
Appeal Decision

Site visit made on 10 June 2019

by Jan Hebblethwaite MA Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2019

Appeal Ref: APP/T3725/D/19/3227058

Rivendell, Stoneleigh Road, Bubbenhall CV8 3BT

- 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 Andrew Cowell against the decision of Warwick District Council.
 - The application Ref W/18/2275, dated 23 November 2018, was refused by notice dated 4 February 2019.
 - The development proposed is side and rear extensions to an existing dwelling, erection of new outbuildings and underground link connecting the two.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In email correspondence in January 2019, it was agreed between the parties that the outbuildings should be the subject of a separate application and the description of the application should be amended accordingly. Two revised plans were submitted (3456-P1 Rev A and 3456-P2 Rev A) which showed the development without the outbuildings and the underground link. The extensions were also amended by those plans to show a two-storey side and rear extension. The Council made its decision accordingly. The outbuildings, as originally proposed, are deleted from the scheme and no longer fall to be determined.

Main Issues

3. The main issues in this appeal are: -
 - (a) whether the proposed development amounts to inappropriate development in the green belt having regard to national and local policy, and if so, whether there are any very special circumstances which would outweigh the harm caused;
 - (b) whether the proposal would be harmful to the openness of the Green Belt; and
 - (c) the proposal's effect on the ecology of the surrounding area.

Reasons

4. The appeal site contains an attractive traditional detached house, probably dating from the early post-war period. It sits in a large plot and is one of a number of similar plots on the outskirts of the village of Bubbenhall. The drive to the house rises from the road and is well screened. The plot backs onto open agricultural land.

Green Belt

5. The appeal site is within the green belt which is defined by the Warwick District Local Plan 2011 – 2029 adopted in September 2017 (WDLP) under Policy DS18. That policy confirms that the Council will apply national planning policy to proposals within the green belt and seeks to prevent urban sprawl which would prejudice the open nature of the area. This is consistent with the National Planning Policy Framework 2019 (the Framework) at paragraph 133 which states that the essential characteristics of the green belt are their openness and permanence.
6. Paragraph 143 of the Framework states that inappropriate development in the green belt is, by definition, harmful and should not be approved except in very special circumstances.
7. Paragraph 145 of the Framework indicates that the extension or alteration of a building, providing it does not result in disproportionate additions over and above the size of the original building, represents an exception to inappropriate development in the Green Belt. This matter is also dealt with under policy H14 of the WDLP. It says that extensions to existing dwellings will be permitted where they are not disproportionate to the original dwelling and which respect the character of the original, retain the openness of the rural area and do not substantially alter the scale, design and character of the original. The policy indicates that anything beyond an increase of 30% on the floorspace of buildings within the Green Belt would amount to a disproportionate addition.
8. The Council estimates that the dwelling would be extended by approximately 59% whereas the appellant indicates an increase of some 50%. Either way, both these estimations would amount to a substantial increase over and above the 30% threshold. Further, the policy also says that proportionality could be affected by a change in the character of the building once extended. In this instance, the character of the dwelling would be significantly updated. Whilst this might be seen as a visual improvement, it would compound to a significant change to the building. I thereby conclude that the proposal would constitute inappropriate development within the Green Belt, contrary to relevant advice within the Framework and the requirements of WDLP policy H14.

Openness

9. In terms of visual impact, I accept that the existing house is secluded by reason of the topography of the land, the mature trees and the large plots of its neighbours. Only glimpsed views of the property would be obtained from the road and from neighbouring properties. Whilst that situation may satisfy policy H14, it is not determinative in considering whether the proposed development would harm the openness of the green belt.
10. Openness has both visual and spatial aspects. The absence of visual intrusion does not of itself mean that there is no impact on the green belt. The

substantial change in the character of the property from a traditional three bedroomed house to a very substantial five bedroomed house with several reception rooms is likely to result in a more intensive use of the property. The appellant compares the footprint of the neighbouring properties with that of the smaller appeal dwelling. However, proportionality relates only to the extended building relative to that as originally built.

11. I conclude that by reason of the scale of the proposed extensions and the change to the character of the original house, the proposed extensions are disproportionate and constitute inappropriate development in the green belt which is therefore harmful.

Ecological report

12. The council's reason for refusal quotes part of paragraph 99 of Circular 06/2005 which is also referenced in the Framework at footnote 56 to paragraph 174 of the Framework.
13. Protected species and their habitats are material considerations in the determination of planning applications and appeals. The Circular acknowledges that surveys might cause delays and cost to developers who should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. The advice given to the council by the ecological adviser is that there are both bat and badger records in the area surrounding the appeal site. The appellant has produced photographs to show that there are no bat roosts in the roof, but this is insufficient evidence to confirm that there is no presence of such. Leaving this matter to one to be addressed by a planning condition is unsatisfactory in such circumstances, and I thereby conclude that, in the absence of an ecological report to suggest otherwise the proposal would be harmful to the ecology of the surrounding area.

Other Considerations

14. The appellant has referred to the certificates of lawfulness of proposed development (CLPDs) and prior approval case under the GPDO and is of the opinion that they provide a fall-back position which should be taken into account as a material consideration in the determination of the appeal.
15. The appellant has set out in some detail the development which could be carried out under the GPDO, without the need for express planning permission. Although the statement refers to "consented extensions", it relies on two CLPDs and a prior approval notification. CLPD W/18/1595 related to a two-storey rear extension (CLPD2); CLPD W/18/1594 related to a single storey side extension (CLPD1) and prior approval W/18/1613 related to a single storey rear extension of 8m in depth.
16. Dealing with the prior approval notification first, I note that it contains a condition requiring the development to be completed before 30 May 2019. That date was imposed under paragraph (13) of Class A.4, being the condition applied to the development permitted by Class A. Although paragraph (13) and the temporary nature of Class A.1(g) was removed by later legislation, the condition was valid at the time it was imposed. As 30 May has now passed, I do not consider that the prior approval notification satisfies the neighbour consultation procedure required before the PD right under Class A.1(g) may be

exercised. On that basis, I give very little weight to the prior approval notification.

17. The CLPDs confirm that the extensions are capable of being permitted development under the GPDO. As such, the appellant states that they could be constructed without any further permission and that they constitute a fall-back position. However, there needs to be a degree of certainty that these extensions would be built.
18. The development the subject of CLDP1 would clearly fall within Class A permitted development. However, it represents a very small part of the extensions proposed in this appeal. The development the subject of CLPD2 (being a two-storey extension) would have extended beyond the rear wall of the original house by 3m or less (Class A.1(h)). That being the case, it is not comparable to the rear extension the subject of this appeal.
19. Whilst both CLPD developments are possible, they would not provide the appellant with anything approaching the development of the extent of the appeal proposal and I consider that there is only a theoretical possibility that they would proceed. On that basis I conclude that the CLPD developments do not constitute a fall-back position such that I need to attribute weight to them.

Very Special Circumstances

20. I have considered whether there are any very special circumstances which might outweigh the harm that I have found. From the evidence provided and discussed above, none have been demonstrated. I note that the appellant would intend to adopt the highest level of energy efficiency for a renovated dwelling and although this is laudable, it does not amount to a very special circumstance which would outweigh the harm to the green belt caused by a disproportionate extension and harm to the openness of the green belt.

Conclusion

21. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jan Hebblethwaite

INSPECTOR