



Appeal Decision

Site visit made on 21 August 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 25 October 2019

Appeal Ref: APP/P1805/D/19/3230600

Woodlands Farm, Lilley Green Road, Alvechurch, Birmingham B48 7EX

- 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 John Kelly against the decision of Bromsgrove District Council.
 - The application Ref 19/00117/FUL dated 31 January 2019 was refused by notice dated 1 May 2019.
 - The development proposed is extension of the main house forming a new kitchen & family space at ground floor.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt and
 - The effect of the development on openness of the Green Belt and the purposes of including land within it;
 - The effect of the development on the character and appearance of the area and
 - If it is inappropriate development, 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 Inappropriate Development in the Green Belt

3. The appeal dwelling is a large 6 bedroomed detached house set in spacious grounds on Lilley Green Road. There are other buildings in close proximity to the appeal site to the north, but generally, built development on Lilley Green Road is sporadic and the appeal site has extensive open countryside views.
4. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is harmful

and should not be approved except in very special circumstances. The construction of new buildings, which would include extensions, is regarded as inappropriate in the Green Belt subject to a number of exceptions.

5. Paragraph 145 c) of the Framework provides an exception in the case of 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. In accordance with the glossary to the Framework, the reference to "original building" means the building as existing on 1 July 1948 or if it was constructed after that date as it was built originally. The existing dwelling was built in 2007 as a replacement dwelling. Any later extensions would therefore need to be considered as part of the increase in assessing proportionality. In 2008, a separate planning permission was granted to extend the existing adjacent three bay garage to include a swimming pool and other ancillary accommodation (the pool addition).
6. Policy BDP4.4 c) of the Bromsgrove District Plan 2011-2030 Adopted January 2017 (the District Plan) does permit extensions of dwellings up to a maximum of 40% increase of the original dwelling. As the policy is largely consistent with the Framework approach in assessing proportionality, it can be attached substantial weight.
7. With regard to the percentage increase, the appellant considers this to be 35.1% whilst the Council's figure is 53%. Whilst neither party has provided detailed information of how their figure is calculated, the parties disagree as to whether the pool addition falls within the definition of an extension for the purposes of assessing proportionality.
8. In assessing whether or not the pool addition is an extension, consideration has to be given to the relationship between the buildings. From the front of the appeal site, the building that houses the pool addition and the appeal dwelling form one continuous L shape to two sides of the car parking area as they are in close proximity to each other and are linked by a brick wall. The brick wall has an archway which allows access to the back of the appeal dwelling and the pool addition. From the south, the pool building appears to be next to the appeal dwelling as the buildings are either side of a building line.
9. I have been referred to two previous appeal decisions which were provided to the appellant in response to a query from the appellant as to why the Council considered a 5 metre rule in assessing extensions to be appropriate. As the Whitegates decision ¹ was made in 2016 when different policies and guidance applied, I do not consider it to be comparable to this appeal.
10. The Worcester Road decision² was made in 2018. Whilst there was no evidence before him to support the 5 metre rule, the Inspector noted that the garage in question was to the front but offset to the side of the dwelling and he found that it was an extension for the purposes of the policy. Whilst each case has to be determined on its own merits, I agree that there is also no evidence before me to indicate that a distance of 5 metres between buildings is determinative as to whether a building is an extension. Nevertheless, an assessment still has to be made of whether the relevant building is an extension within the Framework definition.

¹ APP/P1805/D/16/3153799

² APP/P1805/D/18/3216122

11. Having regard to their location and the proximity of the buildings to each other, I do consider that the pool addition permitted in 2008 is an extension that would need to be taken into account in assessing proportionality. The appeal proposal together with the existing extension would, in my view, result in disproportionate additions to the original building. Even if I were to accept the appellant's figure of 35.1% over the Council's figure of 53%, taking into account the pool addition the percentage increase is very likely to exceed 40%.
12. For these reasons, therefore the appeal proposal would be inappropriate development in the Green Belt.

Openness

13. The openness of the Green Belt is clearly evident both within the spacious plot itself and around the appeal site with surrounding open countryside. The absence of built development is a characteristic of the Green Belt and the appeal proposal would introduce built development where none currently exists. Whilst, the appellant refers to restricted views of the appeal proposal, openness as a concept has both a visual and a spatial dimension. There would in any event be some views from the southern and rear elevations. The appeal proposal would add bulk and width to the appeal dwelling and would result in moderate harm to the openness in the Green Belt and would not assist in safeguarding the countryside from encroachment.

Character and appearance

14. The appellant describes the style of the appeal dwelling as Neo Georgian with the adjacent pool building having no distinct architectural style and that the appeal proposal would be a compromise between the two buildings. The appeal proposal would be situated on the eastern elevation of the appeal dwelling where there is currently a patio area. The current elevation is largely symmetrical and has window features which are replicated on other elevations.
15. The appeal proposal would have a prominent central square element with floor to ceiling glazing with two matching pitched roof elements to either side with a glazed arch at each end. The difference in appearance between the appeal dwelling and the pool building would create a discordant effect when viewing the appeal dwelling. On the southern elevation, the roof pitch would not match the main house and would appear unbalanced. Although the pool building was considered acceptable in planning terms, it does not follow that the appeal proposal is also acceptable as it is in a different location and has a different relationship to the appeal dwelling. The appeal proposal would be the full length of the rear of the appeal dwelling and its roof would extend slightly beyond the roof of the appeal dwelling on the southern elevation. The scale, bulk and design would be out of keeping with the appeal dwelling.
16. I therefore do find that the appeal proposal would harm the character and appearance of the area. It would therefore be contrary to Policy BDP19 of the District Plan which, amongst other things, requires development to achieve good design which enhances the character and distinctiveness of the area. It would also be contrary to Paragraph 127 of the Framework which, amongst other things, states that development should be sympathetic to local character including the surrounding built environment and add to the overall quality of the area. It would also be contrary to SPG1 Residential Design Guide which,

amongst other things, states that extensions should follow the character of the house.

17. SPG 1 Residential Design Guide was adopted in 2004 and although a number of references are out of date, the general guidance provided in determining applications including extensions is still of relevance. It does, however, refer to the appropriate size of an extension depending upon factors such as the individual circumstances of the site and visual dominance. Although reference is made to new dwellings of more than three dwellings being capable of being extended to meet family needs, this is qualified by "without adversely affecting character".

Other Matters

18. Reference is made by the appellant to two previous refusals for what the appellant describes as similar previous applications. The appellant refers to discussions with the Council about matters such as links between buildings and design issues. However, I have limited information about those applications and I have to consider the application that is before me on its own merits.

Other Considerations

19. The appellant has made comparisons between the difference in volume between the appeal proposal and what would have been allowed as permitted development rights under the General Permitted Development Order 1995. However, as permitted developments rights Classes A -D were removed when planning permission was granted in 2007 there is no " fallback" position. Any general intention by the government to allow owners greater freedom to extend has to be seen in the context of the Green Belt location of the appeal dwelling where more restrictive policies apply.
20. Whilst, the appellant has referred to using permitted development rights under Schedule 2, Part 1, Class E of the General Permitted Development Order 1995 he has indicated that this would be a less sustainable solution as it would result in a separate building. As there is limited evidence before me that this option would be pursued, I attach limited weight to it.
21. I understand that the appellant wishes to extend his home to create additional family and entertainment space. However, the grant of permission would create a permanent structure. As planning permission would run with the land rather than with the appellant's occupation, personal circumstances attract only limited weight.

Conclusion

22. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would be a moderate loss of openness and substantial weight should be given to any harm to the Green Belt. I have also found harm to the character and appearance of the area. There are no other considerations to outweigh the totality of the harm. Consequently, very special circumstances do not exist and as such the proposal would also conflict with Policy BD4.4 of the District Plan. For the reasons given, the appeal is dismissed.

E Griffin INSPECTOR