The Planning Inspectorate

# Appeal Decision

Site visit made on 16 May 2022

**by Chris Forrett BSc(Hons) DipTP MRTPI**

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

**Decision date: 23 May 2022**

**Appeal Ref: APP/M1005/D/22/3292332**
**Hollybrook Cottage, Bridle Lane, Lower Hartshay, Ripley DE5 3RQ**

- 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 & Mrs G Krywyj against the decision of Amber Valley Borough Council.
- The application Ref AVA/2021/0878, dated 3 August 2021, was refused by notice dated 26 January 2022.
- The development proposed is an extension to front of building and addition of first floor and rear suspended balcony.

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The description of the development on the application form was to "extend to front of building and add first floor". I note that the Council changed the description to that in the banner header above and that the appellant has adopted this description on their appeal form. I have therefore utilised this amended description for my appeal decision.

## Main Issues

3. The main issues are:

   (i) whether the proposal is inappropriate development in the Green Belt;

   (ii) the effect on the openness of the Green Belt; and

   (iii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

## Reasons

*Whether the proposal is inappropriate development in the Green Belt*

4. Paragraph 137 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 149 and 150, set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.

5. Paragraph 149c) sets out that new buildings within the Green Belt are inappropriate unless any extension or alteration of a building is such that it does not result in disproportionate additions over and above the size of the original building. In this context, original building means the dwelling as originally built or as the building existed on 1 July 1948 (whichever is the later). As the existing building has been previously extended, this needs to be taken into account in any consideration of the size of the building.

6. The Framework does not define what would be classed as a disproportionate addition, but the overall size of the building (either in terms of footprint, floorspace or volume) are clearly important factors. From the evidence before me, the Council do not have any policy or guidance which sets out what they consider would be disproportionate either.

7. From the submitted plans, the proposal would only result in a modest increase in footprint when compared to the existing dwelling. However, when this is compared to the original dwelling (or the dwelling prior to the extensions referred to by the Council), then the increase in footprint is much greater. In the absence of any detailed figures, it would appear that the footprint would be in excess of 35% greater than the original dwelling, even when taking into account the removal of the extension at the rear. In terms of floor area, the proposal would more than double the existing floor area principally as a result of the additional storey.

8. Turning to volume, the Council have indicated that the existing bungalow has a cubic content of around 705 cubic metres, and that previous extensions accounted for around 113 cubic metres of that figure. This means that prior to those extensions the volume would have been around 591 cubic metres. It is also suggested that the volume of the resultant building, should the appeal proposal be built, would be 1053 cubic metres, which represents a 78% increase in the volume of the building from the original. None of these figures are disputed by the appellant. To my mind, this represents a significant increase in the volume of the building to the extent that this would be a disproportionate addition.

9. It is also noted that the Council has stated that the original dwelling was around 348 cubic metres, although it is not clear where this figure has been derived from. If this figure is correct, that would mean that the overall size of the extension would be even larger than an increase of 78%.

10. Taking all of the above into account the proposal would result in a large increase in the size of the dwelling when compared to the original property. In my view the extent of the additions, taken cumulatively with the existing extensions, would result in a disproportionate addition to the dwelling.

11. To that end, the proposal would not accord with the exemption outlined at paragraph 149c). Consequently, the proposal would be inappropriate development in the Green Belt as it would not accord with any of the exemptions outlined at paragraphs 149 or 150 of the Framework. It would also be contrary to Policy EN2 of the Amber Valley Borough Local Plan (2006) (AVBLP) which seeks to set out where permission would be granted for not inappropriate development in the Green Belt (albeit that this is not entirely consistent with the Framework).

*Effect on the openness of the Green Belt*

12. One of the five purposes of a Green Belt, outlined at paragraph 138 of the Framework, is that it should assist in safeguarding the countryside from encroachment.

13. As I have found above, the proposal would result in a large increase in the size of the dwelling when compared to the original building. Given that the size of the resultant dwelling would be larger than the existing it would inevitably have an adverse impact on the openness of the Green Belt as a result of its greater size and bulk.

14. In coming to that view, I acknowledge that the property is set on a large plot and has a degree of screening from public vantage points in the area. However, as I saw from longer distance views of the site, the additional height and bulk of the proposal would make it more visible. In any case, the screening does not overcome the loss of openness as a result of the additional built form from the extensions to the dwelling.

15. I therefore conclude that the development would lead to a loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment, contrary to the Framework.

*Other matters*

16. The Appellant has drawn my attention to two permissions[1] granted by the Council for new dwellings in the wider area. As I understand it, both of these proposals involved the replacement of existing buildings. However, I am unaware of the circumstances in which these permissions were granted and I cannot be sure that the same circumstances apply for the current proposal. Moreover, each application must be considered on its individual merits.

17. In addition to the above, reference has been made to a proposal in Dorset where a Local Plan policy allowed for a maximum of a 50% increase for extensions. That proposal was allowed on appeal as possible permitted development extensions could have been undertaken which would have had a significantly greater impact on the openness of the Green Belt than the original application. However, details of that have not been provided.

18. Notwithstanding that, the appellant has set out that an 8 metre single storey extension could be added to Hollybrook Cottage, and it is suggested that this would give a 70% increase in footprint of the building. Alternatively, it is indicated that an additional floor could be added using permitted development rights.

19. However, even if this was to be the case, both of these permitted development options require the prior approval of the local planning authority and it is unclear whether this would be forthcoming or not. Similarly, it is not clear what the impacts of these options would be. As such, I can only give this limited weight.

20. Finally, reference has been made to a change in stance by the Council during the consideration of the application, in that it had been initially indicated that a 50% increase in volume would be the maximum size increase that the Council

[1] References AVA/2013/0199 and AVA/2013/0352

would accept, and that figure was changed to a 30% increase in later correspondence. Whilst this change in stance could be considered to be somewhat unhelpful, it does not nevertheless change the proposal before me which is in any case greater than the 50% initially indicated.

*Green Belt balance*

21. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Therefore, substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.

22. I have concluded that the proposal would be inappropriate development in the Green Belt and that it would also have some harm to the openness of the Green Belt.

23. The appellant has not explicitly advanced any very special circumstances which would indicate that permission should be granted. Similarly, from what has been provided to me, I have not been able to identify any other circumstances which could be considered to justify the development before me.

24. Therefore, in considering the substantial weight given to the Green Belt, I am of the view that the very special circumstances necessary to justify the development do not exist and the proposal would conflict with the Framework, and Policy EN2 of the AVBLP.

**Conclusion**

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

*Chris Forrett*

INSPECTOR