
Appeal Decision

Site visit made on 9 November 2021

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8TH December 2021

Appeal Ref: APP/P1805/D/21/3279491

Parkhill, Monsieurs Hall Lane, Park Gate, Bromsgrove B61 9AQ

- 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 A Billingham against the decision of Bromsgrove District Council.
 - The application Ref 21/00771/FUL, dated 13 May 2021, was refused by notice dated 29 June 2021.
 - The development proposed is described as 'demolition of existing gazebo and construction of extension to garage to provide annexe accommodation. Change of use of land to extend garden'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above description of the proposed development is taken from the application form. As the term 'retrospective' is not a definition of development I have removed it. Nonetheless, the application is part retrospective in terms of the change of use of the land to extend the garden and I have dealt with the appeal on that basis and its planning merits.

Main Issues

3. As the site is located within the West Midlands Green Belt, the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies,
 - The effect of the development on the openness of the Green Belt, and
 - If the proposed development constitutes inappropriate development in the Green Belt, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Background

4. There is no dispute between the parties that the property has been extended in the past. In 1999 planning permission¹ was approved for 'Alterations and extensions to existing dwelling'.

¹ LPA ref: 99/0524

5. In 2014 a subsequent application² for a 'proposed garage' was approved. In its report for the application, the Council describes that the previously approved extension had been implemented and increased the floor space of the original dwelling by 42m² amounting to a 31% increase. Works were also undertaken to increase the height of the roof and create 36m² of additional living accommodation in the roof. The Council calculates these works amount to a total cumulative 58% increase in floor space of the original dwelling. At the time, the Council considered the erection of the garage would result in a disproportionate addition in Green Belt terms. I do not have further details of the assessment of this application to know what other matters the Council considered or what policy was in place at the time, as the application pre-dated the current Bromsgrove District Plan (the 'District Plan') adopted in January 2017.
6. A certificate of lawfulness application³ was granted for a 'proposed rear extension'. I have no details of this application or whether the extension has been implemented.

Reasons

7. The Framework identifies that the fundamental aim of national 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. It goes on to state that 'inappropriate development' in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. The Framework regards the construction of new buildings as inappropriate development in the Green Belt, subject to various exceptions set out in paragraph 149. These include c) extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original⁴ building, and g) limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on openness of the Green Belt than the existing development.
9. Certain other forms of development listed in paragraph 150 are also not inappropriate, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Paragraph 150e) relates to material changes in the use of land.
10. Policy BDP4 of the District Plan seeks to protect Green Belt from inappropriate development unless the development falls within the exceptions listed in the Framework. The Policy provides a greater level of detail than what is provided within the Framework to aid the Council's decision-making. For new buildings the policy differentiates between extensions to residential dwellings and extensions to non-residential buildings at BDP4.4 c) and d) respectively. The policy also sets out the Council's interpretation of 'disproportionate additions' for extensions to existing residential dwellings as "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 extensions(s)) provided that the scale of the development has no adverse impact on the openness of the Green Belt". The

² LPA ref: 14/0534

³ LPA ref: 14/0535

⁴ In the Framework glossary 'original building' is defined as "a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally."

policy does not provide greater detail on the other forms of development listed in Framework paragraph 150. I am satisfied that District Plan Policy BDP4 is broadly consistent with the Framework.

11. The appeal site comprises a detached two-storey dwelling with a detached pitched-roof double garage to the side. Around the property is garden which is mainly slabbed patio. Due to ground level differences the patio is raised above the surrounding ground and supported by a stone retaining wall. The garden is bounded by post and rail fencing, which lies adjacent to the appellant's surrounding paddock (shown outlined in blue on the submitted plans). The paddock in turn is also bounded from the adjacent field by post and rail fencing. The site is located outside of any defined settlement and sits elevated amidst an agricultural landscape surrounded by fields and is therefore in the countryside.
12. The proposal involves two elements. First, the open-sided, timber-framed gazebo located at the rear of the garage on the patio would be removed and in its place a single-storey rear extension to the garage would be erected. This would create accessible ancillary annexe accommodation to provide on-going care for a family member. It would comprise a bedroom, kitchenette and shower room in the proposed extension, and a living room and shower room in the converted roof space above the existing garage. The extension would have a pitched roof, roof lights and large full-height glazed windows creating a glazed corner. The second element is to change the use of part of the adjacent paddock to garden land by extending out the rear patio. The appellant says these works were done by the previous occupiers a number of years ago. Nonetheless, the appellant has included it in the application to regularise the change of use.
 - a) The proposed extension
13. The appellant contends that the garage does not fall into either of the extension categories in District Plan Policy DPD4.4 c) or d), as it is not a dwelling, nor is it 'non-residential' because it is ancillary to the residential dwelling. The Framework does not make any specific reference to ancillary outbuildings within the curtilage of a dwelling or other buildings. However, given that outbuildings and garages are buildings, it follows that Framework paragraph 149c) logically applies to any proposal to extend such a building.
14. The appellant regards the garage as the 'original' building and argues that the extension would not constitute a disproportionate addition to it. I disagree. The Courts⁵ have held that an existing detached domestic outbuilding could be regarded as part of the dwelling and, therefore, that an extension to an outbuilding could be regarded as an extension to the house.
15. I saw that the garage sits in close proximity to the side of the house. It reads as part of the front of the property, particularly as it is rendered to match the dwelling. There are even walls linking it to the dwelling. In addition, the garage is not set within its own curtilage. Hence I find it is not physically or visually distanced from the dwelling.
16. Furthermore, the garage is fully utilised as an important amenity for a mobility impaired person to disembark from a vehicle under cover, and the appellant

⁵ *Sevenoaks District Council v SSE and Dawe* [1997]

states this would continue to be the case if the appeal proposal was approved. In my view, the garage forms an extension to the dwelling. Therefore any extension to the garage is an extension to the dwelling for the purposes paragraph 149c) of the Framework and Policy BDP4.4 c) respectively.

17. It is clear from the wording of Framework paragraph 149c) and Policy BDP4.4 that the cumulative effect of an extension or alterations has to be taken into account with any previous additions when assessing whether something is a 'disproportionate addition'. The previous approved and built extensions amount to a 58% increase in the floor space of the original dwelling. Therefore, these additions already exceed the 40% threshold permitted by Policy BDP4.4.
18. Looking at the plans, the footprint of the proposed extension exceeds the footprint of the gazebo that is to be removed. The conversion of the roof space of the garage would add even more living accommodation floorspace. The proposed extension would be wider and taller and also project out more than the existing gazebo. Consequently, the overall size of the original dwelling would be significantly increased and further exceed the policy limit. I conclude the extension would amount to a substantial enlargement of the dwelling that represents a disproportionate addition over and above the size of the original dwelling. Consequently, the development constitutes inappropriate development in the Green Belt.
19. I now need to consider the effect the extension would have on the openness of the Green Belt, as openness is one of the essential characteristics of the Green Belt. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. It requires consideration of both spatial and visual aspects⁶ and consideration of the impact or harm, if any, wrought by the change.
20. The openness of the Green Belt is clearly evident from the spacious and relatively isolated plot set within the surrounding open countryside. The open aspect is also derived from the site's elevated position above the surrounding land and the nearby A488 Kidderminster Road, which I could see from the patio on my visit, and the post and rail boundaries.
21. The proposed brick and tile extension would replace the partially open-sided timber-framed gazebo, and is therefore a much more solid and permanent structure. The extension would have a greater footprint than the gazebo and so would physically occupy more space on the ground. The extension would also be taller, wider and project out more from the rear of the existing built development than the gazebo, thereby having a greater volume, bulk and massing.
22. The large full-height glazing panels on the rear and side elevation of the extension would help reduce the amount of solid wall of the extension. In my view, this would not sufficiently mitigate against the increased floor area, volume and overall bulk and massing of the extension.
23. I find the extension would significantly reduce the spatial and visual openness of the Green Belt and would have a greater impact on the openness of the Green Belt than the existing gazebo.

⁶ *Turner v SSCLG* [2016] EWCA Civ 466

24. In addition, the extension would project beyond the end of the existing garage and gazebo on land that has been extended. This would physically take built form further towards the adjacent surrounding countryside. Consequently, the extension would also fail to safeguard the countryside from encroachment.
25. The appellant also regards the proposals to be on previously developed land, in which Framework paragraph 149g) allows partial or complete redevelopment, provided it would *not have a greater impact on the openness of the Green belt than the existing development* [my emphasis]. My considerations above with regard to openness show the proposal would have a greater impact on the openness of the Green Belt than the gazebo currently has, and therefore would constitute inappropriate development.

b) Change of use of the land

26. Framework paragraph 150e) allows material changes in the use of land, provided it preserves openness and does not conflict with the purposes of including land within it. It goes on to list uses such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds. The list is not exhaustive.
27. The garden, patio and retaining wall have been extended into the adjacent paddock land. Whilst this land is in the appellant's ownership, it is clearly separate from the garden curtilage and demarcated by post and rail fencing. The works that have been undertaken to extend the land, by whomever, with the resulting raised patio and the extension of hardstanding patio slabs and construction of a retaining wall, now occupy land that was formerly free of development. Hence openness had been reduced.
28. Furthermore, the extension encroaches into the surrounding land and hence the countryside. This conflicts with one of the purposes of including land in the Green Belt. I therefore find that the change of use of the land to garden represents inappropriate development in the Green Belt.

Conclusion on inappropriate development in the Green Belt

29. In terms of Green Belt impact, both the proposed extension and the change of use of the land to garden introduce additional built form to the site. As such, I find there would be a loss of openness of the Green Belt and this would be contrary to the aims and objectives of the Framework. In addition, both elements of the proposed development would be an encroachment into the surrounding countryside. Therefore, the proposed garage extension and change of use of the land constitute inappropriate development in the Green Belt.

Other Considerations and Green Belt Balance

30. The proposed development would represent inappropriate development in the Green Belt which is, by definition, harmful. I have also found significant harm to openness and conflict with one of the Green Belt purposes. Harm to the Green Belt is a serious planning objection to which substantial weight must be given. Inappropriate development should not be approved except in very special circumstances, which will not exist unless the harm to the Green Belt, by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.

31. The appellant advances a number of other considerations to support his appeal. The garage extension is needed to provide accessible ancillary accommodation for an infirm family member. The accommodation would allow the family to stay together and ease the stage of coping and provide suitable on-going care with the support of other family members. The Covid-19 pandemic made finding alternative accommodation harder, to what was meant to be a temporary arrangement. Being looked after at home would also reduce the need for specialist care accommodation elsewhere in the district. Furthermore, the garage space is needed to allow a mobility-impaired person to disembark from a vehicle under cover.
32. I am sympathetic to the appellant's personal circumstances and desire to continue to care for a family member at home. However, I find there is limited evidence to demonstrate why the existing house or garage could not have been otherwise altered/reconfigured/adapted in some way or a smaller extension built. For these reasons I give only moderate weight to the appellant's personal circumstances.
33. The appellant raises the issue of the increasing need/demand for accommodation for elderly persons or those with mobility concerns and refers to an increasing demand for ancillary annexe accommodation at existing properties. There may well be some need for increased ancillary annexe accommodation nationwide, but the development plan is a strategic document that should address the District's housing needs over a period of time, rather than in a piecemeal fashion through individual planning applications. In any event, I must determine the appeal before me on its specific circumstances and planning merits. I therefore give limited weight to this matter.
34. The development would also future-proof the dwelling for any future owners who require such ancillary accommodation for an elderly relative, or a younger relative who cannot get on the property ladder, or just a suitable home-working environment. That as may be, but there is no requirement for the appellant to future-proof the property for future owners, who might in any event want to use the extension in a different way. I therefore give this no weight.
35. No justification for the change of use of the land has been put forward, as this was done by previous occupiers and not the appellant and his family.
36. I find that these other considerations taken together do not clearly outweigh the totality of the harm to the Green Belt or outweigh the conflict with planning policies designed to protect the Green Belt. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. Accordingly the proposed development would conflict with District Plan Policy BDP4 and the Framework.

Conclusion

37. For the reasons set out above and having regard to all matters raised, I conclude that the appeal should be dismissed.

K. Stephens
INSPECTOR