
Appeal Decision

Site Visit made on 23 August 2021 by B Phillips BSc MSc MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Appeal Ref: APP/P1805/D/21/3274117

23 Woodgate Way, Belbroughton, DY9 9TL

- 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 James Joyce against the decision of Bromsgrove District Council.
 - The application Ref 21/00142/FUL, dated 31 January 2021, was refused by notice dated 23 April 2021.
 - The development proposed is a replacement single storey rear extension.
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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.

Preliminary Matters

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Accordingly, the parties have been provided with a further opportunity to make submissions in respect of the publication. The comments received have been addressed within the appeal decision.

Main Issues

4. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the development would be inappropriate, 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 it.

Reasons for the Recommendation

Whether Inappropriate Development

5. The Framework establishes in paragraph 149 that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions. These include paragraph 149c), 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; and paragraph 149e) limited infilling in villages.
6. Policy BDP4.4 of the Bromsgrove District Plan (DP) (2017) identifies similar exceptions to the Framework, however it seeks to provide a greater level of detail in some respects. Criterion c) allows for extensions to residential dwellings up to a maximum percentage increase of 40% increase of the original dwelling or increases up to a maximum total floorspace of 140m² ('original' dwelling plus extension(s)) provided that this scale of development has no adverse impact on the openness of the Green Belt. Criterion f) allows for limited infilling in Green Belt settlements and rural exception sites in accordance with Policy BDP9 Rural Exception Sites.
7. The BDP was adopted following the publication of the 2012 version of the Framework, however the wording of paragraphs 149 c) and e) of the 2021 version has not changed from that of bullet point 3 of paragraph 89 of the 2012 version. The supporting text to Policy BDP4 explains that it adds a greater level of detail than what is provided in the Framework, which is a reasonable approach as there is no definition of 'disproportionate' or 'limited infilling' in the Framework. The Framework does not include an assessment of openness in relation to extensions, however it does identify openness as one of the essential characteristics of Green Belts. Therefore, I consider that the Policy remains generally consistent with the Framework.
8. The property has previously been extended and the appellant does not dispute the Council's calculation that these already amount to an increase in floor area of 63% over and above that of the original dwelling. Although the new extension would be modest in size in itself and would replace an existing small extension, it would result in a cumulative increase in floorspace of 82.5%. The total floorspace of the dwelling would also be greater than the 140sqm allowed by policy BDP4.4c).
9. Therefore, even with the demolition proposed, the appeal proposal in combination with existing extensions would comprise a disproportionate addition over and above the size of the original building.
10. Infilling for the purposes of paragraph 149e) usually relates to proposals for new dwellings on plots forming a relatively small gap between existing buildings, such as the example provided by the appellant for a replacement dwelling. There is however nothing in the Framework that limits it to dwellings. Nevertheless, Policy BDP4.4 f) restricts limited infilling to proposals that comply with Policy BDP9, which relates to rural exception sites. There is no evidence before me to demonstrate that the proposal would comply with that Policy. Therefore, while it would fill the gap between two other extensions, it has not been demonstrated that it would comply with Policy BDP4.4f), and therefore would not be limited infilling for the purposes of that policy or Framework paragraph 149e).

11. Accordingly, the proposal would be inappropriate development in the Green Belt as described in DP Policy BDP4.4 and paragraph 149 of the Framework

Openness

12. The courts have held that the openness of the Green Belt has a spatial aspect as well as a visual aspect. Given its modest scale, location at the rear of the host property between other extensions and the screening along the rear boundaries of the site the proposal would have a limited impact upon visual openness.
13. The extension would however be larger than the existing rear projection and as such would result in a reduction in openness in spatial terms, albeit that this would be limited and localised when assessed against the Green Belt as a whole.

Other Considerations

14. The appellant refers to a number of extensions to dwellings along Woodgate Way, all extending over 40% larger than the original property. The extensions at Nos 17 and 22 were allowed under the previous development plan, which allowed for the relationship of the property to the type, scale and character of the adjoining development to be taken into account as very special circumstances. This provision is not included in the current DP and as such the policy context has materially changed.
15. The extension to No 61 did not result in the total floorspace of the dwelling exceeding 140sqm, and as such was not inappropriate development in the Green Belt in respect of Policy BDP4.4. The appellant also refers to an extension at No 2 Woodgate Way and the scale of the additions to the attached neighbour No 25, however no details of these schemes or how they came to be permitted have been submitted. Therefore, it has not been demonstrated that the circumstances were comparable to the appeal proposal, which must be determined on its own merits.
16. The appellant also refers to other extensions possible under permitted development rights. Whilst no drawings have been submitted, the described 3m permitted development extension would be smaller and therefore have less impact on openness than the scheme before me. Consequently, the potential to build a smaller extension does not weigh in favour of this proposal.
17. A larger 6m extension would require an application for prior notification to be made to the Council and I cannot in this appeal pre-judge the outcome of such an application. Therefore, although the appellants have a firm intention to pursue that option if the appeal is dismissed, there is insufficient information before me now to be able to conclude that they could build the larger extension as described. As such this potential fallback only carries modest weight.
18. The proposal would be acceptable in design and would not result in any other harm, however this would be expected of a well-designed development and is a neutral factor. I acknowledge that, given the amount of glazing and lantern roof light proposed, that the rear of the property would receive a greater amount of light which would be a benefit to the appellants. However, it would do so in a manner that would harm openness, in conflict with the development plan, and it has not been demonstrated that it cannot be achieved in a less harmful manner. Therefore, I afford this limited weight.

19. Given the limited scale of the proposal, the proposal would not conflict with the five purposes of the Green Belt as set out by paragraph 138 of the Framework, however this is also a neutral factor.
20. I have considered the views of the Inspector who determined the previous appeal on the same site¹. The Inspector concluded that the cumulative impact of the proposed and previous extensions to the property would result in a disproportionate addition. From the description of development, it is apparent that the additional footprint is reduced from this previous scheme, however I find that the concerns raised by the previous Inspector have not been overcome.

Whether very special circumstances exist

21. Framework paragraph 147 sets out that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. The proposal would also result in a loss of openness, which is an essential characteristic of the Green Belt. The proposal would not be permitted by DP Policy BDP4.4 and conflicts with the Green Belt policies of the Framework.
22. The other considerations put forward in this case carry modest weight, however they do not clearly outweigh the harm to the Green Belt, to which I afford substantial weight. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion and Recommendation

23. I therefore recommend that the appeal should be dismissed.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

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

L McKay

INSPECTOR

¹ APP/P1805/D/19/3236778