
Appeal Decision

Site visit made on 1 February 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2022

Appeal Ref: APP/M0655/D/21/3281298

Waterworks House, 1 Delph Lane, Warrington WA2 0RF

- 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 Sally-Anne Bryan and Mike Murphy against the decision of Warrington Borough Council.
 - The application Ref 2021/38862, dated 2 March 2021, was refused by notice dated 3 August 2021.
 - The development proposed is a two-storey rear extension.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Sally-Anne Bryan and Mike Murphy against Warrington Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are as follows:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on bats; and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

4. The appeal site comprises a detached two-storey dwelling with an existing workshop extension, front porch and detached garage. The proposal seeks to erect a two-storey rear extension which would include removal of the existing workshop.

5. Paragraph 149 states that the construction of new buildings in the Green Belt is inappropriate unless it meets one of several exceptions. This includes where development involves an extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
6. Policy CS5 of the Warrington Local Plan Core Strategy (CS) (adopted July 2014) refers to the national policy stance on development in the Green Belt, reiterating the Framework's exception concerning the extension of buildings. The House Extensions Supplementary Planning Document (SPD) (June 2021) advises that any extensions and additions that result in an increase in size of over 33% of the original building will be considered to be disproportionate and therefore unacceptable. This measurement is based predominantly on floorspace and volume while any previous extensions and detached buildings that have been added to the original property will be counted towards the resulting size.
7. I have been presented with many calculations of the percentage increase in size of the building as a result of the proposed extension. There is general agreement that the floor space of the original building is 109.24m². This has already been extended with a porch, while the proposed extension would add 54.5m² floor space. The Council agrees that this figure can be reduced by 18.76m² to account for the removal of the workshop. This would fall within the 33% increase allowed by the SPD.
8. However, a detached garage is partially constructed with a ground floor but has extant planning permission¹ for a second storey and there seems to be nothing to prevent it being constructed in the future. If completed, the total floor space of the garage would be 99.46m². There is clear disagreement as to whether the garage should be included in the calculations.
9. The courts have found² that an existing detached domestic outbuilding could be regarded as part of the dwelling. While there is a distance of 19m between the two elements, the SPD advises that measurements of floor space and volume should include any previous extensions and detached outbuildings. Moreover, as a garage it functions as a normal domestic adjunct to the original building.
10. As such, even taking into account only the constructed ground floor of the garage, set against the original building and extensions the proposal would increase the floor space of the dwelling by 50.1%. This significantly exceeds the Council's guidance, and I can only conclude that the proposal would represent a disproportionate addition. I see no reason to disregard the guidance within the SPD.
11. In the light of the above, I conclude that the proposal would be inappropriate development, contrary to the guidance in the Framework and Policy CS5 of the CS. It would also be contrary to guidance in the SPD. In accordance with the paragraph 147 inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

¹ 2007/11111

² Sevenoaks District Council v SSE and Dawe [1997]

Openness

12. Paragraph 137 of the Framework states that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The assessment of openness generally includes considerations of both spatial and visual aspects.
13. The proposal would increase the mass of built form to the rear of the building overall, despite the removal of the workshop. As a result of the increase in built form, the proposal would harm the openness of the Green Belt in spatial terms. The extension would be visible from the access to the water treatment works. Although I agree views would be limited, the proposal would also reduce openness visually.
14. As the proposal would affect only a small part of the Green Belt, and in terms of the overall scale of the proposal, its effect in terms of harm to openness overall would be limited. However, the Framework is clear in paragraph 148 that substantial weight is given to any harm to the Green Belt.

Effect of Proposal on Bats

15. A previously refused planning application³ included a Bat Roost Potential Assessment and Bat Dusk Emergence Survey which concluded that the buildings had low potential to support roosting bats with no evidence of their presence found during the inspections while no bats were observed emerging from the buildings on site at the time. I note the concerns of the Council that in line with guidance published by the Chartered Institute of Ecology and Environmental Management, the survey should be updated as it was 2 years old at the time of the refused planning application subject to this appeal.
16. The appeal includes an updated Bat Roost Potential Assessment and Bat Dusk Emergence Survey (Evergreen Ecology August 2021), which draws the same conclusion as the previous survey. Namely, that bat roost potential to support roosting bats was low and with no evidence of their presence found during the inspections while no bats were observed emerging from the buildings on site. I see no reason to disagree with this assessment.
17. As such, the proposal would not have an adverse effect on bats and would comply with Policy QE5 of the CS. This generally seeks to ensure protected and priority species are not adversely affected by development.

Other Considerations

18. The Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
19. I have been presented with several alternative extension and/or additional storey schemes which the appellants argue are fallback positions. This is because they could be built without the need for planning permission or under prior approval procedures. I agree that many of these scenarios would result in structures larger than the proposed extension and that a fallback position does

³ 2019/35434

not require a Certificate of Lawful Development to establish the weight it should be attributed. The case law presented to me makes clear that it requires only more than a merely theoretical prospect.

20. However, these extensions and additional storeys would have their own limitations and conditions in the relevant sections of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The appellants are seeking to build the two-storey extension the subject of this appeal because it would clearly suit the size and layout of the dwelling and the way in which they intend to use it. Whilst these other extensions are possible, the weight I attribute to them as fallback positions must be limited compared to the scheme for planning permission before me. In any event, any such fallback position would not make the proposal before me 'not inappropriate' in the scope of the Framework as it relates to development in the Green Belt. As such, I attribute limited weight to these fallback positions.
21. I have had regard to the various appeal decisions presented to me. These demonstrate that the removal of permitted development rights for properties in the Green Belt can be considered unreasonable in order to maintain openness in their various assessments and owing to their circumstances. As I am dismissing the appeal based on its inappropriateness and harm to openness, I have not considered matters involving the imposition of planning conditions and/or obligations further.

Green Belt Balance and Conclusion

22. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations. I have found that the proposal would be inappropriate development in the Green Belt and that it would be harmful to the openness of the Green Belt. These matters carry substantial weight.
23. For the above reasons the material considerations cited in support of the proposal carry limited weight, considered both individually and cumulatively, and therefore they do not outweigh the totality of the harm the scheme would cause. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
24. As such the proposal would conflict with Green Belt policy as set out in Policies CS1 and CS5 of the CS, guidance in the SPD and the Framework.

C McDonagh

INSPECTOR