



Appeal Decision

Site visit made on 8 September 2020 by G Sibley MPLAN MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2020

Appeal Ref: APP/P1805/W/20/3254662

Wayside, Third Road, Bromsgrove B61 0BT

- 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 R Dunkley against the decision of Bromsgrove District Council.
 - The application Ref: 20/00327/FUL, dated 11 March 2020, was refused by notice dated 9 June 2020.
 - The development proposed is 'proposed garage and realignment of domestic curtilage.'
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Decision

1. The appeal is allowed and planning permission is granted for a garage and realignment of domestic curtilage at Wayside, Third Road, Bromsgrove B61 0BT in accordance with application Ref: 20/00327/FUL, dated 11 March 2020 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following plans: Site Location Plan dated: 16/03/2016 and Proposed Garage DWG No. 3920-01A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those on the host dwelling.
 - 4) Prior to the first use of the detached garage hereby permitted, the land along the southern site boundary, as depicted on drawing number '3920-01A', shall be separated from the remaining domestic curtilage through suitable boundary treatment and/or planting, in accordance with details that shall first have been submitted to and agreed in writing with the Local Planning Authority. The approved boundary treatment and/or planting shall be implemented within 3 months of the date of the first use of the detached garage hereby approved, or within the next available planting season, whichever is the sooner. Thereafter, the boundary treatment shall be retained, and land excluded from the residential curtilage, as shown on the approved drawing, shall not be used for domestic/residential purposes and shall remain free of any domestic structures or paraphernalia.

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.

Application for Costs

3. An application for Costs has been made by the appellant against the Council and is the subject of a separate decision.

Main Issues

4. The main issues are:
 - i. Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
 - ii. The effect of the proposed development upon the character and appearance of the area; and
 - iii. The impact of the proposed development upon protected species.

Reasons for the Recommendation

Inappropriate development

5. The site is located on Third Road which is located within the open countryside and is washed over by the Green Belt. The site comprises of a modern dwelling and a detached garage that is located to the rear of the dwelling and there is a small wooden shed behind the garage. The dwellings are sporadically located along Third Road set within large irregular plots. The proposal would involve the construction of a new garage next to the dwelling as well as the change of use of land.
6. The National Planning Policy Framework (The Framework) establishes that new buildings within the Green Belt are inappropriate subject to a number of exceptions (paragraph 145). BDP4.4 of the Bromsgrove District Plan 2011-2030 (BDP) (adopted 2017) identifies what development would not be inappropriate within the Green Belt and this policy generally mirrors those contained within paragraph 145 of the Framework. In terms of extensions to dwellings, policy BDP4.4 (c) varies slightly from paragraph 145 insofar as it sets a specific percentage increase (40%) of the original dwelling houses floorspace or up to a maximum of 140 square metres, provided that this scale of development has no adverse impact on the openness of the Green Belt. The BDP was adopted following the publication of the 2012 version of the Framework and paragraph 145 (c) of the 2019 version mirrors what was contained at bullet point 3 of paragraph 89 of the 2012 version, so the policy remains consistent with the Framework.
7. The proposed garage would be within 5 metres of the dwelling. Due to its close proximity and given its functional use in connection with the house it is reasonable to consider it as a normal domestic adjunct. As such I am satisfied that the garage should be considered as an extension to the dwelling. The appellant notes that the extension would increase the floorspace of the original dwelling by 20% and the Council do not contest this figure. Consequently, the

extension would be significantly below the 40% limitation set by policy BDP4.4 (c).

8. The second strand of policy BDP4.4 (c) requires that the scale of development should have no adverse impact on the openness of the Green Belt. That is more onerous than paragraph 145 (c) of the Framework which states that extensions to buildings within the GB will not be inappropriate development providing they do not result in a disproportionate addition above the size of the original building. If that is the case, there is no secondary strand within the Framework requiring a stand-alone assessment of the impact on openness.
9. Most extensions will have some physical impact on openness because they are likely to occupy space previously free of structures or buildings. It appears to me that there must be some recognition of that within policy BDP4.4(c) which is not intended to have no impact at all. It is reasonable to consider whether there would be an 'adverse impact' in the context of the way the policy is phrased and the general acceptance of an increase of up to 40% or 140 square metres.
10. In this case the garage would be well within those limits. It would also be sited close to the existing dwelling, thereby limiting the spread of building across the site, and would appear modest in scale compared to the existing structure. Consequently, the visual impact would be limited, and the physical scale would be well within that envisaged as acceptable within policy BDP4.4 (c). Overall, I am satisfied that there would be no adverse impact on the openness of the Green Belt and that the garage would not amount to inappropriate development.
11. The material change of use of land would fall under paragraph 146 (e) of the Framework provided that the development preserves the openness of the Green Belt and does not conflict with the purposes of included land within it.
12. Where the garage is proposed to be located and the land changed from agricultural to residential, it is partially covered by tarmac as part of the parking area around the dwelling and the rest of the land is closely cut grassland. On the opposite side of the dwelling, where the land would be changed from residential to agricultural use, the land again is closely cut grassland with no real delineation between the two uses.
13. From a visual perspective the land around the house is well maintained and because the site is located behind a wall much of the garden is obscured and views of domestic paraphernalia would, for the most part, be hidden by the wall. Furthermore, the same amount of land would remain in both residential and agricultural use and there would be no notable encroachment into the countryside within the Green Belt. As such, the proposal would not harm the visual openness of the Green Belt.
14. From a spatial aspect, the change of use of the land would only require the erection of a boundary fence between the residential and agricultural land. Whilst this would be new built development within the Green Belt, given the size of the proposed fence, it would have a very limited impact upon the spatial openness of the Green Belt. Moreover, I note that the approved layout plan for the replacement dwelling depicted boundary treatments for the proposed garden area. Those boundaries have not been erected / planted but it is reasonable to assume that they could be implemented in accordance with the

approved plans. The current proposal essentially seeks to amend the position of the boundaries. The physical impact of the fencing would be no greater than that previously envisaged and the extent of land falling within the domestic curtilage would be no greater. Consequently, the proposed change of use of the land would not harm the openness of the Green Belt.

15. Paragraph 134 of the Framework identifies the five purposes of the Green Belt. Subsection c is the most relevant insofar, as it looks to ensure the Green Belt assists in safeguarding the countryside from encroachment. As noted above, the same amount of land would remain in residential use so the proposal would not result in encroachment into the countryside within the Green Belt.
16. Therefore, both the change of use of the land and the proposed garage would not be inappropriate development in the Green Belt and would comply with policy BDP4 of the BDP as well as paragraphs 134, 145 and 146 of the Framework.

Character and appearance

17. The proposed garage would be constructed from similar materials to the dwelling and would be subordinate in scale and appearance. Because the appearance of the garage would mirror the main characteristics of the dwelling which itself is an attractive dwelling within a rural setting, the garage would be appropriately designed within this rural location.
18. The proposed land parcels either side of the site that are subject to the change of use are approximately the same size and because of this, the amount of land in residential use would remain the same and so the amount of land where domestic paraphernalia could be located within this rural location would remain about the same. Third Road contains a number of residential properties along its length and domestic gardens form part of its character. Consequently, the change of use of the land would not harm the character and appearance of the area.
19. The existing garage and shed are unattractive buildings that are in relatively poor condition and if these buildings were demolished it would enhance the appearance of the area. Nevertheless, if these building were retained and the garage built it would not result in the overdevelopment of the site, given the size and open characteristics of the site.
20. Therefore, the proposed garage as well as the change of use of the land would not cause harm to the character and appearance of the area and would be consistent with policy BDP19 of the BDP which requires development to enhance the character and distinctiveness of the area.

Impact upon protected species

21. Limited information has been provided by either party with regard to the impact on protected species. The Council has made general assertions about the potential impact on bats but no ecological consultation responses relating to the application have been forwarded to indicate the likelihood of protected species being present. Similarly, the appellant has responded to those claims within the appeal statement, but no ecological assessment has been submitted.
22. The existing garage is a single storey timber framed building. The frame of the building appears to be in good condition but there are a number of holes in the

- walls where they have broken as well as gaps within the roof. There is also a small timber store which is in poor condition and is partially covered in what appears to be asbestos sheeting. From the information before me it is difficult to conclude on the likelihood of either structure providing a habitat for bats or other protected species. Bats are a European Protected Species that are subject to a high level of legal protection. Individual animals are protected against killing, capture, disturbance and sale. It is also illegal to damage or destroy a breeding place or a place of rest.
23. Notwithstanding the above, the description of the development taken from the application form, appeal form, and the Decision Notice is 'proposed garage and realignment of domestic curtilage'. The proposed garage would not be a disproportionate addition to the dwelling, and it is not necessary to demolish the existing buildings to make the garage acceptable in Green Belt terms. The appellant is under no obligation to demolish the garage or timber shed and the approval of the proposed development would not be dependent on those elements. Whether the appellant chooses to demolish the structures is a matter for him, as with any other domestic outbuilding on a residential plot. Should he do so it is important for him to note the legal protection that European Protected Species and their habitats are afforded. However, for the reasons given, that is not a reason to withhold permission for the development proposed.
24. Where the garage is proposed is grassland and tarmac and the land is very close to the house where artificial lighting is present. As such, the land has little biodiversity value and appears unlikely to be used as a habitat corridor for a protected species. The change of use of the rest of the land would only involve the erection of the suitable boundary treatment or planting so would have very limited impact from an ecological perspective. The change in the character of the land would be minimal.
25. Therefore, having regard to the precise nature of the proposed development, the erection of the garage and change of use to garden land would not cause harm to a protected species and would be in accordance with policy BDP21 of the BDP which looks to take appropriate steps to maintain the favourable conservation status of populations of protected species. Should the appellant seek to demolish the existing structures within the garden then he should be aware of relevant legislation with regard to protected species, as set out above.

Conditions

26. Further to the statutory commencement condition, in the interest of the character and appearance of the area it is also necessary to ensure that the development is completed in accordance with the approved plans and the materials to match those on the existing dwelling.
27. A condition is necessary in the interests of the character and appearance of the area that ensures the boundary treatment, as depicted in DWG No. 3920-01A, is constructed prior to the first use of the garage to ensure the land is separated between agricultural and residential use. The use of that land as agricultural land would not require planning permission because the use of land for agriculture does not amount to development under the terms of section 55 of the Town and Country Planning Act 1990. Whilst the land could be used for agriculture without permission, it is not possible to force a landowner/ farmer to physically farm the land through the imposition of a condition. Thus, the

land would not physically revert to agricultural use simply on the grant of planning permission. In any event, that is not necessary to make the development acceptable in planning terms. What is required, in the interests of precision and to ensure that the development is carried out in accordance with the approved plans, is that the land excluded from the garden is no longer used for domestic purposes. Having regard to the conditions put forward by the parties I am satisfied that can be controlled by condition and have worded condition 4 accordingly.

Conclusion and Recommendation

28. Given the scale of the proposed garage and its location close to the dwelling, the garage would not be a disproportionate addition to the dwelling and would not be inappropriate development in the Green Belt. The existing garage and shed would not have to be demolished to make the development acceptable in Green Belt terms. As a result, the development would not require the removal of a potential habitat that could be used by a protected species. The proposed change of use of land would not significantly increase the amount of residential land within the Green Belt and therefore, would also not be inappropriate development within the Green Belt. The proposed change of use of the land as well as the appearance of the garage itself would not cause harm to the character and appearance of the area. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

29. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be allowed subject to the conditions set out above.

Chris Preston

INSPECTOR