



Appeal Decision

Site visit made on 18 January 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2024

Appeal Ref: APP/P4415/W/23/3326574

Lillibet Barn, Laughton Common Road, Thurcroft, Rotherham S66 9BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mitchell Mason (c/o Irwin Mitchell Solicitors LLP) against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2023/0397.
 - The development proposed is the change of use of land to extend the residential garden curtilage and retention of 1.8m high concrete post and timber panelled fence line to perimeter.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (Framework) was published in December 2023. I have had regard to this in reaching my decision.
3. The appeal scheme had been undertaken at the time of my visit and the submitted plans reflected the extent of the extended curtilage and the fencing that has been installed. For clarity, I have dealt with the appeal based on the submitted plans.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt; and,
 - if the proposal is inappropriate development, 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 inappropriate development

5. The appeal site is situated in the Green Belt. The Government attaches great importance to Green Belts. 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.

6. The National Planning Policy Framework (Framework) at paragraph 155 states that material changes in the use of land are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The appeal development relates to an extended garden area to the east of the dwelling, beyond the paved patio area. Although the extended garden area is significantly smaller than the field further to the east and is only a small portion of the land owned by the appellant, it is nevertheless of a significant length and size.
7. The use of the land has extended the domestic garden area of the appeal property into a previously rough, overgrown field. Although the appellant considers the maintenance of the grass area to result in a well-arranged garden, it has introduced incongruous domestic, urban characteristics into the landscape arising from domestic paraphernalia, such as washing lines. The height and largely solid form of the fence around the extended garden area, although following a natural boundary, has resulted in the introduction of a domestic style boundary treatment. Even though the fence would not be visible from public vantage points, as an additional form of built development, it has nevertheless harmed the spatial aspect of openness.
8. As a result of having extended the area of land for garden use into an open field forming part of the countryside, the development has contravened one of the purposes of the Green Belt, namely, to assist in safeguarding the countryside from encroachment.
9. On this basis, the scheme would be inappropriate development in the Green Belt. Paragraph 152 of the Framework states that this is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It would be contrary to the Framework in this regard and would also conflict with Policy CS 4 of the Rotherham Local Plan Core Strategy 2013-2028, which seeks, amongst other matters, to protect the Green Belt from inappropriate development.

Other considerations

10. In support of the appeal development, the needs of a severely disabled person have been set out, who would be assisted by the provision of an appropriate, secure outdoor space. Having regard to the health circumstances, which is set out in supporting documentation, the appeal development would be beneficial to the health of the individual. This is an important consideration, but it has not been demonstrated that the appeal scheme is the only means to address his health needs. Although the appellant states that the approved garden area is insignificant in size and would be unsuitable to meet the needs of the disabled individual, I have no evidence to show whether other options to meet these health needs, such as a garden area that is of a reduced size from the appeal proposal, has been considered in any detail. Consequently, I attach moderate weight to this matter.
11. Planning conditions can be used to prevent additional buildings, but this would not overcome the harm to openness that I have identified from the appeal proposal such as movable structures and the fencing, nor would it address the conflict with the purposes of including land within it.
12. I have taken into account all other matters raised, namely the costs associated with the removal of the fence, and that the appeal site was laid to lawn with

planted borders by the previous owners. These matters do not however have a bearing on the planning merits of the case.

Conclusion

13. I have found that the appeal proposal would be inappropriate development, which the Framework clearly sets out is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework says that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
14. I have set out the other considerations and my analysis leads me to attach moderate weight to the health needs of the individual. With this in mind, the substantial weight I have given to the Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
15. Dismissing the appeal would interfere with the appellant's rights to peaceful enjoyment of their possessions, and to a private and family life and home, under Article 1 of the First Protocol and Article 8 as set out under the Human Right Act 1998. However, those are qualified rights; interference with them in this instance would accord with the law and be in pursuance of a well-established and legitimate aim: the protection of the Green Belt.
16. In dismissing the appeal, it would not prevent the use of the existing lawful garden area from providing an outdoor space and it is proportionate and necessary to refuse to grant planning permission for the reason set out. There will be no violation of the appellant's human rights. The protection of the public interest cannot be achieved by means that are less interfering with their rights.
17. I conclude that the appeal should therefore be dismissed.

F Rafiq

INSPECTOR