



Appeal Decision

Site Visit made on 27 July 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2021

Appeal Ref: APP/N3020/W/21/3268087

Land to the Rear of 14 Main Street, Linby, Nottingham NG15 8AE

- 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 Chris Chambers against the decision of Gedling Borough Council.
 - The application Ref 2020/1147, dated 12 November 2020, was refused by notice dated 13 January 2021.
 - The development proposed is Alterations and Extensions to Detached Garage to Form a New Dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for Alterations and Extensions to Detached Garage to Form a New Dwelling, at Land to the Rear of 14 Main Street, Linby, Nottingham NG15 8AE, in accordance with the terms of the application and the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 429/2020, 429-2019-01 Rev A, 429-2019-02, 429-2019-03 Rev C, 429-2019-04 Rev C.
 - 3) No development above slab level shall commence until samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
 - 4) No development above slab level shall commence until a scheme of hard and soft landscaping and boundary treatments has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained, set out measures for their protection throughout the course of development and include a programme of implementation. The approved details shall be fully implemented in accordance with the approved timescales.
 - 5) Any trees or plants approved as part of condition 4 which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order

revoking and re-enacting that Order with or without modification), no development falling within Classes A, B, C, D and E of Part 1, Schedule 2 of the Order shall be carried out.

Applications for costs

2. An application for an award of costs was made by Mr Chris Chambers, against Gedling Borough Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. Following the submission of the appeal a revised National Planning Policy Framework (the Framework) was published. I have sought the views of the main parties as to the relevance of any changes. Whilst some content has been added and paragraph numbers changed, the substance of the Framework with respect to the main issues of this case has not. I have taken account of the revised Framework in my decision.

Main Issues

4. The site is within the Green Belt and the Linby Conservation Area, the main issues are therefore:
 - whether the proposed development constitutes inappropriate development in the Green Belt, having regard to any relevant development plan policies and the Framework, taking account of the effect of the proposal on the openness of the Green Belt and the purposes of including land within it where required in order to conclude whether or not the proposal is inappropriate;
 - whether the proposal would cause any other harm, ie whether it would preserve or enhance the character or appearance of the Conservation Area and whether it would affect the setting of a listed building, and
 - if the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations that amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development and the effect on openness and the purposes of including land within the Green Belt

5. The description of proposed development informs us that the proposal consists of altering and extending an existing building, ie a detached domestic garage, to create a new dwelling.
6. Both parties draw upon a recent decision of an Inspector colleague, who dealt with a similar proposal on the site, to support their respective cases, appeal Ref APP/N3020/W/20/3252611. In that appeal the Inspector concluded that paragraph 145 'c' of the 2019 Framework (the wording of which remains the same in the 2021 version but is now numbered 149 'c') was the most appropriate paragraph in the 2019 Framework for determining that appeal.¹

¹ Paragraph 8 of the Appeal Decision

7. However, the Council point to paragraph 10 of the Appeal Decision and suggest that the Inspector also considered the proposal against paragraph 146 'd' of the 2019 Framework and Policy LPD 12 of the Local Planning Document: Part 2 Local Plan 2018, (LP Part 2).
8. I appreciate the Council's interpretation of the Appeal Decision. However, in my opinion the Inspector was responding, for completeness, to the contention made by parties that the proposal may have related to exception 146 'd' of the 2019 Framework.
9. Except for the size of the proposed extension, as the current proposal is essentially the same as the previous proposal, I therefore have no reason to disagree with the conclusion reached by my colleague regarding the most appropriate exception in the Framework for assessing the current proposal against. I therefore conclude that the most appropriate exception against which the current proposal should be assessed is that outlined in paragraph 149 'c' of the 2021 version of the Framework, ie *"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."*
10. Policy LPD 13 of the LP Part 2 advises that planning permission will be granted for extensions or alterations to buildings in the Green Belt provided the floorspace does not increase by more than 50% of the original building. As the floorspace of the proposed extension measures around 36 sqm the proposal accords with this requirement of Policy LPD 13. With regard to assessing proportionality, paragraph 149 'c' of the Framework refers to the 'size' of the original building, not just floorspace. Taking account of the size overall, including footprint, height, depth, width, volume, and mass as well as floorspace, I consider the proposed extension would not be disproportionate. My finding on proportionality differs to that of the Inspector in the previous appeal, due to the reduced size of the proposed extension. I therefore conclude that the proposal would not constitute inappropriate development in the Green Belt.
11. The Court of Appeal has endorsed the conclusion of Dove J in the High Court², that where development is found not to be inappropriate it should not be regarded as harmful to either the openness of the Green Belt or the purposes of including land within it. Therefore, unless there is a specific requirement to consider these matters as part of the process of determining whether development is inappropriate, which there isn't in respect of exception 149 'c', there is no requirement to consider them.
12. In light of the above, I therefore conclude that the proposal accords with the proportionality tests of Policy LDP 13 of the LP Part 2 and paragraph 149 'c' of the Framework.
13. For completeness I shall assess the proposal against the exception of 150 'd' in the Framework and Policy LDP 12 of the LP Part 2. Paragraph 150 'd' of the Framework advises that the re-use of a building in the Green Belt is not inappropriate development provided it is of permanent and substantial construction. Additionally, it is advised that all the exceptions listed in paragraph 150 are not inappropriate development, provided they preserve openness and do not conflict with the purposes of including land within it.

² Lee Valley Regional Park Authority v Epping Forest District Council [2015] EWHC 1471 (Admin)

Policy LDP 12 of the LP Part 2 states that the re-use of buildings in the Green Belt is not inappropriate, provided certain criteria are met, ie the proposal preserves the openness of the Green Belt, does not conflict with the purposes of including land within it, and the buildings are of permanent and substantial construction, structurally sound and capable of re-use without major alterations, adaptations or reconstruction.

14. With regard to the impact of the proposal on the openness of the Green Belt, having found that the proposed extension would not be disproportionate, ie it would be proportionate, I consider the effect on spatial openness would be minor. Additionally, given the location of the existing building within the domestic curtilage of 14 Main Street, the immediate surrounding land uses and the existing/proposed boundary treatments, I consider the proposal would also only have a very minor effect on the visual openness of the Green Belt. I therefore conclude that the proposal would preserve the openness of the Green Belt.
15. I consider that the proposal would not result in the unrestricted sprawl of a large built-up area or neighbouring towns merging into one another. I also consider that the proposal would not lead to encroachment into the countryside and that it would not affect the setting or special character of any historic town; and I consider that the proposal would not discourage the recycling of derelict or other urban land and therefore would not hinder urban regeneration. I therefore conclude that the proposal does not conflict with any of the purposes of including land within the Green Belt.
16. From my observations on site, the existing building appeared to be of permanent and substantial construction and structurally sound, and I have not been presented with any evidence to suggest otherwise.
17. As I have found that the proposed extension is proportionate, that the openness of the Green Belt would be preserved, that the purposes of including land within the Green Belt would not be threatened and that the building appears to be of permanent and substantial construction and structurally sound, in my opinion the building is therefore capable of re-use without major alterations, adaptations, or reconstruction. Again, my conclusion on this matter differs to that of my colleague, due to the reduced size of the proposed extension and it being proportionate. I conclude therefore that the proposal would not constitute inappropriate development in the Green Belt if assessed against paragraph 150 'd' of the Framework and Policy LPD 12 of the LP Part 2.

Any other harm – character and appearance of the Conservation Area and setting of Listed Building

18. I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area (CA). Additionally, paragraph 189 of the Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance; and paragraph 199 advises that great weight should be given to the conservation of such assets when considering the impact of development on the significance of a designated heritage asset.
19. I consider the CA derives its significance from key factors such as the surviving layout of roads, the prevalence of vernacular buildings, the presence of

buildings of historic interest, the scale of the buildings along Main Street and the materials used in the external surfaces of buildings.

20. Given the location of the site, the siting and scale of the proposed extension, the nature and extent of the alterations proposed and the external materials to be used, I consider that the proposed development would preserve the character and appearance of the CA.
21. I also have a duty to give considerable importance and weight to the desirability of preserving the setting of a listed building (LB). The host property, number 14 Main Street, is a Grade II LB. In my opinion the site lies within the setting of the LB. However, as the building already exists and due to the siting and scale of the proposed extension, the nature and extent of the alterations proposed and the external materials to be used, I consider that the proposed development would not harm the setting of the LB.

Other considerations & very special circumstances

22. As I have found that the proposal is not inappropriate development in the Green Belt it is not necessary for me to deal with any other considerations and whether very special circumstances exist to justify the proposal.

Conditions

23. Suggested conditions have been considered in light of advice contained in the Planning Practice Guidance (PPG), the tests within the Framework and parties' comments. Some have been amended or amalgamated for clarity, precision and to avoid duplication taking account of policy, guidance, and comment.
24. I have attached a condition specifying the approved plans, for the avoidance of doubt. I have attached conditions related to materials and landscaping to protect the character and appearance of the area. I have attached a condition removing specific permitted development rights to protect the character and appearance of the CA and the setting of the LB.

Conclusion

25. For the reasons outlined above, I conclude that the appeal is allowed.

J Williamson

INSPECTOR