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# Appeal Decision

Site visit made on 14 December 2021

**by K Stephens BSc (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 February 2022**

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**Appeal Ref: APP/P1805/W/21/3279054**

**2 Yew Tree Lane, Fairfield, Bromsgrove, Worcestershire B61 9LT**

- 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 Stephen Haskey against the decision of Bromsgrove District Council.
  - The application Ref 20/01353/FUL, dated 29 October 2020, was refused by notice dated 2 February 2021.
  - The development proposed was originally described as 'Proposed alterations to existing bungalow, reinstatement of second access point and construction of new infill 3 bedroom dwelling house.'
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## Decision

1. The appeal is allowed and planning permission is granted for the 'Proposed alterations to existing bungalow, reinstatement of second access point and construction of new infill 3 bedroom dwelling house at 2 Yew Tree Lane, Fairfield, Bromsgrove, Worcestershire B61 9LT in accordance with the terms of the application, Ref 20/01353/FUL, dated 29 October 2020, and the plans submitted with it, subject to the conditions in the Schedule at the end of this decision.

## Preliminary Matters

2. During the course of the appeal, a revised National Planning Policy Framework (the Framework) was published on 20 July 2021. It officially replaces the previous version published in February 2019. As any policies that are material to this decision have not fundamentally changed in the Framework, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.

## Main Issues

3. The appeal proposal involves two elements, namely the erection of an extension and rear dormer to the rear of the existing appeal property and the erection of a 3-bedroom two-storey detached dwelling in the grounds following demolition of the single storey garage. It is clear from the Council's Officer Delegated Report, reasons for refusal and its Statement of Case, that it has no issue with the proposed rear extension and dormer window to the appeal property. The Council regards the rear extensions as falling within Framework exception 149c), namely '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.'
4. Having regard to the evidence before me and what I saw on my site visit I have no reason to take a different view. I have therefore confined my

assessment to the erection of the proposed detached dwelling in the grounds of 2 Yew Tree Lane.

5. In light of the above the main issues are:

- Whether the proposed dwelling would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies,
- The effect of the proposed dwelling on the openness of the Green Belt, and
- If the proposed dwelling 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.

## **Reasons**

6. The appeal site comprises a detached bungalow in a spacious landscaped plot on the corner of Stourbridge Road, the main road through the village of Fairfield, and Yew Tree Lane. The bungalow has a large single storey garage that extends up to the shared boundary with the adjacent property 'Berwick'. There is also a side conservatory which is located close to the front of the property and the garage.
7. The proposal would involve extending the bungalow with a rear extension and rear dormer window, following demolition of a different rear extension and the conservatory. The garage would also be demolished and in its place a new detached two-storey dwelling would be erected. A separate access for the new dwelling would be created off Yew Tree Lane through what is currently part of the front garden boundary hedge of the appeal property.

### *Whether the proposed dwelling is inappropriate development in the Green Belt*

8. Paragraph 137 of 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. Paragraph 147 states that 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. The Framework regards the construction of new buildings as inappropriate development in the Green Belt, subject to various exceptions set out in paragraph 149. Most relevant to this case is exception 149e) for 'limited infilling in villages.'
10. Policy BDP4 of the Bromsgrove District Plan (the 'District Plan') seeks to protect Green Belt from inappropriate development unless the development falls within the exceptions listed in the Framework. In part BDP4.4 new buildings are considered inappropriate except in a number of circumstances, which includes (f) for limited infilling in Green Belt settlements. Although the policy refers to 'settlements' and the Framework to 'villages' I am satisfied that Policy BDP4 is broadly consistent with the Framework.
11. Under Policy BDP4.4 new infill development is intended to be located within Green Belt settlements and within their village envelopes. This is a relevant factor as applications for planning permission must be determined in

- accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration.
12. District Plan Policy BDP2.4 identifies Fairfield as a 'small' settlement where appropriate development within the defined settlement boundary, or village envelope, will be limited to suitable infill plots. The Council have submitted an extract from the District Plan that shows the extent of the village envelope. This includes a linear part of the village comprising housing development either side of the Stourbridge Road in close proximity to, and including, the primary school, convenience store with post office, a church and a village hall. Fairfield is clearly a village with a range of services and facilities. However, it is also clear from the Council's plan and from my observations on site that the village envelope for Fairfield does not include the appeal site, which lies some distance outside it.
  13. In the list of Green Belt exceptions, Framework paragraph 149e) does not specify what type of villages can have limited infill, or that infill must be within defined village boundaries. The courts have established<sup>1</sup> that the boundary of a village defined in a local plan is relevant but may not be determinative, and that regard should be had to the situation on the ground as well as any other policies.
  14. On approaching Fairfield from the south east, one passes a village name sign clearly announcing arrival in 'Fairfield' along with the 30 mph road sign and street lamps. Between the name sign and the appeal site there are houses sited close to each other on both sides of Stourbridge Road. Beyond the appeal site there is a section of Stourbridge Road lined with fields before the start of the village envelope boundary and arrival at a small roundabout.
  15. I saw there was built development in close proximity to the appeal site and that Yew Tree Lane itself was lined with houses that formed a continuous frontage of dwellings, sited in close proximity to each other. In addition, whilst the facilities and services are within the village envelope they are only some 400 metres, or about 5 minutes' walk, from the appeal site along pavements on both sides of Stourbridge Road. Furthermore, the site is well within the limits of the village clearly demarcated by the village name sign. These factors, and from the situation on the ground, lead me to conclude that the village of Fairfield clearly extends beyond the defined local plan village envelope, and that the appeal site lies within the village of Fairfield.
  16. There is no definition in Policy BDP4 or the Framework as to what constitutes 'limited infilling' - this is a matter of fact and planning judgement for the decision-maker. However, the Council suggests it normally comprises 'development of a modest sized gap in an otherwise substantially built-up frontage which is broadly linear in formation'.
  17. There is no dispute between the parties that the site lies within a linear frontage of residential development in Yew Tree Lane, as I have already described. Currently there is no dwelling-sized gap between the appeal property and the adjacent dwelling 'Berwick' because the space is currently occupied by the single storey garage which extends up to the shared boundary. However, a gap would be created by the demolition of the said garage. From my observations, the appeal property and site clearly form part of the linear

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<sup>1</sup> *Julian Wood v SSCLG and Gravesham Borough Council* [2015] EWCA Civ 195

frontage of built development along Yew Tree Lane and the gap created for the proposed dwelling would therefore constitute an infill plot.

18. The proposal is for a single dwelling and it would sit snugly between the shared plot boundaries either side. As there would be no space along either side of the proposed dwelling, a new access would be created off Yew Tree Lane with space for parking two cars on the driveway in front of the dwelling. Therefore, due to the configuration of the site and its size and a proposal for a single dwelling, the proposed development would clearly constitute 'limited' infilling.
19. For the reasons above, and having regard to the situation on the ground, I find the appeal site forms part of the village of Fairfield even though it lies outside the village envelope defined in the District Plan. Nonetheless Fairfield is a named Green Belt village in the District Plan. I conclude the proposed dwelling would be limited infilling in a village and hence would not constitute inappropriate development in the Green Belt. It would not be in conflict with District Plan Policy BDP4 and the Framework in this regard.

### *Openness*

20. The Courts<sup>2</sup> have held that the impact on openness is implicitly taken into account in some of the exceptions [in paragraph 149] unless there is a specific requirement to consider the actual effects on openness. There is no such 'openness' requirement for an exception under paragraph 149e). Therefore there is no requirement for me to assess the impact of the new dwelling on the openness of the Green Belt when comparing it to existing built development on the site, the purposes of including land within the Green Belt or whether very special circumstances exist.
21. However, the Council mentions exception Framework paragraph 149g) for '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.' When assessing the impact on openness of the proposed dwelling compared to the existing built form on site, the proposed dwelling would have a greater height and massing. There would also be greater visual impact on openness due to the partial removal of the roadside hedge to create the new access. Hence the proposed dwelling would have a greater impact on openness than the existing garage.
22. However, it could be argued that the site lies within a built-up area by reason of being part of the continuous built-up frontage of Yew Tree Lane within the village of Fairfield. In such instances, residential gardens are excluded from the definition of previously developed land, as set out in the Glossary in Annex 2 of the Framework. Even if I were to deem the garden was not part of a built-up area, a proposed development need only fall in one of the Green Belt exceptions and there is no need to consider it against others, even if they might be applicable. I have already determined the appeal against Framework paragraph 149e) and therefore I need not consider other exceptions further.

### **Other Matters**

23. The Council has acknowledged it is unable to demonstrate it has a five year supply of housing land and therefore paragraph 11d) of the Framework is

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<sup>2</sup> *Lee Valley Regional Park Authority, R v Epping Forest District Council & Anor (Rev 1)* [2016] EWCA Civ 404

triggered. This would weigh in favour of the proposal, albeit moderately due to the small scale nature of the proposal for a single dwelling.

24. The appellant refers to the Lickey appeal decision<sup>3</sup> to which the Council has responded. The 'Lickey' proposal is for a dwelling in a different part of the District with a different site context and circumstances such that it is not directly comparable to the appeal before me. In any event, I must consider the appeal proposal on its own merits.
25. The proposed dwelling would be of similar size to the adjacent two properties and would be aligned approximately with them. Furthermore, due to the range of house types, sizes and designs along Yew Tree Lane, the proposed dwelling would not be visually incongruous. There would also be adequate on-site parking for two vehicles. In order to overcome the Highway Authority's objections, the appellant has submitted amended plans showing adequate pedestrian and vehicle visibility can be achieved.
26. My decision has been made on the individual circumstances and site specifics of the appeal proposal before me. It would not set a precedent as it would not stop the Council from dealing with other development proposals in Fairfield on their individual merits, should they come forward.

### **Conditions**

27. The Council has suggested 7 conditions, which I have considered against the tests set out in the Framework and the Planning Practice Guidance. Where appropriate I have amended any wording for reasons of precision. The appellant has had the opportunity to comment on these conditions but has not done so.
28. In the interests of highway safety and suggested by the Highway Authority, I have imposed conditions requiring the provision of pedestrian and vehicular visibility splays, and ensuring a bound surface at the access entrance. I have also added a condition, suggested by the Council's Highway Authority, that the two parking spaces are also provided and these are shown on the appellant's amended plans, as described above.
29. The provision of an electric vehicle charging point and secure cycle parking will encourage more environment-friendly travel. Although it was not suggested, I have imposed a condition specifying the relevant drawings as this provides certainty.

### **Conclusion**

30. The proposed new dwelling, and proposed extensions to the existing bungalow, do not constitute inappropriate development in the Green Belt under the terms set out in the Framework. Therefore, for the reasons given above I conclude that the appeal should succeed, and planning permission should be granted subject to conditions.

*K. Stephens*  
INSPECTOR

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<sup>3</sup> Appeal ref: APP/P1805/W/20/3261731 dated 17 February 2021

### **Schedule of Planning Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans 20-38-00; 20-38-100A; 20-38-101; 20-38-102; 20-38-05; 20-38-11; 20-38-12; 20-38-13; and 20-38-14.
- 3) No above ground works shall commence until samples of external facing materials for the extensions and the dwelling have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) The dwelling hereby approved shall not be occupied until the pedestrian visibility splays of 2 metres x 2 metres measured perpendicularly back from the edge of the carriageway have been provided on both sides of the access in accordance with drawing no. 20-38-100A. The splays shall thereafter be maintained free of obstruction exceeding a height of 0.6 metres above the adjacent ground level.
- 5) The dwelling hereby approved shall not be occupied until the first 5 metres of the new access into the development, measured from the edge of the carriageway, has been surfaced in a bound material. The area shall thereafter be maintained with a bound material.
- 6) The dwelling hereby approved shall not be occupied until the proposed dwelling has been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced, in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.
- 7) The dwelling hereby approved shall not be occupied until details of sheltered, safe, secure and accessible cycle parking that complies with the Council's adopted highway design guide has been submitted to and approved in writing by the Local Planning Authority. The relevant works shall be carried out in accordance with the approved details and thereafter kept available for the parking of bicycles.
- 8) No development of the dwelling hereby approved shall take place until visibility splays have been provided in accordance with drawing no. 20-38-05. The splays shall at all times be retained and maintained free of obstruction exceeding a height of 0.6 metres above the adjacent carriageway.
- 9) The dwelling hereby approved shall not be occupied until space has been laid out within the site in accordance with drawing no. 20-38-100A for the parking of 2 cars and that space shall thereafter be kept available at all times for the parking of vehicles.

*End of Conditions*