



Appeal Decision

Site visit made on 10 May 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2022

Appeal Ref: APP/Q4625/W/22/3290569

The Woodlands, Lodge Green Lane, Meriden, Solihull CV7 7JG

- 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 Andrew Cummings against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2021/02676/PPFL, dated 29 September 2021, was refused by notice dated 7 December 2021.
 - The development proposed is the enlargement of first floor bedroom to ensuite and dressing area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the proposal on biodiversity, 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 National Planning Policy Framework (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. One such exception being 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 P17 of the Solihull Local Plan Local Plan (2013) (LP) broadly conforms to the general thrust of national Green Belt policy. It states that in addition to national policy it will not permit extensions or alterations of buildings in the Green Belt where there is a need to retain smaller more affordable housing or the purposes of including land within the Green Belt.
5. The Framework does not provide a definition of 'disproportionate additions' and therefore an assessment of whether a proposal would amount to a disproportionate addition over and above the size of the original building is a matter of planning judgement.
6. The proposal would comprise an extension at first floor, above an existing single storey extension. The appellant has provided a statement advising that the proposed alterations and extensions would be an increase in 36% over the existing building. The Council dispute this advising in their submission that at the time of a previous application the appeal building had a floor area of approximately 182 square metres. Taking account of further extensions that have been undertaken using permitted development rights and the proposed development, the floor area increase would be approximately 90%. 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. There is no defined way of assessing and measuring proportionality, but the Framework refers to 'size'. This can, in my view, refer to volume, height, external dimensions, footprint, floorspace or visual perception. The appellant contends the increases would be proportional in that it would not project beyond the front elevation, be no higher than the existing roof line and no wider or deeper than the existing footprint. However, in this case, the increase in floorspace, depth, width and height of this part of the dwelling would result in a considerably greater visual bulk. Therefore, I find that the scale of the extensions would subsume the original dwelling and would therefore be visually disproportionate.
8. The appeal scheme would therefore be inappropriate development in the Green Belt and harmful by definition. This would be contrary to the approach of the Framework which, alongside the aims of Policy P17, seek to protect the Green Belt from harm.

Openness

9. Openness is identified in the Framework as one of the Green Belt's essential characteristics. The increased volume as a result of the significant extensions would have a reducing effect on the openness of the Green Belt in a spatial sense. Furthermore, the increased width of the proposed first floor, plus the prominence of the dwelling in the street scene, means the proposal would also have a greater visual impact and thus reduction in the openness of the Green Belt when seen from Green Lane. This would add to the harm arising from the proposed development by virtue of its inappropriateness.

Biodiversity

10. Bats are a protected species under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. The appeal is accompanied by a Preliminary Ecological Appraisal (PEA) which concluded that bats are roosting in the roof void of the host dwelling and there may be further opportunities for roosting in the building.
11. The PEA provides a reasonable analysis in relation to badgers, nesting birds and reptiles and the survey and conclusions are adequate in these respects. However, in terms of bats, the PEA explains that bat emergence surveys were not conducted as the survey was outside the optimum period for bat surveys. It concludes stating that further work would be required in order to determine the status of the roost, whether other bat species are roosting in the building and what impact the proposed development would have on the roost(s).
12. The appellant contends that further survey work could be conditioned and that recommendations regarding lighting and bat boxes provide mitigation. I have had regard to this, however I note that the recommendation regarding lighting would be in addition to the requirement for additional surveys and the bat boxes would be an enhancement. As such, the PEA is not evidence that these would mitigate the potential harm to protected species.
13. It would not be reasonable to attach a survey requirement as part of a condition in any approval. This is because, in accordance with Circular 06/2005¹, it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted.
14. Accordingly, I conclude that it has not been demonstrated satisfactorily whether any bats which may be present on or use the site could be adequately protected as part of the development proposal. As a consequence, the scheme would not accord with Policy P10 of the LP which seeks, amongst other things, to protect, enhance and restore biodiversity. It would also not accord with paragraph 174 of the Framework which seeks to contribute to and enhance the natural and local environment.

Other Considerations

15. The Framework states that inappropriate development should not be approved except in very special circumstances, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this regard, I have not been provided with any other considerations which weigh in favour of the development.

Conclusion

16. The proposal would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness. The Framework requires that substantial weight should be given to any harm to the Green Belt. It would also be harmful to protected species.
17. Given the substantial weight to be given to Green Belt harm combined with the other identified harm and lack of other matters weighing in the

¹ Circular 06/2005 - Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system.

scheme's favour, such harm would not be clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist, such that the appeal should be dismissed.

Tamsin Law

INSPECTOR