



Appeal Decision

Site visit made on 7 February 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/T3725/D/21/3287948

156-158 Aylesbury Road, Aylesbury Cottage, Hockley Heath, SOLIHULL B94 6PP

- 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 Evans against the decision of Warwick District Council.
 - The application Ref W/21/1575, dated 15 August 2021, was refused by notice dated 16 November 2021.
 - The development proposed is Erection of first floor rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would amount to inappropriate development in the Green Belt;
 - the effect of the proposed extension on the openness of the Green Belt,
 - the effect of the proposal on protected species, and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances to justify it.

Reasons

Inappropriate development

3. The site is within the Green Belt, in a small ribbon development, beyond the settlement boundary of Hockley Heath. Policy DS18 of the Warwick District Local Plan 2011-2029 (2017) states that the Council will apply national planning policy to development in the Green Belt. Paragraph 137 of the National Planning Policy Framework (the Framework) identifies that the fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open. Paragraph 149 establishes that new development would be inappropriate unless it meets a listed exception. Exception (c) allows for "the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building".

4. The phrase 'disproportionate' is not defined by the Framework. This is therefore ultimately a matter for the decision maker, with much depending on the individual circumstances of the proposal. However, a conclusion on this matter cannot be arrived at purely on a mathematical calculation as a single factor as the test is primarily an objective one based on size, as referenced by the Framework.
5. Policy H14 of the LP identifies extensions to dwellings in the open countryside will be permitted unless they would result in disproportionate additions to the original dwelling. The companion text states that, although judging each case on its own merits, an extension to a dwelling in the Green Belt would generally be deemed as disproportionate if greater than 30% of its original floor space. Although this is only a guide, it provides a useful insight into the Council's approach to this concept. It also provides developers with a clear indication of the Council's expectations in this regard within the district's Green Belt.
6. The appeal dwelling is within a row of housing and is not therefore isolated. However, the site is exposed to its front and rear to distant views of the countryside. The site is within an area of relatively flat land and does not benefit from robust tree or hedge screening, affording wide and distant views of the surrounding countryside. Furthermore, although within a row of development and close to Hockley Heath this would not offer mitigation to offset the effect of the proposal on the surrounding countryside.
7. It is undisputed between parties that the proposed extension would result in an increase in floorspace in excess of 30% of the original dwelling. On site I observed that several extensions have been applied to the dwelling which have substantially increased its overall floorspace and volume. The appellant suggests that the cumulative effect of existing and proposed extensions would amount to an increase of around 87%. Although policy H14 requires context to be taken into account, the local landform, vegetation and arrangement of the local pattern of development does not offer a compelling reason to patently deviate from the Council's general approach to this matter. Furthermore, whilst the scheme would not increase the footprint, it would add a considerable mass to the building substantially increasing its overall size. Given this, and my observations on site, I am of the view that the proposed extension would be a disproportionate addition to the original dwelling.
8. As it has not been demonstrated that the proposal would meet any of the exceptions listed in Paragraph 149 of the Framework, it would amount to inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt.

Effect on openness

9. The openness of the Green Belt has both spatial and visual dimensions. The proposed extension would add a large first floor addition to the rear of the dwelling that would be clearly visible from the street due to No 154 being further recessed from the street. This would be clearly seen from wide and distant views due to the open character of surrounding land and the absence of vegetative screening. Furthermore, it would not be seen against the backdrop of the existing dwelling in all views and, in any event, this would not negate its harmful effect on openness. Consequently, the proposed extension would erode the open character of the area. The proposal would therefore result in significant spatial and visual harm to the openness of the Green Belt.

Ecological interests

10. Bats are a protected species by the Conservation of Habitats and Species Regulations 2017. Furthermore, paragraph 174 of the Framework requires development to contribute to the natural environment by minimising the impact on, and providing net gains, for biodiversity. The Council's ecologist identified that bats have been recorded in the area and that the area provides suitable foraging habitat. As such the ecologist required a Preliminary Bat Roost Assessment.
11. The proposed extension would require the removal of the pitched roofs of the existing rear extensions. The Appellant has not provided any survey work to determine the presence or absence of bats within the roof space. During my visit I noted that the roof provided some opportunities for wildlife to enter the roof through crevices. Due to the age of the building, and the form of construction of the rear extensions, there is a likelihood that the roof space could be used by bats. As such, I cannot discount the possibility of the presence of protected species within the roof void of the dwelling.
12. It is noted that the Appellant appears to have not been made aware of the need for an ecology survey. However, the absence of this prevents this matter being properly resolved prior to determination. A condition requiring such survey work would be unreasonable as its outcome could affect the nature of development undertaken. Furthermore, policy NE2 is clear that development will only be permitted once an ecological survey can justify the suitability of a proposal.
13. Consequently, without compelling evidence I cannot be satisfied that the proposal would not affect a protected species. Accordingly, the proposal would not comply with policy NE2 of the LP which requires development that is likely to affect protected species to be subject to an ecological assessment.

Other considerations

14. The design of the proposed extension would include roof pitches and an arrangement of windows that would allow it to integrate well with the existing dwelling. However, I am unconvinced that the proposed extension would improve the appearance of the rear elevation as the current additions also integrate well with the existing dwelling. These are subservient additions with differing heights that add interest to the building. Therefore, although the proposal would satisfy the Council's design requirements this would only weigh moderately in favour of the scheme.
15. The appeal site is within a ribbon development that appears to include some infill housing or replacement dwellings. The planning context of these developments is not in evidence. Although each case must be judged on its own merits, replacement dwellings and infill development within villages can be 'not inappropriate' within the Green Belt subject to exceptions within the Framework. Consequently, nearby new development does not alter my approach to the extension proposed to the appeal dwelling.
16. The proposal would provide an improved internal layout of the dwelling for the Appellant. However, this is a private benefit that conveys only moderate weight in favour of the scheme.

Whether there would be Very Special Circumstances

17. Paragraphs 147 and 148 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
18. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the proposal would result in moderate harm to the openness of the Green Belt and would be likely to harm protected species. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.
19. On the other hand, the other considerations I have identified, including the acceptable design of the scheme, are of limited weight in favour of the proposal. As such, the harm to the Green Belt is not clearly outweighed by the other considerations identified. Therefore, the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal fails to adhere to the local and national Green Belt policies I have already outlined.

Conclusion

20. The proposed development would not accord with the development plan or national policy and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

B Plenty

INSPECTOR