



Appeal Decision

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

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2022

Appeal Ref: APP/E3715/D/22/3297289

Sunnycrest House, Rugby Road, Princethorpe CV23 9PN

- 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 S Chunara against the decision of Rugby Borough Council.
 - The application Ref R21/1033, dated 21 September 2021, was refused by notice dated 6 October 2021.
 - The development proposed is the erection of a 2-storey extension to provide a pool building with two bedrooms above.
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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.

Main Issues

3. The main issues are:
 - whether the proposal would be 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;
 - the effect of the proposal on the character and appearance of the area; and
 - whether any 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 for the Recommendation

Whether the development would be inappropriate development

4. The appeal property comprises a two-storey detached dwelling set within a large plot located in the Green Belt. The property is set back from the road and features a three-bay garage and large existing extensions.
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5. Paragraph 149 of the Framework states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. Exception (c) addresses 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 GP2 of the *Rugby Borough Council Local Plan 2011-2031* (the 'Local Plan') is consistent with this in that it states that proposals will be considered in line with national policy on Green Belts.
6. The Council states that the proposal would result in additional volume of 648.95 m³. Combined with previous extensions, this would represent a 291% increase in volume over the original building. The development plan does not provide specific guidance on measuring proportionality however the Framework does refer to 'size' which can, in my view, refer to volume, height, external dimensions, footprint, floorspace or visual perception. It is considered that the proposed extensions would constitute a significant uplift in floorspace and introduce a significant amount of volume, built form and roofscape to the eastern side of the property resulting in significantly greater visual bulk. The considerable expansion of built form would be excessive and the resultant building would appear significantly larger in volume. Therefore, I find that the scale of the extension and previous extensions would subsume the original dwelling and would therefore appear to be disproportionate.
7. I note that the appellant does not appear to dispute the figures provided by the Council and accepts that the proposal would constitute inappropriate development in the Green Belt.
8. On the basis that the proposed extensions would result in disproportionate additions over and above the size of the original dwelling, I therefore find the proposal would be inappropriate development in the Green Belt and would conflict with Paragraph 149(c) of the NPPF, as detailed above, and Policy GP2 of the Local Plan which together seek to resist inappropriate development in the Green Belt.

Openness

9. Openness is identified in the NPPF as one of the Green Belt's essential characteristics. It has a spatial aspect as well as a visual aspect. The significant additional bulk and volume as a result of the extensions would materially impact on openness in a spatial aspect resulting in some limited harm to the Green Belt.
10. Furthermore, the increase in two-storey built form, bulk and volume means the proposal would also have a greater visual impact on the openness of the Green Belt. Due to the site's open rear boundaries and the prominent position of the property in an elevated location, it would be easily visible from the surrounding countryside to the south. For these reasons, the proposed development would result in an adverse impact on both the spatial and visual openness of the Green Belt.

Character and appearance

11. Although the development would be finished with sympathetic materials and would feature windows and a roof form that would match the existing, the scale of the two-storey eastern wing extension would be excessive. Whilst the appellant states that the two-storey element of the proposal would be

symmetrical to the existing building, its width would be longer than the western element of the dwelling which features a similar roof. In light of this, the proposed two-storey eastern wing would appear bulky and would unbalance the architectural cohesion of the property. The extensions would constitute awkward and discordant additions to the property.

12. I acknowledge there are large properties in the wider area of the appeal site however the resultant building would still be considerably larger than the majority of the dwellings in the direct vicinity of the site. It would appear unduly bulky in this context and given its prominent and elevated position, it would negatively impact the character and appearance of the area.
13. The proposal would therefore harm the character and appearance of the area and would conflict with policy SDC1 of the Local Plan and the Framework which together seek to ensure proposals are well-designed, appropriately scaled and respond well to the character of the areas in which they are situated.

Other considerations

14. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity. The appellant has submitted supporting evidence which sets out the specific needs and personal circumstances of a family member and the contended justification for the extension of the dwelling. Due to his specific needs, the ability of the individual concerned to access public facilities is restricted and the evidence points to benefits to his well-being through the provision of a gymnasium and swimming pool.
15. I have carefully considered the submissions and I am satisfied that consideration of the needs of the occupier would fall within the auspices of the PSED and that the development would advance the opportunity to access facilities that would be otherwise denied or very difficult to access on account of his disability, which amounts to a protected characteristic under the PSED. The decision also has clear implications for the home and family life of the occupants and it appears to me that Article 8(1) Convention rights are engaged¹. Based on the medical information provided, the provision of the pool and equipped gymnasium/ indoor open space would be in the best interests of the appellant's son.
16. Given the specific health related circumstances involved, the benefits associated with the proposed facilities is a matter that attracts substantial weight. The Courts have held that no matter can be inherently more important than the best interests of the child. That is not to say that this matter will be determinative. Whether that is the case will require a balanced judgement based on the circumstances of any given case. I shall return to that balance later in my report.
17. The appellant also states that the appeal property sits within a large plot and that the proposal would make an effective use of land. However, the site is located within the Green Belt where one of the key functions is to keep land permanently open. Thus, there is no imperative to develop or make more

¹ Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998

intensive use of land in planning terms and this is not a matter that attracts weight in favour of the proposal.

18. Furthermore, my attention has been drawn to a potential fallback position under exception (d) of paragraph 149 of the Framework which relates to the replacement of a building in the Green Belt. However, no planning permission exists for such a replacement and consideration of whether to grant such permission if an application was made would be a matter for the Council in the first instance. Paragraph 149 also requires that any replacement building is not materially larger than the one it replaces. Consequently, any resultant dwelling would be smaller in scale than what is proposed in this case and would not have an adverse impact on openness, over and above the existing dwelling. Therefore, this matter does not attract weight in support of the proposal.
19. Although the appellant opines that the proposal would allow for additional space for home working there is no evidence to suggest that internal alterations to accommodate these needs could not be achieved without the extent and scale of development as proposed, particularly given the existing scale of the dwelling. Consequently, that is not a matter that weighs in favour of the proposed scheme. There would be small economic benefits associated with the employment of builders and tradesmen, as well as a potential increase in revenue derived from Council tax and CIL payments. However, in the context of the local economy those benefits would be small and that factors attracts limited weight in favour of the proposal.

Planning Balance and Overall Conclusion

20. The Framework highlights that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, with substantial weight given to any harm to the Green Belt. 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.
21. The development causes harm to the Green Belt by way of inappropriateness and also causes harm to openness. Substantial weight must be given cumulatively to this harm. The proposal would also negatively impact the character and appearance of the area, a matter to which further moderate weight must be attached, taking account of the substantial scale of the proposal but also the localised nature of the impact.
22. Taking account of the medical information provided, access to a pool, gymnasium and space to exercise would be in the child's best interests. He is presently unable to access such facilities at public facilities and impairs his home life and does not facilitate equality of opportunity. Therefore, the benefit of the swimming pool, gymnasium and indoor space in relation to the needs of the appellant's son is a matter that attracts substantial weight.
23. However, the proposed scheme includes facilities and accommodation that would not be identifiably related to the health-related needs of the appellant's son, including the sauna and steam room and the prayer room. The letter from the GP makes no reference to the need for bedrooms for carers and, in any event, the existing dwelling is substantial and the plans highlight that a very large guest bedroom is available. The letter does refer to a benefit of providing

- sleeping accommodation where the appellant's son could hear the sound of water.
24. However, the two proposed bedrooms are at first floor level, somewhat detached from the pool. Notwithstanding that the first-floor balcony of one bedroom opens onto the roof of the pool building it is not clear that any running water would be audible, or that there would be any running water within the pool at all. Consequently, the information before me does not provide a clear justification for the very large first floor bedrooms, each with ensuite bathrooms and walk-in wardrobes.
25. The existing dwelling also incorporates a large games room and a gym. Whilst reference is made to the need to provide a specially equipped gymnasium, little supporting information is provided as to the nature of any equipment or the space required. Given the existing scale of the dwelling it seems likely that at least some of the proposed accommodation could be integrated into the existing fabric of the building without the need to extend to such a great extent. That tempers the arguments proposed in favour of the scheme, when viewed as a whole.
26. Therefore, whilst I am very mindful of the needs of the appellant's son, and attach substantial weight to those needs, the cumulative weight attributed to that and the other considerations in support of the case does not outweigh the substantial harm I have identified. In essence, the personal circumstances advanced, in addition to other considerations, do not justify an extension of the scale proposed and the subsequent degree of harm to the Green Belt and to the character and appearance of the area. I conclude therefore there are no very special circumstances to justify the development.
27. For the same reasons I am satisfied that the interference with the occupants' Article 8 Convention rights would represent a necessary proportionate response having regard to the circumstances of the case. The interference would be in pursuit of a legitimate aim – the economic well-being of the country, which encompasses the protection of the environment through the regulation of land use. The Government attaches great importance to the protection of Green Belts and the legitimate aims of protecting the environment attract substantial weight. Therefore, to refuse to grant planning permission would strike a fair balance and would not result in the violation of rights under Article 8.
28. Moreover, I am very mindful of duties under the PSED. A decision to refuse to grant planning permission would impair the opportunity of the appellant's son to access facilities that would be beneficial to his health and well-being. That could amount to discrimination in the sense that he would be denied facilities that are available to most of the population but not him, on account of his protected characteristic. Nonetheless, having regard to the matters identified above, I am of the view that a decision to refuse would be proportionate in this case, having regard to the pursuit of legitimate planning aims.

Recommendation

29. The proposed development therefore conflicts with the development plan taken as a whole and there are no other considerations, including the Framework and personal circumstances, that outweigh this conflict.

30. 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

31. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR