



# Appeal Decision

Site visit made on 11 October 2023

**by David English BSc (Hons) DipTP MRTPI**

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

**Decision date: 12 December 2023**

**Appeal Ref: APP/X4725/W/23/3317403**

**45 Grime Lane, Sharlston Common, Wakefield WF4 1EJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
- The appeal is made by Mr R Coldwell against the decision of Wakefield Council.
- The application Ref 22/01753/FUL, dated 16 August 2022, was refused by notice dated 7 February 2023.
- The development is described as 'Change of use to a home salon'.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The planning application form describes the proposed development as '*Change of use to a home salon*', and states that it was completed on 1 December 2020. The description of development was changed by the Council in its decision notice to '*Retrospective erection of outbuilding on separated garden land for use as a salon*'. No confirmation of agreement between the main parties about this change was provided to me. However, having regard to the circumstances of this case, and noting that the appellant used the same description in the appeal form as that shown on the Council's decision notice, I consider that the amended description better captures the full extent of development for which planning permission is required, subject to the deletion of the word 'retrospective' which is not a form of development. Both main parties agreed to my intention to use that amended description, with the word 'retrospective' deleted, and I have determined the appeal on that basis.
3. The development is acknowledged as being complete. Therefore, I have referred to the proposal as 'the development' throughout my decision. From my observations, it appeared to have been constructed largely as shown on the plans and I have determined the appeal on that basis.
4. From the information provided to me I note the outcome of previous recent appeals<sup>1</sup> following a refusal of planning permission and the service of an enforcement notice associated with development at the same location. The development in that case was 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*'. While I have not been provided with plans associated with that previous proposal, the appeal decision letter describes a building having the same dimensions as the building in the case before me. In the absence of any evidence to the contrary and having regard to the information provided by both main parties, I have assessed the appeal on the

<sup>1</sup> Appeal Refs: APP/X4725/W/21/3287311 and APP/X4725/C/22/3292045

basis that it relates to the same building as that previous proposal. I have had regard to those previous appeal decisions insofar as they are relevant to the current case.

## **Main Issues**

5. The main issues in this appeal are:

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

6. The Framework sets out 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.
7. The Framework also establishes that the construction of buildings in the Green Belt should be regarded as inappropriate development, apart from those exceptions listed in paragraphs 149 and 150. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except where there are very special circumstances that justify it.
8. The development comprises a building which is said to have been constructed as a garden room associated with 45 Grime Lane. The building was altered to create a salon following the appellant's decision to vacate his business premises in Wakefield city centre during the covid pandemic, and I saw that it was furnished and equipped as such at the time of my site visit.
9. While no specific claim is made by the appellant in respect of the building not being inappropriate development in the Green Belt in the terms defined in the Framework, he questions whether the development is permitted development. However, my purpose is to determine the appeal before me based on the evidence. There is no evidence before me that the development is permitted development. Other means exist in the Act to establish whether a building or use is lawful, and this is not a matter I need determine.
10. I have no reason to doubt that the land on which the development sits (the land) is owned by the appellant and is used in association with No 45. However, the land is separated by a wide paved lane at the rear of the houses on Grime Lane. This lane provides access to the rear yards of those houses on one side, and to various separate parcels of land on the other side, all of which appeared to be generally in domestic use at the time of my site visit.
11. Nevertheless, the development comprises a detached building which is in use as a commercial salon premises. As such, the development does not fall within any of the exceptions given in paragraph 149 of the Framework. I therefore conclude that it would be inappropriate development in the Green Belt, which is

by definition harmful, and it conflicts with the Green Belt protection aims of the Framework, with which the relevant provisions of Policy D23 of the LDF<sup>2</sup> are consistent. Paragraph 148 of the Framework requires that substantial weight is given to this harm to the Green Belt. The very special circumstances required to justify the development will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

### *Openness of the Green Belt*

12. I note and accept the appellant's position that, other than encroaching into the countryside, the development does not conflict with the purposes served by Green Belt identified at paragraph 138 of the Framework. However, paragraph 137 of the Framework also sets out that a fundamental aim of Green Belt policy is to keep land permanently open.
13. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The development comprises a building that occupies a small proportion of the land, and I note that minimal disturbance to the land was caused during its construction. Substantial vegetation along with boundary walls and fences provide a good degree of screening from public views. Further planting could be secured through planning conditions as a means of increasing screening if the appeal were allowed. Furthermore, the colour of parts of the building assist in its assimilation within this setting from some vantage points.
14. Nevertheless, this is a relatively large building which is visible from the rear lane and from within nearby gardens, even if partially obscured by boundary treatments and vegetation. Even if I were to accept the appellant's contention that the building is largely screened from public view, and thereby not visually harmful to the openness of the Green Belt, and that planning conditions could secure further screening, I must also consider the spatial aspect of openness.
15. Notwithstanding the limited extent of the building's visibility beyond the site, and the location of the land between two blocks of housing, the building has created a spatial change in respect of openness by virtue of its footprint. External lighting provided for the safety of clients would likely draw further attention to its presence here.
16. Overall, the land is less open than it would be if the building were not there, and this causes harm to the openness of the Green Belt. The impact of the development is moderate given its scale. However, noting the means of construction, this is a substantial building, its impact is permanent, and the consequent loss of openness conflicts with the fundamental aims of the Green Belt described in the Framework and in the LDF. This therefore weighs moderately against the development. Disputes regarding access rights have little relevance to my assessment on openness and are not a factor that weighs in favour or against the development.

### *Other considerations*

17. The appellant has made considerable efforts to continue to operate his business, which I recognise is of a specialist nature, despite difficult financial circumstances, not least those arising from the effects of the covid pandemic.

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<sup>2</sup> 'A new vision for developing Wakefield District Local Development Framework Development Policies' (April 2009) (the LDF).

However, having regard to the main issues in this case, I find this to be a matter that neither weighs in favour or against the development.

18. Nevertheless, the business provides local employment, the appellant has plans for expansion by training apprentices, and it attracts clients locally and from around the country which brings with it economic benefits to other local businesses. I attribute modest weight to these benefits noting the scale of the operation. I also note the support for the development provided by many clients, a matter to which I also attribute modest weight.
19. The inclusion of measures to achieve net zero carbon emissions would be a benefit and, while no details are provided, such measures could be secured by planning condition. I also note the development has assisted in creating habitats for wildlife. Having regard to the scale of the development, I attribute modest weight to these small but important benefits.
20. I note those other much larger businesses referred to by the appellant, which have substantially lower floorspace to employee ratios than the development, where, it is claimed, the number of new jobs created weighed in favour of permission being granted in the Green Belt. However, their context and general locations appear to be substantially different to the development, and I have not seen details that would allow me to draw any meaningful comparisons. Notwithstanding the Green Belt locations, these examples do not weigh materially in favour of the appeal.
21. The appellant has also drawn my attention to development at the White Horse Pub for which planning permission has been granted<sup>3</sup>. However, I have been given little information about that development, it is some distance from the appeal site, and I am unable to determine any direct comparison. This example, along with other sheds and outbuildings close to the site which appear to have an uncertain planning status, does not in itself justify further harmful development in the Green Belt. These examples do not weigh materially in favour of the appeal which, in any event, I have determined on its own planning merits.
22. Given the outlook from the building and the extent of vegetation surrounding its windows, the use of obscure glazing is a neutral consideration. The provision of appropriate arrangements for waste disposal is also neutral in that such provision would be necessary and would be secured by planning condition were the appeal to be allowed. The lack of external signs or advertisements on the building does not weigh in favour of the development.

### **Other Matters**

23. I am mindful that the Council does not find the development to be harmful in respect of several matters raised in representations including highway safety, the living conditions of nearby residents in respect of noise and disturbance, or on the character and appearance of the area. I have had regard to the representations made by several third parties but find no reason to disagree with the Council's conclusions, hence those matters are not main issues in this appeal.

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<sup>3</sup> Council Ref. 17/00472/FUL

### **Green Belt balance and conclusions**

24. The development is inappropriate development in the Green Belt and this, by definition, is harmful. It results in a moderate loss of openness which harms the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. While I have not found there to be other harm, the Framework is clear that very special circumstances will not exist unless harm to the Green Belt is clearly outweighed by other considerations.
25. I give modest weight to the employment and training benefits and those arising to the local economy, and to the environmental benefits associated with opportunities for limiting carbon emissions and the provision of wildlife habitats. However, in considering the substantial weight to be given to Green Belt harm, relative to these limited benefits, the harm that arises from the development to the Green Belt is not clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the development do not exist.
26. Consequently, the development does not accord with the Green Belt protection aims of the Framework or with Policy D23 of the LDF in that this indicates that such development in the Green Belt will only be permitted if very special circumstances can be demonstrated or the proposal meets the criteria set out in national planning policy. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.
27. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

*David English*

INSPECTOR