



Appeal Decision

Site visit made on 24 February 2020 by S Watson BA(Hons) MSc

Decision by Kenneth Stone BSc(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 8th April 2020

Appeal Ref: APP/P1805/D/19/3242798

The Croft, Alcester Road, Portway, Birmingham B48 7HZ

- 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 D Kelly against the decision of Bromsgrove District Council.
 - The application Ref 19/01405/FUL, dated 24 April 2019, was refused by notice dated 6 December 2019.
 - The development proposed is the erection of enclosed swimming pool building.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was carried out by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. There is no dispute between the parties that the appeal site is located within the West Midlands Green Belt. Accordingly, the main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt; and,
 - Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations and if so whether this would amount to the very special circumstances required to justify the proposal.

Reasons for the Recommendation

Whether inappropriate development

4. Paragraph 145 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of

inappropriateness, and any other harm, is clearly outweighed by other considerations.

5. Subject to a number of exceptions, as listed in Paragraph 145, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. There is no specific reference of an exception within the Framework for the erection of ancillary buildings however, at times an outbuilding can be considered as effectively an 'extension' to a dwelling or other building. Although not argued by either party, I find it relevant to consider this below.
6. In this instance, the outbuilding is set some distance away from the host dwelling. I find that this separation would be read as a dwelling and ancillary outbuilding, not a dwelling and detached extension. Nevertheless, even if I were to accept the outbuilding as an extension it would be a disproportionate addition over and above the original building by way of its footprint, and would therefore be unacceptable contrary to Paragraph 145(c) of the Framework.
7. The new pool building would not fall within any of the exceptions set out within either the Framework or Policy BDP4 of the Bromsgrove District Plan (BDP) and would therefore represent inappropriate development within the Green Belt.

Openness

8. Paragraph 133 of the Framework identifies that openness is one of the essential characteristics of Green Belts, along with permanence. The Courts have confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result, but equally this does not mean that the openness of the Green Belt has no visual dimension.
9. In this instance the pool building would have a large footprint on a par with the host dwelling. Although it would be at the rear of the dwelling, and is only a single storey, given its scale, the proposal would be experienced both visually and spatially. As such, the proposed development would compromise the openness of the Green Belt, which would be reduced both physically and visually. Whilst the loss of openness would be limited, harm to the Green Belt would occur. This matter carries substantial weight.

Other considerations

10. The appellant has directed my attention to previous approvals at the appeal site¹ which removed, by condition, the permitted development rights granted by Class E of the GPDO². This was on the grounds of protecting the visual amenity of the area. While there may be some disagreement between the parties as to the legitimacy of the condition, an assessment of this is not within the remit of this planning appeal. Moreover, the reason for the condition is not relevant to the appeal before me, which covers only the proposed outbuilding. The condition has not been removed or challenged and is therefore extant. There is no fall back position on which the appellant could rely in this regard to which I should have regard. Notwithstanding the above, it is not within the

¹ B/2004/0626 granted in July 2004 and B/2004/1100 granted in October 2004.

² Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

scope of this appeal to assess whether the proposal before me would otherwise comply with Class E of the GPDO.

11. With the exception of the M42 and A435, The appeal site is surrounded by sporadic development, both residential and commercial. Nevertheless, the appeal site is within the Green Belt and the level of development surrounding it does not limit the harm raised above.
12. In light of the above, I find that these matters cannot be given weight in my overall consideration of the proposal, and therefore do not comprise the very special circumstances necessary to justify inappropriate development.

Green belt conclusion

13. The proposal would amount to inappropriate development in the Green Belt, and further harm to the Green Belt would be caused as a result of loss of openness. These matters carry substantial weight. There are no considerations in support of the proposal to which weight could be given. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with Policy BDP4 of the BDP which, amongst other things, limits development within the Green Belt. The proposal would also conflict with the Green Belt aims of Section 13 of the Framework.

Conclusion and Recommendation

14. For the reasons given above I recommend that the appeal should be dismissed.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be dismissed.

Kenneth Stone

INSPECTOR