



Appeal Decision

Site visit made on 11 March 2025

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 April 2025

Appeal Ref: APP/P4415/C/23/3324680

Land at Springfield Cottage, Back Lane, Thorpe Salvin

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act")
 - The appeal is made by Mrs Beverley Hayes against an enforcement notice ("EN") issued by Rotherham Metropolitan Borough Council.
 - The notice was issued on 26 May 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a detached outbuilding in the position edged blue on the attached plan.
 - The requirements of the notice are to:
 - (i) Permanently remove the outbuilding and all materials used in its construction from the land.
 - (ii) Restore the land back to agricultural paddock by making good the earth and re-seeding with grass seed.
 - The period for compliance with the requirements is: Within 3 months from the date on which this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the 1990 Act. 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 1990 Act.
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Decision

1. It is directed that the EN is varied by:
 - Deleting the words "*(ii) restore the land back to agricultural paddock by making good the earth and re-seeding with grass seed*" within Section 5 of the EN and their replacement with "*(ii) return the land to its condition prior to the breach of planning control*".
2. Subject to the variation, the appeal is dismissed, the EN is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Matter Concerning the Notice

3. While the appellant has not advanced an appeal under ground (f), s176(1) of the 1990 Act allows me to vary the terms of the EN if I am satisfied that the correction or variation will not cause injustice to the parties. The second requirement to restore the land to agricultural paddock is unnecessary as a material change of use has not been alleged. Furthermore, it is not clear from the evidence before me whether the land prior to the construction of the outbuilding was grass.
4. The appellant is best placed to know the condition of the land prior to the construction of the outbuilding. Accordingly, I shall vary the EN by amending the second requirement. I am satisfied that the EN can be varied in this way without causing injustice.

Preliminary Matters

5. The appeal was submitted in joint names, however the appellants confirmed that they wished to proceed solely under the name of Mrs Beverley Hayes. This is reflected in the banner heading above.
6. Neither the appellant nor their representative met me at the appeal site to provide access. However, I was able to see everything I needed to make an informed decision. Although it was not possible to view inside the outbuilding, it was not necessary for the appeal.
7. The appellant stated within their appeal form *“the alleged planning violation has wrongly been applied as the building is within the residential curtilage of the host dwelling”*. I therefore wrote to both parties asking the appellant to explain what they meant by this phrase so I could ensure there is no hidden ground (c) appeal to consider (that the alleged breach does not constitute a breach of planning control), and to ask for the Council’s views on this matter.
8. No response was received from the appellant. The Council responded outlining why the outbuilding constitutes a breach of planning control and pointed towards a lack of evidence from the appellant to substantiate a contrary view. Consequently, I do not consider there is a hidden ground (c) appeal.
9. Even if I had concluded that there was a hidden ground (c) appeal, it is unclear from the evidence before me, whether the land on which the outbuilding is located is within the residential curtilage of the dwelling. Even if it was within the residential curtilage, the dimensions displayed on the submitted elevational drawing state that the outbuilding exceeds 4 metres in height with a dual-pitched roof and the Council state that the outbuilding is situated forward of the dwelling. The outbuilding would not therefore have fallen within permitted development parameters for a domestic outbuilding. As such, it is unlikely that I would have found that the outbuilding did not constitute a breach of planning control.
10. In December 2024, a revised National Planning Policy Framework (“the Framework”) was published. It is mandatory for me to take account of the most relevant and up-to-date information in reaching a decision, therefore I have dealt with the appeal on this basis. Both parties have had the opportunity to comment upon whether paragraph 155 of the Framework is of relevance to the appeal and have therefore not been prejudiced.

The Appeal on Ground (a)

11. An appeal under ground (a) is that planning permission should be granted for the development. The **main issues** are:
 - a) whether the development is inappropriate development for the purposes of the development plan and the Framework;
 - b) the effect of the proposal on the openness of the Green Belt; and
 - c) if the development 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 it.

Reasons

Inappropriate Development?

12. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development is considered inappropriate unless it satisfies one of the exceptions cited in paragraphs 154 or 155 of the Framework.
13. Paragraph 154 of the Framework explains that other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. The exception that is of relevance to this appeal is *“(c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building”*.
14. The outbuilding is detached from the host dwelling. However, the Courts have found that a detached domestic outbuilding can be considered an extension to a dwelling for the purposes of paragraph 154(c) of the Framework if it is regarded as a *“normal domestic adjunct”*.
15. There is no definition of a *“normal domestic adjunct”*. However, in my opinion, a detached outbuilding should be intimately associated with the dwelling such that visually it appears part and parcel of it. In this case, the outbuilding is sited a significant distance from the dwelling and does not have a close physical relationship. Therefore, in my judgement it is not a *“normal domestic adjunct”*. As such, the outbuilding fails to meet paragraph 154(c) of the Framework.
16. Paragraph 155 of the Framework states that *“the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where”* criteria (a) to (d) apply. The evidence before me does not show that the outbuilding meets a demonstrable unmet need. Consequently, the outbuilding fails to meet criterion (b) of paragraph 155 of the Framework.
17. For these reasons the outbuilding comprises inappropriate development in the Green Belt and conflicts 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 ensure that land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy, and that all new buildings should be well related to existing buildings.

Openness

18. The Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness has both spatial and visual qualities.
19. The outbuilding has the appearance of a triple garage with a dual pitched roof and is of a substantial size. The evidence before me suggests that there was no building or structure located in this position prior to the outbuilding's construction. Consequently, it harms the spatial quality of the Green Belt's openness.
20. The undulating landform and the absence of a boundary treatment of sufficient height along the adjacent roadside field boundary enables a clear view of the outbuilding to be gained when travelling along parts of Back Lane. Furthermore,

the outbuilding is clearly visible to users of a Public Right of Way within the adjacent field. Consequently, the outbuilding harms the visual quality of the Green Belt's openness.

21. For these reasons, the outbuilding does not preserve the openness of the Green Belt in both visual and spatial terms.

Other Considerations

22. I acknowledge that the Council's Officer Report for a previous planning application¹ for the retention of the appeal outbuilding included a summary of "*very special circumstances*" which included reference to a family member being disabled. However, the appellant has not advanced any material planning considerations as part of their appeal submission, nor was the family member's disability elaborated upon. Consequently, I afford these matters limited weight.

Green Belt Balance

23. The outbuilding is inappropriate development in the Green Belt and harms openness. As such, 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.
24. Given the substantial weight to be given to Green Belt harm, relative to the limited weight to be given to the other considerations, the harm is not clearly outweighed. Therefore, the very special circumstances necessary to justify the outbuilding do not exist.

Conclusion

25. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

A Berry

INSPECTOR

¹ Planning Ref RB2021/1192