
Appeal Decision

Site visit made on 9 October 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 20 October 2017

Appeal Ref: APP/Q4625/D/17/3179541

1 Hall Farm Court, Kenilworth Road, Knowle, Solihull B93 0AD

- 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 Steve Dixon against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2016/01719/MINFHO, dated 28 June 2016, was refused by notice dated 27 April 2017.
 - The development proposed is a pre-fabricated self-finished gazebo inclusive of timber decking and a small plastic storage shed to the rear garden of the property.
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Decision

1. The appeal is dismissed insofar as it relates to a pre-fabricated self-finished gazebo inclusive of timber decking to the rear garden of the property.
2. The appeal is allowed and planning permission is granted insofar as it relates to a small plastic storage shed to the rear garden of the property at 1 Hall Farm Court, Kenilworth Road, Knowle, Solihull B93 0AD in accordance with the terms of the application, Ref PL/2016/01719/MINFHO, dated 28 June 2016, and the plans submitted with it insofar as relevant to that part of the development hereby permitted.

Procedural Matter

3. At the time of my visit, a gazebo with timber decking and a plastic storage shed had been completed and were in place. I also observed that a smaller plastic shed was sited close to the plastic storage shed subject to this appeal. The appeal is determined on the basis of the plans submitted with it which reflect the proposal before me for which planning permission has been sought and was refused by the Council.

Main Issues

4. The main issues are:
 - 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, including the effect on the openness of the Green Belt and the purposes of including land within it, and;
 - If the proposal is inappropriate, whether the 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 the development.

Reasons

Whether the proposal is inappropriate development in the Green Belt

5. The appeal site lies within the Green Belt. The proposal includes an octagonal shaped gazebo which has been erected within the rear garden of No 1 Hall Farm Court (No 1), a two storey detached dwelling visible from Kenilworth Road. The gazebo is an open-sided structure with posts attached to a timber decking base that support a polycarbonate roof. The proposal also includes a plastic storage shed within the rear garden which has been sited at the rear of a large detached outbuilding that is closer to the dwelling.
6. Policy P17 of the Solihull Local Plan (LP), adopted December 2013, amongst other things, states that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances. The supporting text refers to Green Belt policy as set out in national policy. Paragraph 89 of the Framework states that the construction of a new building should be regarded as inappropriate development in Green Belt, unless it meets listed exceptions. Paragraph 90 deals with certain other forms of development which are not inappropriate in Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.
7. As the proposal subject to this appeal relates to two separate elements of development which are clearly severable, it is necessary to consider individually whether each element of the proposal would be inappropriate development in the Green Belt.

Gazebo and timber decking

8. The gazebo and its timber decking base is a substantial structure with a total height of approaching 3.5 metres and a sizeable footprint. It is sited towards a corner of the rear garden of No 1 close to the boundaries with Nos. 4 and 5 Hall Farm Court and therefore, some distance from the detached dwelling and existing large outbuilding. Given the size of the gazebo and timber decking, together with its distance from the dwelling it cannot be reasonably considered to be an extension to it. Consequently, if the structure is to be treated as a new building for the purposes of paragraph 89 of the Framework, which is the approach adopted by the Council, it would not meet the exception under bullet point 3 that relates to *'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'*.
9. The only other bullet point under paragraph 89 of the Framework that could be considered relevant to the gazebo and timber decking is the exception in bullet point 6. The exception relates to *'limited infilling or the partial or complete redevelopment of previously developed land (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development'*.
10. As the site lies outside of a built up area, the garden of No 1 would meet the definition of previously developed land set out in Annex 2 of the Framework. Nevertheless, by introducing a gazebo of substantial size and scale into the curtilage of the host property, in a location where previously no building was present, the development has a greater impact on the openness of the Green

Belt. The gazebo when approaching on Hall Farm Court, due to its height and proportions, is a conspicuous feature in a comparatively open location between No 1 and the backdrop of Nos. 2 - 5. It is also visually prominent above boundary hedging from various vantage points along Kenilworth Road. From the vantage points on Hall Farm Court and Kenilworth Road where the gazebo is visible between existing large outbuildings and No 1 and Nos. 2 - 5, its presence clearly has a detrimental impact upon the openness of the Green Belt.

11. As the gazebo and timber decking would not preserve the openness of the Green Belt it also would not meet the criteria of certain other forms of development that are also not inappropriate in Green Belt, such as engineering operations listed in paragraph 90 of the Framework. Its location in the rear garden of No 1 would not encroach further into the countryside or harm the other purposes of Green Belt listed at paragraph 80 of the Framework. However, the absence of harm in those respects is a neutral factor.
12. I conclude that for the purposes of Policy P17 of the LP and the Framework, the pre-fabricated self-finished gazebo inclusive of timber decking is inappropriate development in the Green Belt with harm upon openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Plastic storage shed

13. The shed consists of a detached building within the curtilage of No 1. As a matter of fact and degree, the limited size and scale of the shed relative to the large dwellinghouse and the adjacent large outbuilding together with its close relationship, lead me to conclude that it should be treated as a normal domestic adjunct. In that context, it is reasonable that the shed is considered as an extension to the original dwellinghouse.
14. As previously mentioned, paragraph 89 of the Framework at bullet point 3 includes an exception for new buildings in Green Belt which consist of an extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. When taken individually or in cumulative with a previous side extension and the adjacent large detached outbuilding, I am satisfied that a shed with a height of approaching 2.5m and a limited footprint is not a disproportionate addition over and above the substantial size, scale and footprint of the original dwelling. The shed, therefore, meets an exception under paragraph 89 of the Framework and is not inappropriate development.
15. The effect upon openness of an extension or alteration of a building that does not result in a disproportionate addition 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 shed would intrude into the Green Belt's openness, as the development would accord with the exception at bullet point 3 of paragraph 89, it is not necessary that I separately assess its impact on openness. The location of the shed in the rear garden of No 1 would not harm the other purposes of Green Belt listed at paragraph 80 of the Framework.
16. I conclude that the small plastic storage shed to the rear garden of the property is not inappropriate development in the Green Belt and therefore, does not conflict with Policy P17 of the LP or the Framework in that respect.

Other considerations

17. In support of the proposal, the appellant has stated that the development consists of simply garden furniture bounded by continually maturing hedging plants and neighbouring properties, fencing and planting borders. In that context, I agree that gazebos and timber decking are common and characteristic features of residential gardens. However, openness is an essential characteristic of the Green Belt. Whilst, the gazebo would be viewed amongst larger dwellings and outbuildings of varied character with some garden boundary treatments it still appears prominent as there are no other similar structures on the site or in the immediate surroundings. The potential for future growth of the boundary hedge would not overcome the harm identified.
18. The separation distance to neighbouring properties is sufficient to ensure no loss of privacy or overbearing effect upon their occupiers. Nevertheless, the absence of concern in that respect is a neutral factor.
19. I find no harm with respect to the character and appearance of the shed given that it is sited in a discreet location against the rear elevation of a large detached outbuilding with little visibility from public vantage points. It is also sufficiently distant from neighbouring properties to prevent any adverse impact upon their occupiers. However, as that element of development is severable from the gazebo and timber decking, the absence of harm relating to the shed does not serve as justification for the gazebo and timber decking.

Conclusion

20. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The gazebo structure with timber decking comprises inappropriate development in the Green Belt with a resultant loss of openness. I find that the other considerations in this case do not clearly outweigh the substantial weight to be given to the totality of harm to the Green Belt and conflict with the development plan arising from the pre-fabricated self-finished gazebo inclusive of timber decking. Consequently, the very special circumstances necessary to justify that element of the proposal do not exist.
21. Notwithstanding the above, I have found that the small plastic storage shed is not inappropriate development in the Green Belt and have found no other harm relating to that part of the proposal. In such circumstances, a split decision is necessary as the respective parts of the proposal are clearly severable. The Council have indicated that conditions relating to time limit for implementation and plan compliance should be imposed. However, as the shed is in-situ, those conditions are not necessary to make it acceptable.
22. For the reasons given above, I conclude that the appeal should be allowed and planning permission granted insofar as it relates to a small plastic storage shed to the rear garden of the property, but dismissed insofar as the appeal relates to a pre-fabricated self-finished gazebo inclusive of timber decking to the rear garden of the property.

Gareth Wildgoose

INSPECTOR