



Appeal Decision

Site visit made on 17 August 2020 by Ben Phillips BSc MSc

Decision by Elizabeth Jones BSc (Hons) MTCP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 5 October 2020

Appeal Ref: APP/P1805/D/20/3253191

Barn End, Lilley Green Road, Alvechurch B48 7HD

- 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 Matthew Toy against the decision of Bromsgrove District Council.
- The application Ref 20/00067/FUL, dated 20 January 2020, was refused by notice dated 24 April 2020.
- The development proposed is described as adding 2No. Dormer Windows and a oak canopy porch to the front elevation of the property.

Decision

1. The appeal is dismissed.

Appeal Procedure

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

Procedural matters

3. In their appeal submissions, the appellant has indicated there were a number of errors in the original drawings submitted with the planning application¹. Subsequent to the issuing of the decision notice the appellant submitted a revised planning application to the Council on 27 May 2020 with amended drawings². The appellant has requested that the appeal should be determined having regard to these amended drawings.
4. The amended drawings show an amendment in the scale of the rear dormer, to the size as approved as part of a certificate of lawfulness application³ (CLPD) and a reduction in the width of each of the front dormers. Albeit the appellant submits that the rear dormer does not form part of the description of proposed development it is clear that the Council determined the application on the basis of the original drawings showing the rear dormer. No interested parties have had the opportunity to comment on the amended drawings and I consider that, having regard to the principles under *Wheatcroft*⁴, that the proposed amendments are significant, particularly given the importance of calculating floorspace/volume in the context of the Green Belt. In the interest of fairness, I have determined the appeal on the basis of the original drawings considered by

¹ Ref 20/00067/FUL.

² Appendix 2 of the appellant's Planning Appeal Statement.

³ Ref 19/01301/CPL.

⁴ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

the Council, as to do otherwise would deprive those who should be consulted on the change, the opportunity of such consultation.

Main Issues

5. The appeal site is located within the Green Belt. Accordingly, the main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the original dwelling and group of rural buildings; and
 - Whether the harm to the Green Belt by way 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 the proposal.

Reasons for Recommendation

Whether Inappropriate Development

6. Policy BDP4 of the Bromsgrove District Plan 2011-2030 (2017) (DP) requires the Green Belt to be protected from inappropriate development. Paragraph 145 of the Framework establishes that the construction of new buildings should be regarded as inappropriate in the Green Belt unless they fall within the list of exceptions set out in this paragraph. Part c) of this paragraph lists 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, as one such exception. The Framework defines 'original building' as 'a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally'.
7. Criteria 4 of DP Policy BDP4 sets out that the local interpretation of proportionality is a maximum of '40% increase of the original dwelling' (or 'increases up to a maximum total floor space of 140m², provided that this scale of development has no adverse impact on the openness of the Green Belt'). Policy DP Policy BDP4.4 does not specifically state that the '40% increase of the original dwelling' refers to floor space, however, the appellant measures the internal floorspace of the original dwelling as approximately 150m², and the proposed as 248m², which is substantially greater than a 40% increase.
8. In considering proportionality, it is also necessary to consider the form, bulk, height and overall scale of the enlarged building not just the floorspace and site calculations. Whilst the percentage of volume increase is significantly less than a '40% increase of the original dwelling', given their scale and siting, the proposed front and rear dormers and porch would add substantial bulk and would dominate the original building. As such, the size of the proposed development would result in a disproportionate addition over and above the size of the original building.

9. The appellant refers to a number of examples of developments in the Green Belt. The replacement dwelling with a large basement accommodation⁵, relates to a high court decision regarding whether it is appropriate to include subterranean floorspace in consideration of disproportionality. There is a clear distinction between this and the impact on the form and bulk of the building as set out above.
10. Having regard to the appeal decision relating to extensions to a two-storey dwelling⁶. Unlike the appeal before, the previous Inspector considered that the Local Plan was silent regarding what percentage constituted a disproportionate addition stating that it was '*a matter of fact and degree requiring judgment.*' In this particular case, DP Policy BDP4 provides some guidelines, and I have exercised my own judgement in this regard.
11. An appeal decision⁷ for a dormer window on a property within the Green Belt was allowed. In this case the previous Inspector raised issues with how the Council arrived at its figures in terms of the percentage increase in floorspace and concluded that this was inconclusive. In addition, it was concluded that the proposed dormer '*would be of limited size and volume, set well within the roofslope, and in keeping with the dwelling's form and appearance*'.
12. The particular circumstances of the examples provided therefore are not directly comparable with the appeal before me. Notwithstanding this, the planning application and appeal is determined on its individual merits.
13. Comparing the original building to the one that would result if the proposal were to go ahead, the outcome would be disproportionate. It would therefore be inappropriate development in the Green Belt, in conflict with DP Policy BDP4 and the Framework which states that inappropriate development, by definition, is harmful to the Green Belt.

Openness

14. Given their limited scale, the proposed front dormers would be incorporated into the existing roofscape and would only be seen in the context of the existing roof. Similarly, the front porch would be of a limited scale. The rear dormer, whilst substantial in width, would also be incorporated into the existing roof plane. However, in combination, when approaching from the access for example, there would clearly be some massing and built form added to the side elevation where at present there is none.
15. There is therefore some harm to the openness of the Green Belt in that it would be reduced. In accordance with Paragraph 144 of the Framework, this is given substantial weight.

Character and Appearance

16. The property was converted from an agricultural barn structure, and retains its simple form and profile, in addition to the use of traditional materials. The width of the proposed dormers and amount of glazing proposed to the front dormers would be excessive, would appear out of keeping and incongruous with the existing frontage of the former barn conversion. The dormers would

⁵ Feather v Cheshire Borough Council (2010)

⁶ Appeal reference APP/N2739/D/2172159

⁷ Appeal reference APP/G2245/D/16/3159125

detract from and domesticate the original agricultural character of the property.

17. Whilst facing and obscured by trees from the M42 motorway, I saw on my site visit that the frontage of the building is visible from Lilley Green Road, albeit from a distance. The dormers would be unlike any of the immediate neighbouring roof forms including the examples of L shaped buildings and gable roof forms and would appear incongruous in the context of these neighbouring properties. They would have a harmful suburbanising impact.
18. The immediate surrounding properties were clearly originally part of the same farm complex. They have been similarly converted to residential use in a sensitive manner to retain the original agricultural character. A contributing factor in this wider rural character is unbroken simple roof forms.
19. An exception to this is 'Moorfield Farm', a two-storey dwelling, which has a differing character and scale to the converted units. This property has three dormers on the front where the windows are set within the front façade. These dormers are smaller in scale than those proposed, and their visual impact is lessened by the design and scale of the two-storey dwelling.
20. In addition, 'Moorfields', a detached bungalow, has small dormers on each elevation. This dwelling, which is set apart from the main farm complex, has the appearance of a purpose-built bungalow and not a former agricultural building. Thus, this property does not have a rural character, and its dormers do not appear out of keeping with its form.
21. As such, there is a distinction in character and appearance between these two dwellings and the converted former agricultural buildings immediately next to the appeal property. Consequently, I consider that the proposed dormers would detract from the uniform rural character and appearance of this group of buildings.
22. In light of the foregoing, it is concluded that the proposal would have a significant harmful effect on the character and appearance of the existing property and wider group of rural buildings. The proposal is therefore contrary to DP Policies BDP1 and BDP19 which, along with the Framework, requires development to be sympathetic to the character and distinctiveness of the local area and consider visual amenity.
23. The Council also reference the Supplementary Planning Document High Quality Design (2019), however I have not been provided a copy of the document. As such I cannot give this any weight.

Other Considerations

24. The Framework advises that inappropriate development in the Green Belt should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

25. The appellant with reference to case law⁸ draws attention to a potential fallback – that is: a rear dormer that might be erected as granted in the CLPD⁹ or as permitted development and suggests that the proposed rear dormer extension be reduced in size to correspond with the CLPD. I accept that there is real prospect of the fallback development being implemented. However, the rear dormer is just one element of the proposed development and I am not convinced that its reduction in size would overcome the planning objections when considering the proposed development as a whole. Thus, I afford the fallback position moderate weight.
26. I acknowledge that an increase in accommodation space would be of benefit to the appellant and his family. However, I am mindful that the harm identified is permanent and is not outweighed by the appellant's particular circumstances. I therefore afford this matter limited weight.

Green Belt Conclusion

27. 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 the loss of openness. In addition, I have also found harm to the character and appearance of the existing dwelling and surrounding buildings. These matters carry substantial weight.
28. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Recommendation

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

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

30. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Elizabeth Jones

INSPECTOR

⁸ Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314; Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government [2009] JPL 1326.

⁹ 19/01301/CPL