



Appeal Decision

Site visit made on 22 September 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2022

Appeal Ref: APP/N1025/D/22/3297980

Hill Billy Farm, Hopwell Road, Draycott DE72 3PE

- 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 Ray against the decision of Erewash Borough Council.
 - The application Ref ERE/0122/0076, dated 19 January 2022, was refused by notice dated 31 March 2022.
 - The development proposed is an extension to the existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for an extension to the existing dwelling at Hill Billy Farm, Hopwell Road, Draycott DE72 3PE, in accordance with the terms of the application, Ref ERE/0122/0076, dated 19 January 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (Ref 034879 2022.01.31); JG/DR/2016/032/01 (Existing & Proposed Floor Layouts and Elevations).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issues

2. The site lies within an area of Green Belt. Therefore, the main issues are:
 - Whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.;
 - The effect of the proposal on the openness of the Green Belt;
 - If the development is inappropriate, whether any 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 proposal.

Reasons

3. Paragraph 149 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development, but lists certain forms of development which are not regarded as inappropriate. This includes 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 3 of the Erewash Core Strategy (March 2014) (the CS) states that the Council will have regard to the statutory purposes of the Green Belt in considering proposals for development within it. Saved Policy GB4 of the Erewash Borough Saved Policies Document (July 2008) (the EBSPD) permits extensions to dwellings in the Green Belt where they relate well to the existing dwelling, do not result in disproportionate additions over and above the size of the dwelling as originally built, and are not harmful to the character or appearance of the Green Belt.
5. These policies are not wholly consistent with the approach of the Framework to the Green Belt, in particular as they do not refer to inappropriate development or permitted exceptions to it, and in the application of different criteria for development. Therefore, in accordance with Paragraph 219, I afford limited weight to these policies and have assessed the proposal primarily against the Framework.
6. The dwelling in question is a modest, single storey building converted to residential use under permitted development rights, following the granting of prior approval in 2017. The Council emphasises that dwellings formed through the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) are not permitted to extend beyond the footprint of the dwelling per Paragraph Q.1.(h). The Council argues that the restriction on extending Class Q dwellings is effectively an expression of government policy that such dwellings should not be extended, and that doing so would amount to inappropriate development in the Green Belt.
7. I do not share this view. Paragraph Q.1.(h) prevents extensions from forming part of the development undertaken under permitted development pursuant to Class Q, as subsequently does Paragraph A.1.(a) of Schedule 2, Part 1, Class A once the change of use occurs. However, these restrictions within the GPDO do not prevent someone seeking planning permission for an extension to a dwelling, which falls to be assessed against the development plan, having regard to other material considerations, including the Framework.
8. Neither of the aforementioned policies restricts the extension of dwellings formed through permitted development rights. Moreover, the Framework tests for exceptions to inappropriate development do not include a restriction on the extension of dwellings formed through the exercise of permitted development rights. In fact, the disproportionate additions test at Paragraph 149 relates to the original building, not dwelling, and to its size, not its use. Therefore, the fact that the dwelling originated through permitted development is not a determinative factor in assessing the proposal against the development plan or the Framework. As a material consideration, the restrictions of the GPDO simply mean that the appellant does not have a potential fall-back position as may occur in other cases, but that does not prevent the proposal from being considered on its planning merits.
9. The Framework does not specify what might be a disproportionate addition over and above the size of the original building. Nor do I have any evidence of a definition applied locally by the Council. As such, it is a matter of planning judgement based on the particular circumstances of the case.

10. The proposal would extend the simple rectangular footprint of the dwelling, with the walls and pitched roof continuing on the same lines. It would measure some 5.1 metres in length and 4.765 metres in width. The appellant's volume calculations indicate that the existing dwelling is 219.22 cubic metres and the extension would be 68.37 cubic metres, an increase of some 31.19%.
11. However, these calculations appear to overstate the size of the dwelling and extension, based on the measurements on the plans. This aside, although measurements of the existing dwelling's length are not given, it can be surmised from the submitted plans that the extension would be roughly half of the length of the original dwelling. All other dimensions – width, eaves height and ridge height – would remain as existing. Therefore, it follows that the extension would add something closer to 50% in both footprint and volume.
12. Such an increase may seem large; however, the existing dwelling is small in scale, and in absolute terms the extension would be modest in size. The extension would match the shape of the dwelling, and so would not stand out as a separate element; rather, the dwelling would appear as an elongated version of that which already exists. In this context, the proposal would not result in a dwelling which appears extended to a demonstrably large extent, nor would it result in a substantial departure from its original form.
13. Given these factors, I am satisfied that the proposal would not amount to a disproportionate addition over and above the size of the original building. Therefore, the proposal would accord with the provisions of the Framework, and no conflict would arise with Policy 3 of the CS or Policy GB4 of the EBDP.
14. The Council also refers to the proposal extending the dwelling into open pastureland beyond residential curtilage of the dwelling, harming openness. However, given my findings that the proposal would not be inappropriate development, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it.
15. As the proposal does not amount to inappropriate development, there is no requirement to assess if there are other considerations that amount to very special circumstances needed to justify it.

Other Matters

16. The Council accepted that the design of the extension would be acceptable, and that there would not be any adverse impact on neighbours' living conditions. On the evidence before me, I have no reasons to disagree in these matters.

Conclusion

17. The proposal would not be inappropriate development in the Green Belt, nor would there be harm to the openness of the Green Belt or in other respects. Consequently, there is no conflict with the development plan or the Framework.
18. The appeal is therefore allowed, subject to conditions requiring development to be carried out in accordance with the approved plans, to provide certainty, and requiring the use of matching materials, to ensure a satisfactory appearance.

K Savage

INSPECTOR