
Appeal Decision

Site visit made on 17 December 2020

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2020

Appeal Ref: APP/R1038/D/20/3261290

Briars, Westfield Lane, Middle Handley S21 5RY

- 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 J Foulstone against the decision of North East Derbyshire District Council.
 - The application Ref 20/00411/FLH, dated 12 May 2020, was refused by notice dated 4 August 2020.
 - The development proposed is single storey rear extension and detached garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - 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 required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

3. Paragraph 145 of the Framework regards the construction of new buildings as inappropriate development in the Green Belt, with exceptions which 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 (bullet point c));
 - limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development (bullet point g)).
4. Policy GS2 of the North East Derbyshire Local Plan (the Local Plan) states that, except in very special circumstances, planning permission will not be granted in

the Green Belt for new buildings other than for a number of specified uses. Although it was adopted in 2005, before the publication of the Framework, the aims of Policy GS2 are consistent with those of the Framework, which states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I therefore afford Policy GS2 substantial weight insofar as it relates to those aims.

5. The exceptions listed in Policy GS2 include the extension or alteration of existing dwellings that does not result in disproportionate additions over and above the size of the original dwelling. Although broadly consistent with the exception in paragraph 145 c) of the Framework, Policy GS2 is more narrowly defined, referring only to dwellings. Furthermore, the list of exceptions in Policy GS2 does not include the infilling or redevelopment of previously developed land. I therefore afford the exceptions in Policy GS2 limited weight and have considered the appeal against the exceptions in the Framework.
6. The appeal relates to a detached house in the Green Belt, which has a number of existing outbuildings within its large rear garden. The house has previously been extended with two storey extensions to the side and rear. A single storey rear extension is now proposed within the space formed by the building's L-shaped footprint. It would replace an existing conservatory, which is smaller than the extension now proposed.
7. The Glossary at Annex 2 of the Framework clearly defines the 'original building' as 'a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally'. It is not clear when the appeal building was built. However, it is evident from the submissions that the existing two storey side and rear extensions were not part of the building as it was built originally and there is no suggestion that the extensions pre-date 1 July 1948. The existing extensions may not be readily discernible from the building as it was built originally. Nonetheless, based on the evidence before me I conclude that they do not form part of the original building as defined in the Framework. Accordingly, I have taken those previous additions into account as existing extensions, not as part of the original building for the purposes of paragraph 145 c) of the Framework.
8. The Council states that, taken cumulatively with the previous extensions, the proposed rear extension would result in an increase in volume over the original building of greater than 100%. That figure has not been contested with reference to any substantive evidence to the contrary, therefore I am content to rely on it.
9. It is not clear whether the figure cited by the Council takes account of the proposed demolition of the existing conservatory as part of the development. However, even if it does not, and if a reasonably generous reduction were to be made to that figure, the cumulative size of the existing extensions and the proposed rear extension would be considerable in relation to that of the original building. For that reason, I conclude that the rear extension would result in disproportionate additions over and above the size of the original building. It would therefore not meet the exception criteria in paragraph 145 c) of the Framework. Consequently, it would represent inappropriate development, which should not be approved except in very special circumstances.

10. With reference to whether the rear extension would be disproportionate, it has been suggested that the visual impact of the rear extension would be low despite its spatial impact.
11. I have had regard to the *Euro Garages*¹ judgment which sets out that visual impact, as well as spatial impact, requires consideration. However, it does so specifically with reference to circumstances 'where openness of the Green Belt is in issue'. Similarly, the advice in the Planning Practice Guidance² (PPG) that the visual impact of a proposal may be relevant, as well as its volume, is given specifically within the context of openness.
12. Some of the exceptions listed in paragraph 145 of the Framework require the impact on openness to be assessed as part of determining whether a development would be inappropriate. However, the terms of paragraph 145 c) do not require such an assessment. I shall come on to consider the rear extension's effects on openness separately. However, arguments relating to the degree of its visual impact do not affect my conclusion that it would represent a disproportionate addition over and above the size of the original building and would thus comprise inappropriate development with reference to the criteria in paragraph 145 c).
13. The proposed development would also include a detached double garage to the side of the appeal building. It has been suggested that, despite being residential garden, the site is not within a built-up area and is therefore previously developed land as defined in the Framework, and that I should consider the garage against paragraph 145 g) of the Framework on that basis.
14. Even were I to accept that the appeal site comprises previously developed land, the exception criteria in paragraph 145 g) require that any infilling or redevelopment of such land would not have a greater impact on the openness of the Green Belt than the existing development. In considering the effect on openness, as is specifically required by paragraph 145 g), I have taken into account the spatial and visual impacts of the proposal.
15. Although single storey, the proposed double garage would have a large footprint and a relatively large volume. Whilst it would be located between existing buildings, it would encroach into an undeveloped part of the garden and would result in built form where none exists presently. Consequently, the garage would erode the spatial openness of the Green Belt.
16. The garage would be located to the side of the house. Nonetheless, I observed during my visit that its intended location is visible from public vantage points on Westfield Road through gaps in the planting within the site's front garden. The additional built form, volume and massing of the proposed garage would also be visible from those public vantage points. Consequently, even though it would be seen in the context of other buildings, it would have a greater effect on the visual, as well as the spatial, openness of the Green Belt than the existing development.
17. Given the above, even if I were to accept that the site constituted previously developed land, the proposed garage would have a greater impact on the openness of the Green Belt than the existing development. Therefore, it would not meet the exception criteria in paragraph 145 g) of the Framework and

¹ Euro Garages Limited v SSCLG & Anor [2018] EWHC 1753 (Admin)

² Paragraph Reference ID: 64-001-20190722

would be inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Effects on openness

18. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
19. Even taking into account the proposed demolition of the existing conservatory and that the rear extension would be surrounded on two sides by walls of the existing building, it would result in additional built form over and above that which exists currently.
20. Because of its location to the rear of the building and the screening provided by trees and hedges around the site boundaries, public views of the rear extension would be limited. However, based on my own observations I consider that glimpses of its side elevation and rooftop balustrade would be possible from Westfield Lane through parts of the front garden planting and over the hedge at the front of the neighbouring property, Gatehouse. Furthermore, those trees and hedges could be removed in the future, thus further opening up views. The rear extension would therefore have a visual, as well as a spatial, effect on the openness of the Green Belt. Having regard to its limited visibility, the degree of harm to openness would be limited. However, the Framework nonetheless requires that substantial weight is given to that harm to the Green Belt.
21. For the reasons given above, I also find that the proposed garage would result in harm to the openness of the Green Belt.

Other considerations

22. The extension and garage would provide additional accommodation which would benefit the occupiers of the dwelling. However, the benefits in that regard would be modest and the weight I give them is limited.
23. The Council has raised no objection regarding the design of the development. As the extension and garage would be sympathetic to the existing dwelling and their surroundings with regard to their design and materials, I have no reason to reach a different conclusion. However, the absence of harm in that regard is neutral, rather than a factor weighing in favour of the proposals.
24. My attention has been drawn to large detached garages to the front of other properties in the vicinity of the site, and to the size of other nearby properties and extensions. However, from the limited information before me I cannot be certain of the circumstances in which those structures were built or that they were directly comparable in all respects to those in the current appeal. I have considered this appeal on its own planning merits. The presence of those other structures does not alter my conclusions regarding the harm that would arise from the proposal before me in this case.
25. I have been referred to other appeal decisions relating to extensions and outbuildings to residential properties in the Green Belt³. However, from the limited evidence before me it appears that the size of the structures proposed relative to the original buildings in those cases were significantly lower than

³ Appeal refs: APP/Y3615/D/14/2229440 and APP/R1038/D/19/3220239

that in the current appeal. One was also in a different district and was therefore considered in a different policy context to the current appeal. As such, it appears that the circumstances in those cases were not directly comparable to those in the appeal before me. I am advised that a further extension has subsequently been permitted to the building which was the subject of one of those appeals. However, from the limited information before me I cannot be certain of the circumstances in which that permission was granted or that they were directly comparable in all respects to those in the case before me. In any event, I have considered the current appeal on its own planning merits.

Green Belt Balance

26. The Government attaches great importance to Green Belts. Therefore, substantial weight should be given to any harm to the Green Belt when considering any proposal for development within it. In this case, I have found harm to the Green Belt by reason of the proposed development's inappropriateness and harm to the openness of the Green Belt. Balanced against that are the other considerations discussed above. However, for the reasons given those do not clearly outweigh the harm to the Green Belt.
27. Therefore, the very special circumstances necessary to justify the development do not exist. Consequently, I conclude that the development would conflict with the Green Belt protection aims of Policy GS2 of the Local Plan and with the Framework.

Conclusion

28. For the reasons given, I conclude that the appeal should be dismissed.

Jillian Rann
INSPECTOR