



Appeal Decision

Site visit made on 30 July 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2024

Appeal Ref: APP/P4415/D/24/3342385

8 Hillcrest Rise, Harthill, Rotherham S26 7ZE

- 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 Charles Dent against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref is RB2024/0047.
 - The development proposed is the erection of a pergola.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The pergola has been erected and therefore I am considering this appeal retrospectively.

Main Issues

3. The appeal site is located within the Green Belt. The National Planning Policy Framework ('the Framework') states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
4. Paragraphs 154 and 155 of the Framework define different types of development that could be an exception to inappropriate development in the Green Belt. It is uncontested by the main parties that the pergola does not comply with any of these exceptions. From the evidence before me, I see no reason to disagree with this assertion. The proposal is therefore inappropriate development in the Green Belt.
5. Accordingly, the main issues are:
 - a) the effect of the proposed development on the openness of, and the purposes of including land within, the Green Belt, having regard to the Framework and any relevant development plan policies; and
 - b) 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

Openness and Purposes

6. The Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness has both visual and spatial qualities.
7. The pergola comprises an open-sided metal structure that is physically attached to the ground. It has wooden slats to the roof and a fixed seat, and fixed to the rear is trellis containing artificial foliage. It is located within the corner of a large parcel of land predominantly laid to lawn that, other than the pergola, is devoid of buildings/structures. The pergola has introduced a man-made structure into an open area. Consequently, in spatial terms, it reduces the Green Belt's openness.
8. The pergola, although of an acceptable design and materials, is highly prominent when viewed from Hillcrest Rise to the northeast as it projects above an adjacent close boarded fence and is positioned forward of the dwelling's front elevation. While there is some planting along the inside of the eastern part of the close boarded fence, it does not completely screen the pergola when viewed from Hillcrest Rise to the south. Therefore, in visual terms, the pergola reduces the Green Belt's openness.
9. There is a dispute between the main parties whether the pergola is sited within an area of unauthorised garden. Therefore, I am unable to determine whether the pergola would comply with the five purposes of the Green Belt detailed at Paragraph 143 of the Framework, with particular reference to safeguarding the countryside from encroachment.
10. Notwithstanding this, the development comprises inappropriate development in the Green Belt, and it impacts on the openness of the Green Belt in both visual and spatial terms. Accordingly, in reference to the first main issue, the development would conflict with Policy CS4 of the Rotherham Local Plan Core Strategy 2013-2028, adopted 2014 and Policy SP2 of the Rotherham Local Plan Sites and Policies, adopted 2018 which, amongst other things, seek to protect land within the Rotherham Green Belt from inappropriate development as set out in national planning policy.
11. It would also conflict with the Council's Supplementary Planning Document No. 3: Development in the Green Belt, adopted 2020 (SPD) and Chapter 13 of the Framework that seeks to protect Green Belt land.

Any Other Harm?

12. No other harm has been identified against the development that needs to be taken into consideration. On the basis of the evidence before me, I have no substantive reason to conclude otherwise.

Other Considerations

13. The main parties agree that the pergola does not comply with Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, the appellant asserts that a larger building could be erected under Class E that would have a greater effect on the openness of the Green Belt than the pergola.

14. I have not been provided with a lawful development certificate to establish that a larger Class E outbuilding would comprise permitted development, particularly given the dispute between the main parties regarding the lawful use of the land. Consequently, I am not persuaded that there would be a greater than theoretical possibility that a larger Class E outbuilding would be constructed should I be minded to dismiss this appeal.
15. Even if a larger Class E outbuilding could be built, it could not be positioned forward of a wall forming the principal elevation of the original dwellinghouse. Therefore, its impact on the openness of the Green Belt, even with a greater height and floorspace, would likely be more limited in visual terms than the pergola and less harmful.
16. I have been directed to other properties in the surrounding area whose gardens are located within the Green Belt, including 3 Serlby Drive and 8 Hillcrest Rise. I agree that gardens and even whole dwellings can be located in the Green Belt. However, the appeal is in respect of the pergola not the use of the land.
17. The appellant asserts that the pergola is a temporary structure. However, there is nothing before me that suggests that planning permission is sought for a temporary period of time.

Conclusion

18. The development is inappropriate development in the Green Belt. The Framework establishes 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 and any other harm are clearly outweighed by other considerations.
19. Given the substantial weight to be given to Green Belt harm, the harm is not clearly outweighed by other considerations. Therefore, in respect of the second main issue, the very special circumstances necessary to justify the development do not exist.
20. For the reasons set out above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR