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# Appeal Decision

Site visit made on 19 October 2021

**by Tamsin Law BSc MSc MRTPI**

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

**Decision date: 11 March 2022**

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**Appeal Ref: APP/G1630/D/21/3280000**

**The Sheiling, Badgeworth Lane, Badgeworth, Cheltenham GL51 4UW**

- 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 Ross May against the decision of Tewkesbury Borough Council.
  - The application Ref 21/00334/FUL, dated 9 March 2021, was refused by notice dated 11 May 2021.
  - The development proposed is described as detached garage with studio over.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are;
  - Whether the development would be inappropriate development in the Green Belt having regard to the 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;
  - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

## Reasons

*Whether inappropriate development*

3. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. Such exceptions include 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. Policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017) (JCS) states that development within a Green Belt will be restricted to those limited types of development which are deemed appropriate by the Framework.

5. The courts<sup>1</sup> have held that some outbuildings may be considered as extensions on the basis that they are 'normal domestic adjuncts', for example, the construction of a garage in close proximity to a dwelling. As the proposed garage would be located approximately 1.5 metres from the dwelling, I consider the proposed development to be an extension to the dwelling. The Framework does not provide a definition of 'disproportionate additions' and therefore an assessment of whether a proposal would amount to a disproportionate addition to the size of the original building is a matter of planning judgement.
6. The appeal proposal would see the construction of a two storey garage with a studio above. The proposed development would measure some 6 metres in height and be located in an area, which during my site visit, was vacant of any built development. The dwelling has been extended previously and the Council estimates the cumulative volume increase to be approximately 119%. Taken together, these increases would amount to a substantial addition to the property, and one which I find to be disproportionate over and above the size of the original building.
7. The appellant has advanced that the proposed development could be considered as a replacement building. Whilst there was no building on site during my site visit, a Lawful Development Certificate (LDC) has been granted for a single storey double garage at the site. This would partially cover an area currently occupied by an integral garage at the property. However, even if I were to consider the proposal a replacement building it would be required to not be materially larger than the one it replaces. As the proposed development is for a two storey structure, this would be materially larger than the single storey garage, particularly in terms of volume.
8. The appellant has also advanced that the proposed development could be considered as limited infilling in a village. It appears to me likely that the term limited infill refers to a primary form of development and not development of an ancillary nature. However, even if this were not the case, I have found that the proposal would be an extension of an existing building.
9. For these reasons, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with Policy SD5, and the associated policies of the Framework.

### *Openness*

10. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The appeal property is visible from the adjacent highway. Notwithstanding the neighbouring dwelling or the existence of other two storey properties within the vicinity of the appeal site, the openness of the Green Belt is clearly evident around the property and the wider area. The gap between the existing dwelling and neighbouring property allows for the countryside to be viewed beyond. The introduction of a two storey structure, would reduce the views of the countryside and therefore reduce sense of openness.
11. In spatial terms the appeal proposal would reduce the openness of the Green Belt, both in isolation, and when compared to the LDC scheme. The increased height and volume of the proposal over the LDC scheme would have an

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<sup>1</sup> Sevenoaks District Council v SSE and Dawe [1997]

increased effect on the openness over the advanced fallback position, despite the minor increased footprint of the LDC scheme. Although this would be limited given the scale of the proposal, harm would still be caused. This factor weighs against the proposal.

*Other considerations*

12. As noted above, the evidence refers to a fallback position in the form of a single storey double garage that could be erected by exercising the appellant's permitted development rights. I conclude that this would be a realistic and probable alternative. However, for the reasons given above, the fallback position would have less of an impact on the Green Belt than the proposal would.
13. The appellant also refers to the potential for other outbuildings to be constructed in the curtilage of the property under permitted development rights. However, I have little details on such proposals or on any impact they may or may not have on the openness of the Green Belt.
14. I accept that the proposal would enhance the living conditions of the occupiers of the property, providing them with a studio and garaging. The increased living accommodation is a private benefit and therefore attracts little weight.

**Conclusion**

15. In summary, the proposal would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.
16. For the reasons set out above the harm to the Green Belt would not be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. Consequently, the appeal is dismissed.

*Tamsin Law*

INSPECTOR