
Appeal Decision

Site visit made on 28 March 2017

by G Powys Jones MSc FRTPI

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

Decision date: 25 April 2017

Appeal Ref: APP/G1630/D/17/3168681

Queenwood, Tewkesbury Road, Elmstone Hardwicke, Cheltenham, GL51 9SY

- 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 R Jones against the decision of Tewkesbury Borough Council.
 - The application Ref 16/00924/FUL, dated 15 July 2016, was refused by notice dated 11 November 2016.
 - The development proposed is a conservatory.
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Decision

1. The appeal is allowed and planning permission is granted for a conservatory at Queenwood, Tewkesbury Road, Elmstone Hardwicke, Cheltenham, GL51 9SY in accordance with the terms of the application, Ref 16/00924/FUL, dated 15 July 2016, subject to the conditions set out in the attached Schedule.

Main issues

2. The appeal property is situated within the designated Green Belt (GB). Accordingly, the main issues are:
 - Whether the proposed development is inappropriate or not inappropriate development in the GB in the terms of local development plan policy and national policy, as set out in the *National Planning Policy Framework* (the Framework),
 - The effect on openness, and the character and appearance of the locality,
 - If it is inappropriate development, whether the harm caused 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 the development.

Reasons

Inappropriate or not inappropriate

3. The Framework, at paragraph 89, says that a local planning authority should regard the construction of new buildings as inappropriate in the GB. However, exceptions to this general principle include 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.
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4. No empirical guidance is provided in the Framework in respect of the term '*disproportionate addition*'. In my experience, decision-makers commonly use a variety of yardsticks to assess the acceptability of extensions in the GB, including footprint, floorspace and volume measurements. In some circumstances, subjective assessments are made.
5. The Council cites policy GRB1, saved policies from the Tewkesbury Borough Local Plan (LP). Criterion (a) (iii) of the policy is broadly consistent with the Framework in that it provides that limited extension or alteration of existing buildings in the GB would not be regarded as inappropriate development.
6. The term '*original building*' is defined in the Framework as '*a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.*'
7. The appeal property was originally built pursuant to a planning permission granted in 1954. It has been extended since, and the appellant has not seriously questioned the Council's calculations that the floorspace of the original building has already been increased by extensions by around 65%. Nor has the appellant seriously questioned the Council's calculation that if the extension currently proposed were built, the floorspace of the original dwelling would have been increased by about 88%.
8. The increase in floorspace proposed now is such that I share the Council's view that the proposed extension, taking account of previous extensions, should properly be regarded as a disproportionate addition to the original dwelling in the terms of national policy, and as more than a limited extension in the terms of saved LP policy GRB1.
9. Accordingly, having regard to the provisions of local and national policy, I conclude that the proposals would amount to inappropriate development in the GB, which, by definition, is harmful, and this carries substantial weight against the development.

Openness, character and appearance

10. Given that development would take place where no development exists at present, the openness of the GB would undoubtedly be affected to a degree. Ordinarily, I would conclude that the loss of openness involved would prove harmful.
11. However, the main elements of the conservatory subject of the appeal are already on site, having been salvaged from a demolition job. The appellant maintains that the conservatory could and would be built as an outbuilding, as permitted development, in the event of his appeal failing. I have no reason to doubt that this could and would be done.
12. In this regard, the appellant has already demonstrated that a larger outbuilding could be built as permitted development within the property's garden, and the Council issued a certificate of lawfulness to this effect in 2016. The Council also acknowledges that, given the large size of the property's curtilage, further outbuildings could be lawfully built using permitted development rights.
13. To my mind, the loss of openness involved as a result of building the conservatory either as an extension or as an outbuilding would be more or less equal, and the respective loss of openness involved would therefore cancel

each other out. In these circumstances, I attach very limited weight to the loss of openness involved in building the extension.

14. In addition, the appellant has agreed to the imposition of a condition in the event of the appeal succeeding, effectively removing permitted development rights in respect of the erection of further outbuildings within the garden, other than that subject of the certificate of lawfulness mentioned earlier. On balance, I consider this would prove beneficial so as to give further protection to the openness of the GB and to prevent encroachment in the countryside, given the dwelling's relatively isolated, rural location.
15. In view of the visually sheltered nature of the rear of the house, I share the Council officers' assessment, for the same reasons, that the proposed extension would not have an undue impact on the character and appearance of the host property. Nor, because of the excellent tree screening around the site, would the extension materially affect the character and appearance of its surroundings. It would not be noticeable in the public realm. These factors, in combination, attract substantial weight in favour of the scheme.

Planning balance and overall conclusions

16. The harm I have identified as a consequence of the inappropriateness of the development in the GB carries substantial weight against the proposals.
17. The loss of openness involved, in view of the various balancing or mitigating elements already mentioned, attracts little or no weight against the scheme.
18. The opportunity to control the erection of further extensions and outbuildings within the property's grounds, other than that already formally deemed to be lawful, is regarded as a benefit attracting some weight.
19. That the scheme's design and impact is acceptable in its spatial and visual contexts attracts significant weight.
20. On balance, given that no other harm has been identified or would be caused, the harm caused by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. Accordingly, the appeal succeeds.

Conditions

21. The Council's suggested condition regarding materials shall be imposed in the interests of visual amenity.
22. It is necessary in the interests of certainty that the development should be carried out in accordance with the approved plans.
23. In the interests of protecting the openness of the GB, a condition removing permitted development rights in respect of garages and outbuildings and, as suggested by the Council, further extensions to the property is imposed, albeit that I am not wholly convinced that further extensions to the house, in view of those already carried out, would fall to be classified as permitted development.

G Powys Jones

INSPECTOR

Schedule of 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. 20-25 (inclusive).
3. The external brickwork to be used in the construction of the development hereby permitted shall match that used in the existing building.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no further outbuildings or garages (other than that subject of the certificate of lawful development *Ref 15/01240/CLP dated 13 January 2016*) shall be erected within the curtilage of the dwelling subject of this appeal, and no further extensions shall be carried out to the dwelling, other than that hereby permitted.