

Appeal Decision

Site visit made on 3 January 2017

by Chris Couper BA (Hons) DiP TP MRTPI

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

Decision date: 10th January 2017

Appeal Ref: APP/T3725/D/16/3163764

- 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 Vincent against the decision of Warwick District Council.
 - The application ref: W/16/0858, dated 24 April 2016, was refused by notice dated 8 September 2016.
 - The development proposed is the demolition of the existing garages and the erection of a new garage; and a single storey extension.
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Application for Costs

1. An application for costs was made by Mr Vincent against Warwick District Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for the demolition of the existing garages and the erection of a new garage; and a single storey extension at Croft Cottage, 165 Bakers Lane, Knowle, West Midlands B93 8PR, in accordance with the terms of the application, Ref W/16/0858, dated 24 April 2016, subject to 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 drawing numbers: 30500 01 Rev A, 30500 02, and 30500 03 Rev A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those in the existing building.
 - 4) Prior to the commencement of development on the new garage hereby approved, the existing garages as identified on drawing no. 30500 01 Rev A shall be permanently demolished.
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Main Issue

3. The main issue is whether or not the proposal constitutes inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies.

Reasons

4. The National Planning Policy Framework ('Framework') states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. At paragraph 89 it regards the construction of new buildings as inappropriate, unless (under separate bullet points and amongst other things), it is i) 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; or ii) a replacement building, providing that that building is in the same use and is not materially larger.
5. As well as the Framework, in its decision the Council refers to policy RAP2 of the Warwick District Local Plan 1996-2011 (2007) ('LP'). That policy applies with equal measure to extensions to dwellings within and outside the Green Belt. It states, in summary, that extensions will be permitted unless they would result in disproportionate additions to the original dwelling which do not respect its character and visual dominance, do not retain the area's openness, or substantially alter the scale and design of the original dwelling. As a guide it sets out that in the Green Belt extensions which represent an increase of more than 30% of an original dwelling's gross floor space are likely to be considered disproportionate.
6. The LP pre-dates the Framework. At paragraph 215 the Framework states that in such cases due weight should be given to relevant policies according to their degree of consistency with it. In my view, policy RAP2 is not entirely consistent with the Framework. That is particularly due to the similar approach it adopts for extensions within and outside the Green Belt, and, in assessing disproportionate additions, its consideration of matters such as the scheme's impact on the original dwelling's character and design. I therefore give it limited weight in my decision.
7. I observed on my visit that Croft Cottage comprises a substantial detached dwelling ('the existing dwelling'), with various outbuildings including a double garage, a single garage and a long timber barn. I understand that it replaced a previous dwelling ('the previous dwelling'), and that the planning permission (Ref: W/00/1032) removed permitted development rights for various extensions and alterations.
8. The Council states that the previous dwelling had been substantially extended, and that the replacement dwelling 'was 18% larger'. It therefore maintains that although a garage building to replace the existing detached garages would be acceptable, the extension would represent a disproportionate addition.
9. For my part, given the Framework's approach at paragraph 89, I can understand why the Council considered the proposed garage and the proposed extension separately. Using the appellant's figures in his letter dated 24 April 2016, the proposed garage's volume would be 174.1 m³ and it would have an area of 48.6sqm. That would be less than the total volume and area of the

existing garages to be demolished. As the proposed garage would also be broadly comparable to them in terms of height, I conclude that it would not be materially larger than the buildings it would replace.

10. Turning to the proposed extension, the appellant calculates that it would have a volume of 52m³ and an area of 17.6sqm. It would be a modestly-proportioned, single storey structure with a low roof. In comparison to the substantial, two storey existing dwelling it would constitute a small scale addition.
11. From the evidence before me, the existing dwelling is larger than the previous dwelling, which had itself been extended. However, the Framework defines the 'original building' as a building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally. At paragraph 8.23 the LP adopts a similar definition for the 'original dwelling'. Consequently, although I appreciate the Council's concerns regarding the cumulative impact of development over time, given those definitions it seems to me logical that my assessment in terms of size increase should relate to the replacement dwelling and not any previous structure.
12. I have no evidence that the existing dwelling has been significantly extended since it was built. Given my findings, I conclude that the single storey extension would not result in a floorspace increase of over 30%. Consequently, it would not be a disproportionate addition to the original building as defined by the Framework, and would satisfy the guidelines on floorspace increases at paragraph 8.25 of LP policy RAP2. It would not be inappropriate development.
13. The Council also has concerns regarding the impact on the Green Belt's openness, which the Framework sets out as one of their essential characteristics. It considers that the replacement garage would not harm openness, but that as the proposed extension would extend the visual impression of the existing dwelling, taking account of the cumulative impact of development, that part of the scheme would.
14. However, I have concluded that the proposed extension would be a modestly-proportioned addition. It would project to the front only slightly beyond the lounge, and it would not extend the existing dwelling's footprint significantly further in any direction. In any event, having concluded that the scheme would not be inappropriate development, following the Court of Appeal judgment in *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404*, there is no place for a subsequent assessment of the effect of the development on the Green Belt's openness. I therefore conclude that the appeal should be allowed.

Conditions and conclusions

15. I have considered the Council's suggested conditions against the tests in the Framework. The standard time limit condition is necessary, as is a condition specifying the relevant drawings to provide certainty. The Council also suggests a condition requiring that the development be finished with matching materials. That accords with the submitted information on the application form and is necessary in the interests of the character and appearance of the host property and the area.

16. In its delegated report the Council states that the replacement garage would be acceptable following the removal of the existing garages and that a condition would be imposed to that effect. Given the requirements of the Framework, and my conclusions regarding whether the scheme would be inappropriate development, I consider that the removal of the existing garages is necessary.
17. The appellant considers that requiring their removal *before* the erection of the new garage would be unreasonable and unduly onerous. He suggests a condition requiring their demolition before the replacement is brought into use.
18. However, in my view, such a condition could potentially result in all three structures remaining on site for an indeterminate period of time. That would be inappropriate development which would, by definition, harm the Green Belt. Although the appellant considers that requiring the existing garages' removal prior to the erection of the new garage would leave him without garaging during the construction period, it seems to me that for this small scale development that period would be relatively short. I also observed on my visit that part of the long timber barn was being used at that time for the parking of cars. Consequently, in the interests of protecting the Green Belt and preventing inappropriate development within it, a condition broadly as suggested in the Council's report is necessary and reasonable.
19. Although the Council has suggested notes drawing attention to other legislative requirements regarding protected species and nesting birds, conditions addressing those matters are not suggested and, on the basis of the information before me, are not necessary.
20. Summing up, the proposal would not be inappropriate development in the Green Belt. Consequently there is no need to demonstrate very special circumstances in order to justify it, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR