



Appeal Decision

Site visit made on 1 July 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/P4415/W/25/3364305

Land rear of Valley View and Meadow Gardens, Church Street, Wales, South Yorkshire S26 5LQ

- 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 Chris Parker and Mr John Lodge against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref is RB2024/1089.
 - The development proposed is change of use of Green Belt land to residential garden use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's second reason for refusal refers to insufficient information submitted to demonstrate that the removal of the acoustic fence and extension of the garden area close to the M1 motorway would not lead to unacceptable impact upon current and future occupiers from excessive noise within the rear gardens. As part of the appeal the appellant submitted an appraisal of the M1 motorway noise impact on the extended gardens¹. The survey concluded that the difference in noise levels between the original and the extended garden was 2dB. In both of these locations the noise levels remained within the 55dB LAeq required by the Council's Environmental Health Officer. The Council have confirmed that based on this additional information, that the effect on living conditions with regards to noise is no longer a reason for refusal and I agree with that position.
3. The application form confirms that the change of use has taken place, and I was able to see this during my site visit. I have dealt with the appeal on the basis of the submitted drawings.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations amounting to the very special circumstances required to justify the proposal.

¹ Undertaken by Hepworth Acoustics date 15 April 2025

Reasons

Whether inappropriate development

5. The appeal site is located within the Green Belt. Policy CS4 of the Rotherham Local Plan Core Strategy 2013-2028 (2014) (CS) states that land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy. The Development in the Green Belt Supplementary Planning Document (SPD) (2020) sets out specific guidance for proposals for the change of use of land in the Green Belt. The guidance explains that whilst a planning condition could be attached to any application for garden extensions that the removal of permitted development rights would not control other structures that do not constitute development. As such, the SPD states that the change of use to residential gardens constitutes inappropriate development and very special circumstances would have to be demonstrated to justify such development.
6. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. It also states, at paragraph 154, that development in the Green Belt is inappropriate unless one of various exceptions apply. One such example h) v includes material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) provided they preserve its openness and do not conflict with the purposes of including land within it.
8. The appeal site is an area of land located to the rear of the two detached dwellings of Valley View and Meadow Gardens, which are accessed via a shared driveway from Church Street. To the south of the appeal site there is a bungalow. To the north and east the land comprises part of a wider area of rough grassland which runs to the motorway and is bounded by mature landscaping. The appeal site sits at a slightly lower level to the adjoining residential gardens associated with Valley View and Meadow Gardens. An acoustic fence which was erected along the rear garden of the pair of dwellings has been partially removed to allow the appeal site to be used as part of the residential gardens. The appeal site currently comprises mown grass and has been fenced off from the wider agricultural land by close boarded timber fencing approximately 1.2m in height.
9. In order to be considered as an exception under Paragraph 154 h) v of the Framework the change of use of land must be for uses associated with outdoor sport or recreation, or for cemeteries and burial grounds. This is not an open-ended category, but rather because of the use of the words “such as”, the uses that fall within this category should take their flavour or extent from the examples given. Caselaw² also confirmed that residential uses do not fall within this exception. The proposal relates to the change of use of agricultural land to residential use and therefore does not comprise one of the examples referred to in Paragraph 154 h) v.
10. Paragraph 154 h) v also requires that proposals preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The openness of the Green Belt has a spatial aspect as well as a visual aspect.

² *RB of Kingston upon Thames v SSLUHC [2023] EWHC 2055 (admin)*

Therefore, the impact on openness is not necessarily related to its size but also its purpose and intensity of its use.

11. There are no buildings on the appeal site and therefore it remains visually open in character. Notwithstanding the proximity of properties within the vicinity of the appeal site, it is bounded by countryside on two sides and therefore the openness of the Green Belt is clearly evident. The change of use to residential and its associated domestic paraphernalia such as outdoor seating, goalposts, washing lines and other play equipment, would give the site a more suburban appearance. This would be evident in private views and distant views from the surrounding area. Moreover, the visual openness of the site would be eroded by the enclosure of the land by timber fencing. These domestic changes would cause moderate harm to the visual and spatial openness of the Green Belt when compared to the existing situation.
12. Furthermore, the significant extension of residential garden land into former agricultural land clearly conflicts with one of the purposes of including land within the Green Belt, namely, to assist in safeguarding the countryside from encroachment.
13. The appellant has suggested that the use of domestic paraphernalia could be prevented through a suitably worded condition. However, the specific manner in which such paraphernalia are used/sited would be neither practical nor realistic to enforce. Moreover, I do not consider that any such condition would satisfactorily address the harm to the openness of the Green Belt which I have identified.
14. The appellant has referred me to an appeal case at October Cottage³ where the Inspector considered that residential use constituted a form of development which would fall under the exception at paragraph 154 h) v. However, in this case the Inspector concluded that the change of use of the land would preserve the openness of the appeal site, due to its position between the existing residential properties and therefore the individual site circumstances are different to this appeal. Reference has also been made to an appeal at Chiltern Hill Field⁴, which was a proposal for stables, which is materially different to a change of use for residential garden and therefore is not directly comparable to this case.
15. The proposal does not comprise one of the exceptions as set out in paragraph 154 h) v, it would cause moderate harm to the openness of the Green Belt and would fail to serve the purpose of assisting in safeguarding the countryside from encroachment. It therefore comprises inappropriate development in the Green Belt contrary to the Framework and conflicts with LP Policy CS4.

Whether very special circumstances exist

16. The proposal would be inappropriate development within the Green Belt. In accordance with the Framework, substantial weight should be given to any harm to the Green Belt. The appellant has not put forward any very special circumstances and therefore, the benefits do not clearly outweigh the harms which would be caused to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.

³ APP/A1910/W/22/3304045

⁴ APP/P0240/W/23/3316421

Other Matters

17. The Wales Conservation Area (the CA) boundary runs along the front of Valley View and Meadow Gardens. The Council has not raised any concerns in relation to the setting of the CA. As dwellings are located in between the site and CA, I am satisfied that the proposal would not harm the setting of the CA and thereby nor would it harm the character or appearance of the CA.

Conclusion

18. The proposal conflicts with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it.
19. For the reasons given above the appeal should be dismissed.

C Skelly

INSPECTOR