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# Appeal Decision

Site visit made on 13 January 2015

**by Karen L Ridge LLB (Hons) MTPL**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 January 2015

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**Appeal Ref: APP/D2320/D/14/2228749**

**Dalton House, 209 Town Lane, Whittle-le-Woods, Chorley, Lancashire PR6 8AG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Ann Briscoe against the decision of Chorley Council.
  - The application Ref. 14/00742/FUL was refused by notice dated 22 August 2014.
  - The development proposed is the erection of a summerhouse/garden tool store.
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## Decision

1. The appeal is dismissed.

## Procedural matters

2. The summerhouse has already been partially built. It is sited on land which is an extension to a domestic garden, granted planning permission<sup>1</sup> as such in 2013. The planning permission contained a condition removing permitted development rights in relation to the erection of outbuildings. I have determined the appeal on the basis that development has already commenced.

## Main issues

3. The appeal site is within an adopted Green Belt designated by policy DC1 of Chorley Borough Local Plan Review (LP). I therefore consider that the main issues case are;
  - (i) whether or not the proposed summerhouse amounts to inappropriate development within the Green Belt;
  - (ii) the effect of the proposal on the openness and on the character and appearance of the Green Belt; and
  - (iii) in the event that the proposal is inappropriate development, whether any material considerations in favour of the development clearly outweigh the harm identified so as to amount to the very special circumstances necessary to justify development.

## Reasons

*Whether or not the proposal constitutes inappropriate development*

4. The National Planning Policy Framework (The Framework) seeks to control development within Green Belts and it sets out a general presumption against inappropriate development. It provides that inappropriate development is, by

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<sup>1</sup>Reference 13/00194/COU.

definition, harmful to the Green Belt and it should not be approved except in very special circumstances. The Framework further states that the construction of new buildings should be regarded as inappropriate development with a number of exceptions. LP policy DC1 contains similar provisions.

5. The summerhouse is not a building for agriculture or forestry. Neither is it for the purposes of outdoor sport or outdoor recreation. None of the other exceptions listed in the Framework apply to the proposal. It therefore follows that the summerhouse is inappropriate development.
6. The appellant contends that when the Council granted planning permission for the change of use of the land to domestic curtilage, it either considered that the change of use was not inappropriate development or, if it concluded that the change was inappropriate development, the Council must have been satisfied that very special circumstances existed. Be that as it may, the proposal before me is for operational development within the Green Belt and I must determine this appeal in light of relevant national and local policies relating to the construction of new buildings.
7. The Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be attributed to any harm to the Green Belt.

*Effect of the proposal on the openness and character and appearance of the Green Belt*

8. The Framework states that the essential characteristics of Green Belt are their openness and their permanence. The appeal proposal would result in the introduction of a new building into the Green Belt. To that extent it would erode the openness of this part of the Green Belt and cause some limited harm to openness.
9. Policy BNE1 of the emerging Chorley Borough Local Plan sets out design criteria for new development and requires, amongst other things, that proposals respect the character of the local area. The Council has also adopted its 'Householder Design Guidance Supplementary Planning Document' (SPD). This provides that outbuildings should generally be sited in an incongruous position and that the siting and design of such structures need to be carefully considered in rural locations. The SPD further states that any outbuilding which relies upon an extension of an existing curtilage will not normally be acceptable and that where permission has been given for a curtilage extension, and permitted development rights removed, that permission is unlikely to be given for any further structures on the land.
10. The appeal property, Dalton House, is the end house in a row of stone-built cottages on a rural road. It is larger than its more modest neighbours, with a larger garden area to the rear. The extended domestic curtilage comprises a rectangular area running behind the original garden area with steps up to it. Dalton House fronts onto Town Lane with its side boundary running along Copthurst Lane. The summerhouse is sited in the extended curtilage area close to the stone wall which abuts Copthurst Lane. It is clearly visible above this stone wall for quite a length of Copthurst Lane.
11. I note that the summerhouse is not completed and that natural timber cladding walls and a light green polyester coated roof are proposed. I further note the appellant's offer to use any other materials which may be deemed more suitable.

12. The summerhouse is around 4.5 metres by 3 metres with a ridge height of around 2.75 metres. It is located quite a distance away from the rear elevation of the main house and on land which is raised above the original garden. In addition the lower height of the stone wall along this part of the lane and the siting of the summerhouse close to the boundary mean that it is a conspicuous structure seen for some length along Copthurst Lane. The summerhouse is an intrusive and prominent addition which causes harm to the character and appearance of this part of the Green Belt. The use of alternative materials would not mitigate this harm.
13. I note that the change of use of the land to domestic curtilage could result in the introduction of children's play equipment and other domestic paraphernalia. However these would not be permanent structures affixed to the land unlike the summerhouse. Finally whilst planting could be used to screen the summerhouse, this would not eradicate the harm given that it would result in further domestication of the land and the further loss of openness of the Green Belt.
14. I conclude that the summerhouse causes some localised harm to the character and appearance of the Green Belt, contrary to the objectives of the Framework, the Council's SPD and LP policy DC1 as well as emerging policy BNE1.

*Whether or not there are other material considerations sufficient to clearly outweigh the identified harm*

15. I have set out my findings in relation to the proposal constituting inappropriate development in the Green Belt. National policy in the Framework provides that there is a presumption against inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition there is some limited harm to the openness and to the character and appearance of the Green Belt. The Framework also stipulates that substantial weight should be given to any harm to the Green Belt.
16. I now turn to examine whether there are any factors in support of the development such that very special circumstances arise. The appellant says that she was advised by a Council Planning Officer that planning permission would not be required for the summerhouse and she proceeded to erect the structure. I have no further information about pre-application exchanges which took place. However it is commonly accepted that any pre-application advice provided by Council employees is not binding on the Council.
17. The appellant also asserts that in granting permission for the change of use, the Council should reasonably have expected that residents would wish to use the land for domestic purposes and this would naturally include the erection of structures. Therefore the appellant contends that the condition removing permitted development rights is essentially unreasonable and should not have been imposed. Alternatively it is argued that the Council have already accepted the principle of development on the land by allowing the change of use to domestic garden.
18. In the event that the appellant considered the condition withdrawing permitted development rights to be unreasonable, there is the option of applying to remove the condition and a right of appeal in the event of refusal. The removal of permitted development rights is commonly used to protect rural areas and the Green Belt from harmful development by limiting what can be done. I am

not persuaded that the removal of permitted development rights was unreasonable in these circumstances and I attach little weight to this matter.

**Overall conclusions**

19. I must attach significant weight to the harm to the Green Belt by way of inappropriateness and the limited harm to openness and character and appearance. Lack of harm to the Green Belt or minimal harm to openness and character and appearance do not constitute positive factors in the overall planning balance when considering whether or not very special circumstances exist. The other factors in support of the proposal, taken either individually or cumulatively, do not outweigh the significant harm which I have identified. Therefore very special circumstances do not arise and permission should not be granted. The proposal is contrary to the national and local policy objectives outlined above.

*Karen L Ridge*

INSPECTOR