

Appeal Decision

Site visit made on 8 September 2024

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2024

Appeal Ref: APP/N4720/C/24/3342371

Land at Highcroft, Selby Road, Garforth, Leeds LS25 2AG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Luke Benjamin Struthers against an enforcement notice issued by Leeds City Council.
 - The notice was issued on 20 March 2024.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a detached garage to the side of the dwelling.
 - The requirements of the notice are: 1. demolish the garage in its entirety. 2. remove all debris and detritus as a result of step 1 from the property.
 - The period for compliance with the requirements is: four months beginning with the day on which this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matter

2. It was unclear from the initial documentation whether the appellant also made their appeal on ground (e). The appellant was given the opportunity to confirm whether they wished ground (e) to be considered; however, no reply was forthcoming. Therefore, I have considered this appeal on ground (a) only.

The appeal on ground (a)

3. The main issues are: (a) whether the proposal is inappropriate development in the Green Belt, having regard to the development plan and the National Planning Policy Framework (the Framework); (b) the effect of the proposal on the openness of the Green Belt; and (c) 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.

Whether inappropriate development

4. Saved Policy N33 of the Leeds Unitary Development Plan (Review 2006) (UDP) explains that except in very special circumstances, approval will only be given for limited extension, alteration, or replacement of existing dwellings in the Green Belt. The policy is not consistent with Framework paragraph 154, which outlines that the construction of new buildings within the Green Belt is inappropriate development unless the extension or alteration of a building does not result in disproportionate additions over and above the size of the original building.

5. Neither saved UDP Policy N33 nor the Framework define the term 'disproportionate addition'. A guideline of around a thirty percent volume increase over and above the original building is outlined in Policy HDG3 in the Council's Householder Design Guide (2012) (HDG). This is the threshold that the Council uses to determine whether the extension, alteration, or replacement is limited.
6. There is no dispute between the parties that, due to the previous side extension to the dwelling and the size of the garage subject of this appeal, the 30% volume threshold is exceeded. I have no reason to disagree with this assessment. Hence, I conclude on this issue that the proposal is inappropriate development in the Green Belt and conflict arises with saved UDP Policy N33, HDG Policy HDG3, and Framework paragraph 154.

Openness

7. Openness has a visual and spatial aspect. The Framework confirms 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.
8. Owing to the garage's position, it is visible from Selby Road despite its single storey form. The garage is not a prominent feature within the wider Green Belt, and it sits within a good-sized plot bordered by vegetated boundaries. While the proposal may be read as being part of a residential plot, the Green Belt policy is a spatial planning tool, not a landscape-based policy, even though openness has a visual aspect.
9. Relatively small additions can collectively erode the openness of the Green Belt. Even though there is housing development to the north on the opposite side of the road, that lies outside of the Green Belt. The host property and its neighbour are adjoined by fields to either side and to the rear. Although the proposal has not led to encroachment into the countryside, that does not alter my conclusion that the garage has caused a modest loss of visual and spatial openness due to its size and siting.
10. Accordingly, I conclude that the proposal conflicts with HDG Policy HDG33 and Framework paragraph 142.

Other considerations

11. The appellant raises a fallback position argument under Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO').
12. This class permits the provision of buildings that are incidental to the enjoyment of a dwellinghouse within their curtilage. However, a condition was imposed on planning permission Ref: 14/03843/FU removing permitted development for Classes A to F of Schedule 2, Part 1 of the GPDO. An appeal against that condition was dismissed in February 2015. Given that the reason for the condition relates to preserving the openness of the Green Belt and my findings alongside those of my colleague in an earlier appeal decision in March 2023, this means that there is not a real prospect of the fallback position being carried out. Hence, the fallback position attracts no weight.
13. I recognise that the appellant would incur costs from complying with the enforcement notice, but planning is in the public interest, not the interests of individuals, and the appellant decided to erect the garage, and no ground (g) appeal has been made.

14. Although the Council has not raised concern about the garage's scale, siting, or design, these matters carry neutral weight given local and national policy objectives about good design.

Conclusion

15. The proposal is inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would also be modest harm to the openness of the Green Belt. The totality of Green Belt harm attracts substantial weight. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
16. I do not consider the other considerations clearly outweigh the harm that I have identified. Hence, the very special circumstances necessary to justify the development do not exist, and I conclude the proposal subject of ground (a) conflicts with saved UDP Policy N33 and Framework paragraph 153.
17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Andrew McGlone

INSPECTOR