
Appeal Decision

Site visit made on 21 August 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 11 September 2017

Appeal Ref: APP/N3020/D/17/3175435

Rose Cottage, Goosedale Lane, Bestwood NG6 8UJ

- 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 M Leivers against the decision of Gedling Borough Council.
 - The application Ref 2017/0092, dated 20 January 2017, was refused by notice dated 24 March 2017.
 - The development proposed is "*extension to rear of garage for workshop*".
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Decision

1. The appeal is allowed and planning permission is granted for extension to rear of garage for workshop at Rose Cottage, Goosedale Lane, Bestwood NG6 8UJ in accordance with the terms of the application, Ref 2017/0092, dated 20 January 2017, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; 200416/1; 200416/2; 200416/4 and 200416/5B.

Application for costs

2. An application for costs was made by Mr M Leivers against Gedling Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. At the time of my visit an extension to the garage had been constructed with a different roof design to the submitted plans before me. In any case, 'retain' as referred to in the application form and decision notice does not constitute an act of development. I have, therefore, amended the description of development accordingly. Given that the application was submitted in retrospect and the amended description accurately describes what is being applied for, I do not consider that any parties are prejudiced by the minor change. In the interest of certainty, I determine this appeal on the basis of the submitted plans before me upon which the Council made its decision, rather than the extension as constructed.

Main Issue

4. The main issue is whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan.

Reasons

5. The site consists of a detached dwelling and its associated residential curtilage which includes an existing detached garage/workshop and a separate detached car port in a rural setting. The site is designated within the Green Belt where the National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful, and should not be approved except in very special circumstances. The proposal relates to a single storey extension at the rear of the garage/workshop located approximately 15m from the dwelling beyond a shared driveway with Six Ways Stables.
6. Saved Policy ENV28 of the Gedling Borough Replacement Local Plan (RLP), adopted July 2005, relates to extensions to dwellings or limited residential curtilage buildings in the Green Belt. It seeks to prevent disproportionate additions over and above the size of the original dwelling and a detrimental impact on the openness of the Green Belt. The policy was based on national policy at the time within PPG2 which regarded only extensions and alterations to existing dwellings as potentially not inappropriate.
7. The Framework, which replaced PPG2, regards the construction of new buildings as inappropriate in Green Belt, subject to listed exceptions. The listed exceptions include at bullet point 3 of paragraph 89, 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'. The Framework, therefore, expanded the provision for extensions and alterations in Green Belt to a wider definition of a building, rather than an existing dwelling. It is, therefore, necessary that an assessment of an extension to the detached building consisting of a garage/workshop is undertaken independently from the existing dwelling. Consequently, although the proposal would not accord with the limitations of Saved Policy ENV28 of the RLP and its supporting text relating to extensions to dwellings, the weight that can be attributed to conflict with that policy is limited as it is no longer up-to-date or consistent with the Framework.
8. The Framework¹ defines the term 'original building' as a building as it existed on 1 July 1948, or if, constructed after 1 July 1948, as it was built originally. The Council have drawn to my attention that the existing garage/workshop was a replacement building with an increase in floorspace when compared to the original garage. However, the demolition of the previous garage has taken place and it no longer exists. Consequently, the detached garage/workshop in-situ as constructed after 1 July 1948 and as it was built originally, constitutes the 'original building' for the purpose of assessment relative to bullet point 3 of paragraph 89 of the Framework.
9. The Council through the supporting text of Policy ENV28 of the RLP, sought to previously identify the maximum size of extensions which would not be disproportionate as 50% of the floorspace of the original dwelling. Such a figure was based upon an assessment of extensions to a dwelling rather than an extension. However, a similar approach has been progressed in Emerging Policy LPD13 of the Gedling Borough Local Plan - Part 2 Publication Draft (LP-Part 2), May 2016, which states that within the Green Belt, planning permission will be granted for extensions or alterations to buildings provided the proposals do not result in the floorspace of the building being over 50% larger than when originally constructed or as it existed on 1 July 1948.

¹ Annex 2: Glossary

10. The emerging LP-Part 2 has not been adopted and the absence of evidence relating to unresolved objections to its policies limits the weight I can give to it despite its publication. However, in the absence of any alternative guidance or up-to-date policy relating to what would constitute a disproportionate addition, a threshold of no more than 50% larger than the original building would appear to be a reasonable starting point for an assessment. Based upon the evidence before me, the garage / workshop as originally built had an overall floorspace of approximately 73 sq.m. The extension as proposed consists of additional floorspace of approaching 34.5 sq.m, which constitutes a percentage increase in floorspace of 47% that would be close to, but less than, 50% larger than the floorspace of the original building.
11. The extension would be located on the rear elevation of the original building close to a 1.8m high fence that wraps around the garage/workshop and separates land which rises immediately to the west towards a number of single storey outbuildings within Six Ways Stables. Consequently, the extension would have limited prominence from public vantage points along Goosedale Lane due to its siting at the rear of the building, the difference in surrounding land levels and existing boundary screening along the frontage. In that context and relative to the appearance and proportions of the original building, the design, scale and massing of the extension would be viewed as a modest, subordinate and complementary addition.
12. Having taken all of the above into account, the proposed extension would not result in a disproportionate addition over and above the size of the original building. Furthermore, given its complementary architectural style and subordinate appearance relative to the existing garage/workshop, it would accord with the development and design criteria in Saved Policy ENV1 of the RLP and Policy 10 of the Greater Nottingham Aligned Core Strategies – Part 1 Local Plan (LP-Part 1), adopted September 2014.
13. In reaching the above findings, I have taken into account that the Council also referred to the effect upon the openness of the Green Belt. However, the impact upon openness of an extension or alteration of a building that does not result in disproportionate additions over and above the size of the original building is implicitly taken into account in the exception at bullet point 3 of paragraph 89 of the Framework. Consequently, although the Council contends that the scheme would intrude into the Green Belt's openness, as the development would not be a disproportionate extension or addition with respect to bullet point 3 of paragraph 89, it is not necessary that I separately assess its impact on openness. Such an approach accords with case law^{2 3} drawn to my attention in so far as the judgments are relevant to the interpretation of paragraph 89 of the Framework.
14. I conclude that the proposal is not inappropriate development in the Green Belt when having regard to paragraph 89 of the Framework, as the extension to the building as proposed would not result in a disproportionate addition over and above the size of the original building. Such a conclusion outweighs the conflict with Saved Policy ENV28 of the RLP, given that the policy is not consistent with the Framework. I have also found no conflict with Emerging

² Timmins and Lymn Family Funeral Service v. Gedling Borough Council and Westerleigh Group Limited [2015] EWCA Civ 10

³ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

Policy LPD13 of the LP-Part 2 or Saved Policy ENV1 of the RLP and Policy 10 of the LP-Part 1, in so far as they relate more specifically to matters of character and appearance.

15. As I have found that the proposal is not inappropriate development in the Green Belt and have found no harm with respect to the character and appearance of the site and the area. It is, therefore, unnecessary to consider whether there are other considerations in favour of the appeal which would amount to very special circumstances necessary to justify the development.

Other Matters

16. There is no substantive evidence before me that the extension was a wilful breach of planning control in the Green Belt. Interested parties have expressed concerns with respect to the appearance of the building, its existing use and the presence of a detached car port. However, the planning application has not sought a change of use to the building and the Council decisions to grant planning permission for the original building and the car port are not matters to be revisited as part of the proposal before me. Furthermore, based on my observations, I have no reason to consider that the use of the building as a garage and workshop by the appellant or the extension would exceed a purpose incidental to the enjoyment of the dwellinghouse. The building is also sufficiently distant from neighbouring properties to avoid any detrimental impact on the living conditions of occupiers. Access arrangements into the site and the availability of off street parking within the curtilage would be unaffected.

Conditions

17. The development has commenced, but at the time of my visit the extension had not been completed in accordance with the submitted plans. To provide certainty in terms of the planning permission granted, a condition is required to ensure that the development is carried out in accordance with the details before me, which includes matching materials as specified on the plans.

Conclusion

18. I have found that the proposal is not inappropriate development in the Green Belt and no other harm has been identified. There is no conflict with the specific policies of the Framework that are relevant to the proposal and the conflict with Saved Policy ENV28 of the RLP is outweighed as it is not consistent with the Framework. Consequently, permission should, therefore, be granted in accordance with the Framework given that I have not identified any adverse impacts.
19. For the reasons given above and taking all other matters into consideration, I conclude that the appeal should be allowed and planning permission granted subject to the condition in the formal decision.

Gareth Wildgoose

INSPECTOR