
Appeal Decision

Site visit made on 13 September 2016

by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 30 September 2016

Appeal Ref: APP/P1805/D/16/3153799

Whitegates, Tutnall Lane, Tutnall, Bromsgrove B60 1NA

- 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 Mr Tav Biran against the decision of Bromsgrove District Council.
 - The application Ref 16/0373, dated 21 April 2016, was refused by notice dated 15 June 2016.
 - The development proposed is construction of detached garage (re-submission of application ref 15/0780).
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a detached garage at Whitegates, Tutnall Lane, Tutnall, Bromsgrove B60 1NA, in accordance with the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos DG01, DG02 and DG03.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Procedural Matter

2. The proposal is described as a re-submission of an earlier application on the application form. However, the application must stand on its own and therefore I have treated it as the construction of a detached garage.

Main Issues

3. The appeal site is located within the West Midlands Green Belt. Accordingly, the main issues in this case are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal upon the setting and significance of a non designated heritage asset, and
 - if the proposal would be inappropriate development, whether the
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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

Whether inappropriate development?

4. The Framework establishes that the construction of new buildings within the Green Belt is inappropriate. There are however a number of exceptions to this, as set out in paragraph 89 of the Framework, including the extension or alteration of a building, provided that it does not result in a disproportionate addition over and above the size of the original building.
5. Policy DS2 of the Bromsgrove District Local Plan 2004 (Local Plan) identifies that the limited extension and alteration of existing dwellings is one of the exceptions to Green Belt restraint. In that 'existing dwellings' is referred to as opposed to 'existing buildings', this policy is not consistent with the Framework. Taking into account paragraph 215 of the Framework, I find that the provisions contained therein in this respect outweigh development plan policy.
6. Local Plan Policy DS13 sets out matters that will be taken into account when considering development proposals, including the protection of the Plan area's essential character and environmental assets, including the Green Belt. Although not referred to within the Council's decision notice, the appellant has drawn my attention to Policy S11 of the Local Plan which requires extensions to dwellings within the Green Belt to, amongst other matters, respect the scale and character of the existing dwelling, and be of a size that would not be disproportionate to that of the original dwelling. Further guidance in respect of this matter is contained within the Council's adopted Supplementary Planning Guidance 'Extensions to Dwellings in the Green Belt' SPG7 (SPG).
7. The new garage would be sited close to the rear corner of the existing dwelling. Although I have not been provided with measurements of the distance the garage would be from the house, I was able to observe on my site visit that it would be within 5 metres of the host property.
8. There is no definition of 'extension' within either the Framework or the Local Plan. However, the SPG establishes that where a curtilage building would be sited within 5 metres of the dwelling, it would be treated as part of the dwelling for the purposes of calculating the floor space of the dwelling. The appellant has drawn my attention to a similar reference being made within the accompanying text to emerging Policy BDP4.4 which relates to new buildings in the Green Belt. I can however only attach limited weight to this policy in my overall Decision, as I have not been provided with evidence of the stage reached in respect of the preparation of this document.
9. However, on the basis of the guidance within the SPG, and in the absence of the Council clarifying this matter, it is reasonable to assume that a building within 5 metres of a dwelling is classed as an extension to it. That being the case, and given the close relationship of the garage to the dwelling, I find that although detached, it would appear as a domestic adjunct and I have therefore considered the proposal as an extension to the dwelling.
10. The SPG states that proportionate additions include a maximum extension of up to 40% of the original dwelling or a maximum total floor space of up to 140

square metres (ie. (sic) the original dwelling plus extension). It further states that extensions over this size will normally be regarded as disproportionate additions. The SPG however acknowledges that there may be instances where a figure of less than 40% or 140 square metres represents a disproportionate addition to the original dwelling, especially where the extension would be very prominent.

11. The appellant submits that in 1948 there were 2 dwellings on the site: Whitegates and Little Whitegates. Whitegates had a floor area of 336 square metres; Little Whitegates had one of 128 square metres. Outbuildings and stables located to the side of Whitegates had a floor area of 77.5 square metres. The Council is silent on this matter and as such it is reasonable to assume that it does not dispute these figures.
12. The appellant has drawn my attention to a building regulations application in 1974 for an extension to connect the building at Whitegates to the stable/outbuildings. This extension is shown by the appellant to have had a floor area of 70.9 square metres. Given the Framework's definition of 'original building' I am unable to take this floor area into account as it was created after 1 July 1948.
13. On the basis that Whitegates had a floor area of 336 square metres on the required date, and that the floor area of the garage would be 38.5 square metres, the appellant has calculated that the increase in size would be 11%. Although the maximum total floor space of 140 square metres set out within the SPG would be exceeded, the proposal would fall well within the 40% tolerance of floor area set out within this document. The stables/outbuildings have been demolished and I have therefore not taken this part of the building into account in the above calculation.
14. Although visible from the road, the new garage would not be overly prominent in the street scene, being set back from the main dwelling with a driveway between it and the highway. As such I consider the 40% tolerance set out in the SPG to be appropriate in this case.
15. However, there are different ways of assessing and measuring proportionality. The Framework refers to 'size' and as well as the floor space increase I am required to look at the overall size of the new building. The new garage would have a pitched roof with a maximum height of 4 metres, and eaves height of 2.27 metres. It would be set down into the ground with a retaining wall approximately 1.5 metres high to the rear and sides. It would be significantly smaller in size and scale than the host property.
16. In light of the foregoing, I conclude that the proposed garage would not result in a disproportionate addition over and above the size of the original building. It would not therefore comprise inappropriate development within the Green Belt. There would be no conflict with the Framework in this respect or with policies DS2, DS13 or S11 of the Local Plan, or the SPG.

Openness

17. The Council has raised concern within its decision notice that the proposal would erode the openness the Green Belt. The new garage would clearly have an effect on openness because it would be sited on land where there is no building at present.

18. However, it is clear that the Framework has taken the effect on openness into account in its consideration of certain exceptions to development in the Green Belt, including the extension or alteration of a building. It is not therefore necessary for me to consider this matter further.

Non designated heritage asset

19. The Council's decision notice makes reference to Whitegates being a non designated heritage asset. Paragraph 135 of the Framework advises that in weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required. In this respect, regard should be had to the scale of any harm or loss, and the significance of the heritage asset.
20. The Council has not provided me with evidence to support its contention that Whitegates is a non designated heritage asset. However, it is an attractive building with classical Georgian symmetry, visible from Tutnall Lane. The new garage would be seen in the context of this dwelling. It would be of a design sympathetic to the host property, would be subservient in scale and appearance and would be closely related to it.
21. In light of my findings, I conclude that the proposal would not be harmful to the setting or significance of this non designated heritage asset. There would therefore be no conflict with the Framework in this respect.

Green Belt conclusion

22. I have found that the proposal would not result in inappropriate development in the Green Belt. Harm would not be caused to the setting or significance of Whitegates as a non designated heritage asset. There would be no conflict with local or national planning policy in respect of these matters. Given this, it is not necessary for me to take into account other considerations which may justify the development.

Conditions

23. The Council has suggested conditions, as set out within the appeal questionnaire, which it would wish to see imposed in the event that the appeal was allowed. For clarity, a condition is necessary requiring that the development is carried out in accordance with the approved plans; in the interests of character and appearance a condition is necessary controlling materials to be used in the development.

Conclusion

24. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

R C Kirby

INSPECTOR