



Appeal Decision

Site visit made on 10 May 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Appeal Ref: APP/P1805/D/22/3291097

Kenelmstowe, St Kenelms Road, Romsley B62 0NF

- 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 D Batth against the decision of Bromsgrove District Council.
 - The application Ref 21/01442/FUL, dated 14 September 2021, was refused by notice dated 4 November 2021.
 - The development proposed is alteration and extension to existing dwelling and demolition of conservatory and other outbuildings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-

- whether the proposal would represent inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy; and
- the effect on the openness of the Green Belt; and
- if the development would be inappropriate, 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 necessary to justify it.

Reasons

Whether inappropriate development in the Green Belt

3. Policy BDP4.4 of the Bromsgrove District Plan 2017 (BDP) is generally consistent with paragraph 149 of the Framework in stating that, apart from specific exceptions, the construction of new buildings is inappropriate development in the Green Belt. The stated exceptions set out in the Framework include the extension of a building, provided it does not result in disproportionate additions over and above the size of the original building. Under Annex 2 of the Framework, 'original building' means a building as it existed on 1 July 1948. BDP policy BDP4.4 is similar but in respect of extensions to residences it allows up to a maximum of a 40% increase of the original dwelling or a maximum total floor space of 140m².
4. In light of this policy context, it is necessary to establish the extent of the original building to ascertain whether the proposed extension would represent a

disproportionate addition. The information provided by the appellant on the footprint of existing buildings fails to assist in these regards as it does not distinguish between original buildings and those erected after 1948.

5. Historic ordnance survey maps from 1923 show a house on the site. Also, given its style and the apparent age of its external materials, I am satisfied that the front part of the house pre-dates 1948 and so is classed as original in Green Belt policy terms.
6. However, submitted photographs show the rear conservatory was not in place in 2003 and so this is not part of the original building. Moreover, the Council suggest that 2 of the 3 gable ended, 2 storey projections to the back of the house were constructed after 1948. In support of this view, the Council refer to the T-shape footprint of the house shown on the submitted historic maps as well as the fact that planning permissions were granted for alterations and extensions in 1962 and 1973. Also, on my visit I noted the 2 outermost rear projections are constructed of a different brick to the front part of the house, so suggesting they are later additions. From my observations and the information before me, and in the absence of any firm evidence to the contrary, I consider that a significant part of the rear of the existing house was constructed after 1948 and so it does not form part of the original building.
7. In light of the above, the Council contend the original house has already been extended by some 55.3% in terms of floor area. The appeal development would involve the demolition of the existing conservatory. However, even when taking this into account, the Council contend the proposal would lead to an additional 85m² of floor space and a 100% increase above the size of the original house. I find no reason to disagree with the Council's figures. Having regard to the provisions of BDP policy 4.4, the floor area increase as well as the height and overall size of the proposed extension, I find the development would represent a disproportionate increase above the size of the original house.
8. With reference to caselaw and another appeal decision¹, the appellant contends that the proposed removal of existing outbuildings should be taken into account in deciding whether the proposal would result in a disproportionate increase. However, in this case, the buildings to be removed are generally set away from the main house and so do not represent domestic adjuncts. In any event, there is limited evidence to show when these outbuildings were constructed. Given their appearance and condition, I am unconvinced that the buildings to be demolished have been in place since 1948 and so for reasons of age they do not form part of the original dwelling. Therefore, their removal has no meaningful effect on my view that the scheme would lead to a disproportionate increase above the size of the original house.
9. No case is made that the development would fall under any of the other exceptions as outlined in BDP policy 4.4 and paragraph 149 of the Framework. Therefore, for the reasons set out above, I conclude the proposal would represent inappropriate development in the Green Belt.

Openness

10. The depth, width and height of the proposed extension means it would have a sizeable volume and so it would reduce the spatial openness of the site. Due to

¹ *Sevenoaks District Council v The Secretary of State for the Environment and Dawe* [1997] EWHC 1012 (Admin); Appeal decision reference number APP/N0410/D/17/3183471

the screening effect of the house, only the side elevation of the extension would be seen from the road. It would stand out as an obvious enlargement to the dwelling from the private fields on a lower level to the rear of the site. Even so, the extension would not be highly prominent and so it would lead to a only a modest reduction in the visual openness of the Green Belt.

11. The proposed removal of the existing conservatory and outbuildings would in itself improve the openness of the site. The footprint of the buildings to be removed would be significantly greater than that for the proposed extension. However, the buildings to be demolished are single storey whereas the proposed extension would be 2 storeys high with large, pitched roofs. No information has been provided on the volume of the buildings to be removed compared to the volume of the proposed extension. In the absence of such details, it seems in overall terms that the development would not result in an improvement to the spatial openness of the site.
12. Moreover, while it would be reasonable to secure the removal of the outbuildings through the imposition of a planning condition, I am conscious that permitted development rights would allow the erection of replacement buildings without the need to obtain expressed planning permission. A condition that removes permitted development rights could be imposed but this would only come into effect on the implementation of any planning permission. As such, new outbuildings could be erected to replace those to be removed prior to the commencement of the appeal development.
13. Having regard to all the factors above, I find the proposal would lead to a minor loss of spatial and visual openness of the site which would not be fully addressed by the removal of existing buildings. In isolation, the erosion of openness would be modest but nevertheless harm would be caused to one of the essential characteristics of the Green Belt.

Other considerations

14. A certificate of lawfulness dated 22 June 2021 certifies that the erection of single storey side extensions and a front porch to the appeal property would represent permitted development. The appellant claims that this scheme provides a realistic “fallback position” should the appeal be dismissed. With reference to another appeal decision relating to a site at Lickey², it is argued that the fallback position provides justification to allow the appeal.
15. The certificate of lawfulness development is unlike the appeal scheme as it would provide no additional first floor accommodation. Nevertheless, I consider there is more than a theoretical possibility of the development being carried out, particularly in the event of the appeal being dismissed.
16. However, the certificate of lawfulness development would be single storey and the appellant has not sought to dispute the Council’s claim that its total floor area would be less than the appeal scheme, even when taking into account the demolition of the conservatory. The side extensions would be more noticeable from the road than the proposed rear extension but they would not be prominent as they would be set back and screened by roadside vegetation.
17. As such, I am unconvinced that the certificate of lawfulness scheme would cause more harm to the spatial and visual openness of the Green Belt than the

² Appeal reference number APP/P1805/D/20/3254449.

appeal proposal. Therefore, it attracts limited weight in my assessment. In these regards, my views are different to the Lickey appeal Inspector who found in that instance that the fallback position would have a greater impact on spatial openness of the Green Belt compared to the proposed development. Accordingly, I am not bound to arrive at the same overall conclusion as the previous Inspector in my determination of this appeal.

18. In addition, I note the certificate of lawfulness development and the appeal proposal could be constructed simultaneously. A condition to remove permitted development rights could be imposed but this would only come into effect once planning permission is implemented. In the absence of a planning obligation to the effect that the appellant would forego permitted development rights at the appeal property, the certificate of lawfulness development could be carried out prior to the commencement of the appeal development. As such, it provides an additional option to enlarge the house rather than an alternative to the appeal scheme. There is no evidence to suggest allowing the appeal would reduce the likelihood of the certificate of lawfulness development being carried out. These factors further reduce the weight I attribute to the claimed fallback position.
19. The proposed extension would maximise views from the house of the wider countryside and it would be sympathetic in design terms to the host building. It would generate construction employment, although the benefits in these regards would be modest.

Green Belt balance

20. The appeal scheme would represent inappropriate development which by definition is harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances only exist where the harm by reason of any inappropriateness and any other harm is clearly outweighed by other considerations. The Framework dictates that, in carrying out the balancing exercise, substantial weight is to be given to any harm caused to the Green Belt. As well as harm by reason of inappropriateness, the development would cause a loss of spatial and visual openness, thereby adversely impacting on one of the essential characteristics of the Green Belt.
21. On considering all the relevant matters, I conclude that the benefits of the development and all other considerations do not clearly outweigh the totality of harm the development would cause in terms of its inappropriateness and to Green Belt openness. Consequently, the very special circumstances necessary to justify the development do not exist and so it would conflict with the Framework and BDP policy BDP4.4. Amongst other things, these seek to maintain the Green Belt and its openness and to resist inappropriate development in it unless very special circumstances exist.

Conclusion

22. For the reasons given above, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR