The Planning Inspectorate

Appeal Decision

Site visit made on 21 July 2022

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2022

Appeal Ref: APP/J3720/D/22/3299805
Oak Tree Farm, Buttermilk Lane, Yarningale Common, Warwick CV35 8HP

- 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 Simon Bishop against the decision of Stratford-on-Avon District Council.
- The application Ref 21/03714/FUL, dated 12 November 2021, was refused by notice dated 11 March 2022.
- The development proposed is the addition of a 2-storey oak framed balcony structure to front elevation and dormer structure formed in existing roof.

Decision

1. The appeal is dismissed

Main Issues

2. As this dwelling is in the Green Belt, the main issues are

    a) whether the proposal is inappropriate development in the Green Belt;

    b) the scheme's effect on the openness of the Green Belt, and

    c) if it would be inappropriate development, whether its harm by reason of inappropriateness and other harm is clearly outweighed by other considerations so as to amount to very special circumstances.

Reasons

3. Policy CS.10 in the *Stratford-on-Avon District Core Strategy* says '*the purposes of the Green Belt will be upheld by resisting inappropriate development within it'*. It then lists development that is not inappropriate in the Green Belt, one type being '*a small-scale extension or alteration of a building*'.

4. The *National Planning Policy Framework* (the Framework) confirms that keeping land permanently open is a fundamental aim of the Green Belt. It adds that, in such areas, inappropriate development is, by definition, harmful. However, paragraph 149 lists development that is not inappropriate, and this includes

    '*the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building'*.

    The Core Strategy draws on these sections of the Framework to explain Policy CS.10. Neither the Core Strategy nor the Framework give detailed advice as to how large extensions or alterations have to be to be disproportionate or small-scale, or how they should be measured.

5. This dwelling is in a remote location in the countryside, and I was told it had been extended twice in the past. The Council contended the proposal now before me

would equate to an 18% increase over the original building, resulting in its cumulative enlargement, when taken with the 2 previous extensions, being some 74%. The appellant though said the previous schemes plus this proposal would enlarge the original house by 55%.

6. I do not know precisely how the parties arrived at these figures. However, having regard to the terms of Policy CS.10 and the Framework, when assessing whether or not the development would be disproportionate, I see no basis for excluding parts of the building that are roof void or covered balcony. Despite that point though, even if I were to take the appellant's figure and accept that the proposal would mean the cumulative enlargements increased the size of the original building by 55%, in my judgement this would still result in disproportionate additions over and above the size of the original, which could not be defined as small-scale. I therefore conclude the scheme would be inappropriate development in the Green Belt.

7. Turning to the issue of openness, the Framework identifies this as a fundamental aim of the Green Belt, with one of the stated Green Belt purposes being to safeguard the countryside from encroachment. The dwelling now has a gable on one side of its front elevation, with the landing and the other bedroom on the front being each served by a dormer window in a sloping roof. The gable created by the proposed bedroom enlargement would be appreciably wider and taller than the room's existing window. It would also bring the bedroom out to level with the ground floor elevation, and the balcony and its roof structure would project further still. Moreover, between the existing and new gables the dormer window to the landing would be replaced with a larger dormer structure to form a dressing room.

8. Although its design would be suitable on this dwelling, the extension would nonetheless be significantly bulkier than what is there now and would be more dominant, especially given its overall height. As a result, while the extension's limited scale means any harm caused in this regard would be slight, it would nonetheless erode the openness of the Green Belt to some degree, and would fail to protect the countryside from encroachment.

9. Core Strategy Policy CS.10 says inappropriate development will be resisted except in cases where very special circumstances are justified in accordance with the provisions of national policy. The Framework similarly says that inappropriate development in the Green Belt should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

10. In relation to this, the appellant has submitted plans of various possible works that he considers could be done under 'permitted development'. Contending they are a reasonable and likely fallback in the event of the appeal being dismissed that would have a more harmful effect on the Green Belt, he has therefore invited me to allow this appeal with a condition being imposed to remove 'permitted development' rights and so prevent those works from being undertaken. This, he contends, comprises an other consideration that would mean very special circumstances existed.

11. He has said an application is with the Council for a Lawful Development Certificate to confirm the possible works to the house can be undertaken without applying first for planning permission. However, I have not been told that a decision has been reached on that application, and it is not for me, within this appeal, to make a determination on the matter. As a result, I cannot be confident that what is

shown in the submissions is in fact 'permitted development'. Consequently, I am not in a position to assume it could be built at the appellant's discretion.

12. Concerning the imposition of the suggested condition, the *Planning Practice Guidance* states that '*conditions restricting the future use of permitted development rights … may not pass the test of reasonableness or necessity'*, while the Framework says conditions restricting national permitted development rights should not be used unless there is '*clear justification'*.

13. Despite being drafted in the knowledge of the Government's stated aims of protecting the Green Belt, *The Town and Country Planning (General Permitted Development) (England) Order 2015* does not withdraw or reduce 'permitted development' rights in such areas. Given this, I am not satisfied that it is reasonable, necessary or justified to endeavour to safeguard the Green Belt by the imposition of such a condition in the scenario before me. I recognise the appellant has presented this solution as a 'trade off' for the appeal scheme. However, many properties in the Green Belt have 'permitted development' rights, so such an offer could often arise when extensions are proposed to those houses. Therefore, this situation does not constitute a *'clear justification'* for such an approach.

14. In any event, even if I allowed the appeal and imposed such a condition to restrict 'permitted development' rights, that condition would only take effect once the development subject of this appeal had commenced. It would not prevent the rights being used and the extensions being constructed between my decision being issued and work starting, and so many if not all of the extensions could still be built. I am aware that they include elements that would not be delivered by the bedroom extension subject of this scheme. As such, it is not unreasonable to assume that, even if I allowed the appeal, they would still be wanted by the appellant and so that lends weight to this concern.

15. Finally, many of the extensions shown are at ground floor level or apparently take the form of dormer windows at the rear, and so would not have a comparable effect on openness to the scheme before me.

16. Overall, whilst I have not questioned the appellant's desire to undertake the works he considers to be 'permitted development', in the light of the above points I find they do not constitute a material consideration that outweighs the harm caused by inappropriateness and other harm. No other material considerations are before me that would clearly outweigh this harm.

17. Accordingly, I conclude this would be inappropriate development that would harm the openness of the Green Belt. Very special circumstances have not been identified, as the harm to the Green Belt by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations. Therefore the development conflicts with Core Strategy Policy CS.10 and the Framework.

Conclusion

18. I conclude the appeal should be dismissed.

JP Sargent

INSPECTOR