



Appeal Decision

Site visit made on 14 June 2022 by Thomas Courtney BA(Hons) MA

Decision by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2022

Appeal Ref: APP/T3725/D/22/3292064

1 The Chantries, Chantry Heath Lane, Stoneleigh CV8 3DS

- 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 David Perez against the decision of Warwick District Council.
 - The application Ref W/21/1622, dated 25 August 2021, was refused by notice dated 16 December 2021.
 - The development proposed is the erection of oak framed gazebo in rear garden and erection of cedar and feather edge fencing to rear garden.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. In the interest of accuracy and conciseness, the description of development in header above has been taken from the decision notice and the appeal form.

Main Issues

4. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy and the effect on openness;
 - The effect of the proposal on the character and appearance of the appeal dwelling and the surrounding area;
 - The effect of the proposal on the living conditions of the neighbouring occupiers at No. 2 The Chantries (No. 2) with particular regard to the effect on outlook; and
 - if the development would be inappropriate, whether the harm to the Green Belt by way 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.
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Reasons for the Recommendation

Whether the development would be inappropriate and effect on openness

5. The appeal property comprises a converted barn forming part of a cluster of three dwellings located on the western side of Stoneleigh Road in a rural area which lies within the Green Belt.
6. Paragraph 149 of the NPPF states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. One exception is 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. Policy DS18 of the Warwick District Local Plan (LP) is consistent with this in that it states that national planning policy will be applied to proposals in the Green Belt.
7. The Council considers that the proposed oak-framed gazebo would not meet any of the exceptions outlined in paragraph 149, whilst the appellant considers that it should be treated as an extension to the host dwelling. In this regard, the appellant refers to the judgment in *Sevenoaks District Council v SSE and Dawe [1997]* which established that a proposed new outbuilding in the Green Belt can potentially be regarded as an extension to the host dwelling. However, this is a matter of judgement, based on the specific circumstances involved in each case. The proposed gazebo would be located within the existing patio area and in close proximity to the dwelling's rear elevation. Taking into account its location and use, it would constitute a normal domestic adjunct and I therefore consider that the proposal can be considered as an extension to the host dwelling.
8. The NPPF and the development plan do not set out a defined way of assessing and measuring what would constitute a disproportionate addition. In this case, the footprint and height of the proposed gazebo would not result in a structure with a substantial bulk and mass and it would also be open sided. Whilst the roof structure of the gazebo would project above the common boundary with No. 2, the ridge height of 3.2 metres would not be excessive for a domestic outbuilding. As such, I conclude that the proposed gazebo would not result in a disproportionate addition over and above the size of the original dwelling. On that basis, there is no further need for me to consider the effect of the gazebo on the openness of the Green Belt.
9. Turning to the proposed fencing, the appellant contends that it would not constitute a building and so should not be assessed against national and local Green Belt policies. Whilst the Glossary to the NPPF does not define the term "building", Section 336 of the Town and Country Planning Act 1990 states that "building" includes any structure or erection, and any part of a building, as so defined and therefore it includes fences. The proposed fence does not fall within any of the given list of exceptions outlined in paragraph 149 of the NPPF. It is therefore inappropriate development.
10. Openness is identified in the NPPF as one of the Green Belt's essential characteristics. Whilst I appreciate there is existing fencing along the road on the eastern boundary of the appeal site, the proposed fencing 1.8 metres in height and extending some 22 metres along the west boundary of the curtilage would increase the enclosure of the site from the surrounding countryside, when viewed from Stoneleigh Road and from the surrounding area. I consider

that due to the combination of its length and height, it would noticeably reduce the openness of the Green Belt and would cause moderate harm to the spatial and visual openness of the Green Belt.

11. To conclude on the first main issue, whilst the proposed gazebo would not result in a disproportionate addition over and above the size of the original dwelling, the proposed fence would be inappropriate development in the Green Belt and would conflict with Paragraph 149 of the NPPF, as detailed above, and Policy DS18 of the LP which seeks to resist inappropriate development in the Green Belt.

Character and appearance

12. The appeal dwelling forms part of a converted farm group set within open countryside which has retained its simple agricultural form and character. The open spaces between the buildings reflect the layout of the former farm yard and contribute to their traditional character and appearance. Whilst the appellant states that the proposed gazebo would match the existing property, would not be visible from the road and would be appropriate to its rural setting, the introduction of a domestic style structure within the open area of the former yard would be harmful to the dwelling's traditional character and appearance.
13. Whilst the neighbouring property has a pergola within its rear garden, it does not resemble the proposed gazebo as its roof is open, is lower in height and consists of beams of timber attached to the rear elevation of the dwelling. The proposed gazebo would appear as a more imposing structure and would appear as an incongruous addition, out of character with the host dwelling.
14. Furthermore, the introduction of the fencing along the western boundary of the site would have a stark appearance. The enclosure of the open field to the south of the property currently featuring low boundary treatments would be highly visible and the fence's suburban character and appearance would harm the rural character of the site when approaching from the south. It would have a detrimental effect on the rural character and appearance of the locality.
15. For the reasons outlined above, the appeal proposal would be harmful to the character and appearance of the host dwelling and the surrounding area. It would conflict with Policy BE4 of the LP and the NPPF which together seek to ensure that proposals are well designed and that the appearance and setting of a converted rural building protects, and where possible, enhances the character and appearance of the countryside. The proposal would not accord with the advice in the Council's '*Agricultural Buildings and Conversion – Barns*' Supplementary Planning Document which seeks to ensure that the rural setting of barn conversions is respected and also seeks to restrict the introduction of domestic elements.

Living conditions

16. The proposed gazebo would be located in close proximity to the common boundary with No. 2. Its hipped roof would project above the wall on the common boundary and would be partly visible when viewed from their rear patio area. However, the doors giving access to No. 2's patio area are not directly adjacent to the common boundary. Given the wall on the common boundary and the separation distance between the proposed gazebo and No.

2's patio doors and other habitable room windows, the gazebo would not result in a material increase in the sense of enclosure when viewed from No. 2's windows and patio area. For these reasons, the proposal would not be materially harmful to the living conditions that the occupiers of No. 2 currently enjoy.

17. Given the above, the proposal would not have an adverse effect on the living conditions of the occupants of No. 2 having particular regard to outlook. It would therefore not conflict with Policy BE3 of the LP and the NPPF which together seek to ensure that the amenities of neighbouring occupiers are protected.

Other Matters

18. Although the appeal property is not listed nor in a Conservation Area, that does not obviate the need for any proposed extensions and alterations to be appropriate to its rural appearance and setting, in accordance with the LP policies. As such, that has not been determinative in my assessment of the appeal.

Planning Balance and Overall Conclusion

19. Drawing matters together, whilst I have found that the proposed gazebo would not be a disproportionate addition and would not harm No 2's living conditions, it would harm the character and appearance of the host property and the surrounding area. The fence would cause harm to the Green Belt by way of its inappropriateness and the harm to openness, and substantial weight should be given to these harms. It would also adversely impact the character and appearance of the host dwelling and the surrounding area. There are no other considerations in this case that have been put forward by the appellant that would outweigh the substantial harm I have identified overall. I conclude that there are no very special circumstances to justify the development and it would be contrary to the NPPF and Policies DS18 and BE4 of the Local Plan.

Recommendation

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Sarah Housden

INSPECTOR