decision of Wakefield Metropolitan District Council.
- The application Ref 22/01303/FUL, dated 10 July 2022, was refused by notice dated 7 December 2022.
- The development proposed is described as, *'change of use from agricultural to residential curtilage, erection of fence to rear boundary, erection of walls to front and side boundaries, installation of flue, demolition of existing garage and erection of detached outbuilding, installation of rainwater harvesting system and retrospective consent for mono-pitched roof over single storey front extension and 2 No dormers to rear roof'*.

Decision

1. The appeal is dismissed in so far as it relates to the change of use from agricultural to residential curtilage, erection of fence to rear and side boundaries, erection of walls to front and side boundaries.
2. The appeal is allowed in so far as it relates to the installation of flue, demolition of existing garage and erection of detached outbuilding, installation of rainwater harvesting system and retrospective consent for mono-pitched roof over single storey front extension and 2 No dormers to rear roof and planning permission is granted in respect of such matters at 65 Aberford Road, Stanley, Wakefield, West Yorkshire WF3 4NH in accordance with the terms of the application Ref 22/01303/FUL, dated 10 July 2022 and the Location Plan (1:1250); Site Plan and Proposed New Garden Store and Gym Drawing No. WK-DH-09 Revision A; Water Storage Tank Drawing No. WAA.4000; Existing Elevations Drawing No. WK-DH-03 Revision B; Existing Side Elevations WK-DH-04 Revision B. All of which exclude works relating to the change of use from agricultural to residential curtilage, erection of fence to rear and side boundaries, erection of walls to front and side boundaries.

Procedural Matters

3. The description in the above banner heading has been taken from the original application form. The decision notice includes erection of fence to rear side boundaries in addition to rear boundary which I have had regard to.
4. Some of the works as described in the description of development have already taken place onsite and I have determined the appeal accordingly.

Main Issues

5. The main issues are:

- Whether the change of use from agricultural to residential curtilage would be inappropriate development in the Green Belt including its effect on the openness of the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- The effect of the proposed fence to the rear and side boundaries on the character and appearance of the surrounding area;
- The effect of the proposed boundary wall to the front and sides of the plot on pedestrian and highway safety; and
- Whether any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether inappropriate development and effect on openness

6. The appeal site relates to a detached property located along Aberford Road which forms part of a row of other residential properties which are set back from the road with garden areas/parking to the front and long gardens to the rear. Beyond the rear garden area of the row of properties including the appeal site is an open parcel of grassland which is located within the Green Belt. It is however noted that the residential property and rear garden area is not located within the Green Belt, and I have determined the appeal accordingly.
7. Policy CS1 of the Wakefield Metropolitan District Local Development Framework Core Strategy, 2009 (CS) sets out the location of development explaining amongst other matters, that in the Green Belt, development will conform to national and Local Development Framework policies relating to the Green Belt.
8. Paragraph 149 of the Framework explains that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt with certain exceptions which are set out in paragraphs 149 and 150. The most relevant exception at paragraph 150 (e) allows for material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). Under the provisions of paragraph 150 of the Framework, material changes in the use of land for purposes outlined above is not inappropriate in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land within it.
9. Paragraph 137 of the Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 138 of the Framework explains that the Green Belt serves five purposes which includes amongst others, c) to assist in safeguarding the countryside from encroachment.
10. The rear garden area serving the site has been extended outwards into the area of grassland which would form part of the private garden area associated with No 65 Aberford Road. This area as referred to above is located within the Green Belt and has been enclosed to the sides and rear with a number of boundary treatments including close boarded timber fence and timber post and wire mesh fence.

11. The open grassland to the rear retains an overall rural appearance and visually softens the residential development providing a pleasant, verdant appearance. A proportion of this grassland has been incorporated into the garden of this property with fencing enclosing the area. Whilst it appears undisputed that the erected fences around the land can remain on site due to permitted development rights, the extension into the open grassland results in encroachment into the countryside giving this area a more domestic character and appearance. Despite its overall size, this urbanisation reduces the sites openness, eroding the pleasant appearance it provides.
12. I note claims that it is the appellants' aim to use the small area at the rear of the property to replace trees and create a safe haven for local wildlife. However, this would not alter my findings as the development still encroaches into the open countryside and changes the overall character of this parcel of land which would become more domestic. Whilst no new buildings are proposed to this area, it would form part of the domestic amenity area of the property where it is highly likely to have some other associated domestic paraphernalia in the future which would create a further urbanising effect. This would further impact the site's rural appearance and openness of the Green Belt in visual terms in comparison to the previous use of land. Any condition to avoid domestic paraphernalia and buildings in the future would not be reasonable or enforceable and I am not therefore satisfied that the openness of the Green Belt could be preserved via such a mechanism.
13. For the above reasons, the change of use from agricultural to residential curtilage would not preserve the openness of the Green Belt and would conflict with the purposes of including land within it. I therefore conclude that for the purposes of the Framework, the proposed development would fail to accord with paragraph 150 (e) and thus would be inappropriate development in the Green Belt. This would by definition be harmful to the Green Belt. Consequently, the proposed development would be contrary to Policy CS1 of the CS.

Character and appearance

14. At my site visit, I observed other boundary treatments to the rear and noted that they largely comprise timber fencing to the sides and rear of gardens of a relatively low height. The proposed development, amongst other works, seeks to introduce mesh fencing to the rear and side boundaries which by virtue of its overall design and excessive height which would cover a good distance would be visually prominent and incongruous in comparison to other boundary treatments. As a result, it would be at odds with and harmful to the prevailing character and appearance of the area.
15. I appreciate the appellant's comments regarding trespassers and desire to make the property more secure and safe including advice received from the local police regarding fencing at the site. However, I am not persuaded that the proposed boundary treatment would be the only option to achieve these aims and that this could not be achieved by a scheme that would be less harmful to the character and appearance of the area. Similarly, I am not convinced that the proposed boundary treatment would be the only option for local wildlife to traverse unimpeded.
16. For the above reasons, I conclude that the proposed fence to the rear and side boundaries would unacceptably harm the character and appearance of the

surrounding area. It would therefore be contrary to Policy CS10 of the CS and Policies D9 and D10 (d) of the Wakefield Council Local Development Framework Development Policies, 2009 (DP) and guidance contained within the Wakefield District Residential Design Guide Supplementary Planning Document, 2018 which together, amongst other matters, requires proposals to respect, and where appropriate enhance the character of the locality in terms of design, scale, massing, height, density, layout, materials and colour. For the same reasons, the proposed development would also be contrary to the aspirations of the Framework relating to achieving well-designed places.

Pedestrian and highway safety

17. Aberford Road is located on a hill which rises upwards towards the appeal site from east to west and at my site visit, I observed the movements of vehicles along Aberford Road. While only a snapshot in time, I saw that the road was relatively busy with a consistent flow of traffic.
18. The appeal site like others in the area including its neighbours at No 63 and No 67 Aberford Road (No 63 and No 67) accommodates car parking to the front of the property where movements take place onto and off the public highway including across the footpath running along the front of the site.
19. The proposed development amongst other works, seeks to provide new boundary walls to the front and side boundaries which would comprise brick wall sections with intermittent pillars which would run adjacent to the neighbouring driveways at No 63 and No 67. It would have an overall solid form and this, together with its overall height which would rise with the land levels would restrict visibility for neighbouring properties when exiting their driveway onto the busy public highway. This would be prejudicial to the free flow of traffic movement along this section of the highway to the detriment of highway safety. Additionally, a lack of visibility when exiting these driveways would be detrimental for approaching pedestrians along the footpath as well as pedestrians not being aware of vehicle movements causing safety implications for all road users.
20. I acknowledge that there are other high boundary treatments to the front of properties along Aberford Road including landscaping which restricts visibility. However, this does not justify further development which would exacerbate the existing situation and lead to conditions prejudicial to pedestrian and highway safety. The openings may be of width to allow for better inter-visibility for the occupiers of the host property. However, this would not overcome the harm identified in relation to the overall visibility of neighbouring properties when exiting their driveways.
21. I also note consultations that have taken place regarding plans to make Aberford Road a one-way, uphill. However, this is not currently the case, and I must consider the appeal based on present circumstances.
22. I conclude that the proposed boundary wall to the front and sides of the plot would be prejudicial to pedestrian and highway safety. It would therefore be contrary to Policy D14 of the DP and the Wakefield Council Street Design Guide Supplementary Planning Document, 2012 which together, amongst other matters, seek to ensure the safe and free flow of traffic within the development and on the surrounding highway network. For the same reasons, it would also be contrary to paragraph 111 of the Framework relating to highway safety.

Other considerations

23. In relation to the change of use from agricultural to residential curtilage, paragraph 147 of the Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 goes on to explain that 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.
24. My attention has been drawn to other developments which are claimed to have been granted planning permission to build on agricultural land in close proximity to the appeal property (City Fields and Strawberry Fields) although no further details have been provided for me to be able to comment on. In any event, I am considering the scheme that is before me, and I have identified the harm that would arise. Such matters therefore carry limited weight.

Planning Balance

25. Whilst I acknowledge the other considerations put forward by the appellant as set out above, the Framework makes it clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt which I have applied.
26. Therefore, those other considerations referred to above would not hold sufficient weight to outweigh the harm that I have identified in relation to the change of use from agricultural to residential curtilage. Consequently, the very special circumstances necessary to justify the development do not exist.
27. The appeal proposal includes a number of different elements. It appears undisputed that the installation of flue, demolition of existing garage and erection of detached outbuilding, installation of rainwater harvesting system and retrospective consent for mono-pitched roof over single storey front extension and 2 No dormers to rear roof is acceptable and complies with relevant planning policies. Such works are clearly severable from the remainder of the scheme, as it is physically and functionally independent. I can therefore issue a split decision in this case, and allow the installation of flue, demolition of existing garage and erection of detached outbuilding, installation of rainwater harvesting system and retrospective consent for mono-pitched roof over single storey front extension and 2 No dormers to rear roof.
28. In respect of the change of use from agricultural to residential curtilage, I have concluded that this would be inappropriate development in the Green Belt. I have also concluded that the erection of fence to rear and side boundaries would unacceptably harm the character and appearance of the surrounding area. In respect of the erection of walls to front and side boundaries, I have also concluded that this would be prejudicial to pedestrian and highway safety. For these reasons, I dismiss the appeal in respect of the change of use from agricultural land to residential curtilage, erection of fence to rear and side boundaries, erection of walls to front and side boundaries.

Conditions

29. Given the partly retrospective nature of the appeal, the standard time limit for commencement is not considered necessary in this case. I have included the approved plans in the terms of my decision in the interests of certainty

excluding works relating to the change of use from agricultural to residential curtilage, erection of fence to rear and side boundaries, erection of walls to front and side boundaries. There is no clear justification for the condition relating to the use of the outbuilding particularly as there is no firm evidence to indicate that the outbuilding would be used for non-ancillary purposes. Consequently, this condition is not considered relevant to the development to be permitted as any future use would be subject to its own assessment.

Conclusion

30. For the reasons given above, and having regard to the development plan as a whole, all matters raised and the Framework, I conclude that the appeal is dismissed insofar as it relates to the change of use from agricultural to residential curtilage, erection of fence to rear and side boundaries and the erection of walls to front and side boundaries but is allowed insofar as it relates to the installation of flue, demolition of existing garage and erection of detached outbuilding, installation of rainwater harvesting system and retrospective consent for mono-pitched roof over single storey front extension and 2 No dormers to rear roof.

N Teasdale

INSPECTOR