
Appeal Decision

Site visit made on 14 July 2020

by Jameson Bridgwater DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2020

Appeal Ref: APP/P1805/D/20/3247563

11A High House Drive, Lickey B45 8ET

- 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 Colley against the decision of Bromsgrove District Council.
 - The application Ref 19/01355/FUL, dated 11 January 2019, was refused by notice dated 9 December 2019.
 - The development is described as 'Proposed 2 Storey rear & side extension over garage'.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The appellant within their appeal statement has proposed to 'omit the step out balcony from the proposed floor and elevations drawing plan submitted with the application, and instead replace that opening with a traditional window casement at first floor level'. However, in the context of the scheme this is a material change. As such, the appeal process should not be a means to progress alternatives to a scheme that has been refused or a chance to amend a scheme so as to overcome the reasons for refusal. In the first instance materially changed schemes should be re-submitted to the local planning authority as a fresh planning application.
3. Therefore, mindful of the principles contained in the Wheatcroft decision, whilst I accept that there could be a material reduction in overlooking, the amendment is fundamental meaning that the development would be so changed that if I was minded to allow the appeal and grant planning permission it would deprive those who should have been consulted on the changed development of the opportunity of such consultation. I have therefore considered the appeal on the basis of the plans submitted to and determined by the Council.

Main issue

4. The appeal site is located within the West Midlands Green Belt so the main issues are:
 - whether the proposal represents inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy; and
 - the effect on the openness of the Green Belt; and

- the effect on the living conditions of neighbouring occupiers; and
- if the development would be inappropriate, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

5. The appeal site is a detached two-storey single family dwellinghouse and is located on the south-western side of High House Drive. The appeal scheme proposes the demolition of the existing single storey rear extensions (including conservatory) and erection of a first-floor side extension over the existing side garage, part two storey rear extension and part single storey rear extension.

Whether inappropriate development

6. Paragraph 143 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.
7. Subject to a number of exceptions, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions are set out in Paragraph 145 of the Framework and include 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'.
8. Policy BDP4 of the Bromsgrove District Plan (BDP), broadly conforms with the Framework in this regard, setting out the size of extension which would not be considered to be inappropriate in the Green Belt. Policy BDP4.4 criteria 'C' sets out the threshold for disproportionate additions stating "extensions to existing residential dwellings up to a maximum of 40% increase of the original dwelling or increases up to a maximum total floor space of 140m² ('original' dwelling plus extension(s)) provided that this scale of development has no adverse impact on the openness of the Green Belt".
9. The appellant¹ states that the proposed 2 storey rear and side extension over garage when added to earlier extensions would result in an approximate 92% (151m²) increase over that of the original dwelling. This would result in an overall increase in excess of the Council's 40% threshold. Therefore, when comparing the original dwelling to the one that would result if the proposal were to go ahead, the outcome would be disproportionate.
10. Having regard to the above, I conclude that the proposal would result in a disproportionate addition over and above the size of the original dwelling. The extension would not accord with Paragraph 145(c) of the Framework or Policy BDP4 of the BDP and would therefore be inappropriate development which is, by definition, harmful to the Green Belt.

¹ Appellant Statement of Grounds of Appeal paragraph's 4.6 and 4.7

Openness

11. 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.
12. In this instance the effect of the cumulative increased size of the host dwelling would clearly be experienced both visually and spatially, although due to the extension being located within a row of residential properties this impact would be localised and limited. However, in this respect even a limited adverse effect on openness would contribute to the overall harm to the Green Belt. For this reason, the proposed development would compromise the openness of the Green Belt, in that it would be reduced. Whilst the loss of openness would be limited, harm to the Green Belt would occur. This matter carries modest weight in this site-specific circumstance.

Living conditions

13. It is clear from the submitted plans that the proposed step out balcony at first floor level would be likely to lead to direct overlooking of the rear gardens of neighbouring properties. At such close proximity, this would materially harm the living conditions of the occupiers of the adjoining properties due to overlooking and result in inadequate levels of privacy.
14. The proposal would therefore conflict with Policy BDP1 of the BDP, which amongst other things seeks to ensure that development would not result in adverse effects on the amenity of neighbouring properties.

Other considerations

15. In support of their appeal the appellant has stated the appeal site is built up and urbanised in nature, before going on to argue that it should be considered as previously developed land. However, the Framework's definition of previously developed land is clear that it excludes land in built-up areas such as residential gardens. Consequently, the proposal would conflict with the Framework in particular paragraph 134. Moreover, the appellant has referred to other extensions in High House Drive and cite these as setting a precedent for this proposal. However, I have limited information about their histories, but inevitably their context would differ to that of the scheme before me, and so they do not lead me to a different view in this case.

Conclusion

16. The proposed development would be inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. As well as harm by reason of inappropriateness, the proposal would cause a loss of openness, thereby adversely impacting on one of the essential characteristics of the Green Belt. In addition, I have found that the proposed development would be contrary to Policy BDP1 of the BDP, a matter which also weighs against the appeal being allowed.

17. However, none of the aforementioned considerations, or any of the other many matters mentioned by the appellants in support of their appeal, either individually or collectively, clearly outweighs the harm caused by reason of inappropriateness. Very special circumstances do not therefore exist in this case and the appeal must be dismissed.

Jameson Bridgwater

INSPECTOR