
Appeal Decision

Site visit made on 6 December 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/Q4625/D/22/3297617

259 Rumbush Lane, Earlswood, Solihull, West Midlands B94 5LX

- 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 Aidan Lynch against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2021/01164/MINFHO, dated 22 April 2021, was refused by notice dated 11 February 2022.
 - The development proposed is a detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for a detached garage at 259 Rumbush Lane, Earlswood, Solihull, West Midlands B94 5LX in accordance with the terms of the application, Ref PL/2021/01164/MINFHO, dated 22 April 2021, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with drawing number MSG/19/10 Rev B.
 3. No 'above-ground' building works shall proceed above damp-proof course level or equivalent on any buildings or structures hereby approved until a schedule and samples of all bricks, tiles and other materials to be used in the external elevations have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Preliminary Matters

2. The description of development on the decision notice refers to the resubmission of application PL/2020/00360/MINFHO for a detached garage, boundary wall and gate. This amendment was not agreed with the applicant. Accordingly, I have used the one given on the original application.
3. The appellant has submitted a copy of a recent High Court case *Warwick DC v SSLHC* which they assert is relevant to the appeal. The Council has been provided with an opportunity to comment on the judgement in relation to this appeal. Consequently, I do not consider any party is disadvantaged by my taking this matter into consideration.

Main Issues

4. The main issues in this case are:

- whether the proposed development would be inappropriate in the Green Belt;
- the effect of the proposed development on the openness of the Green Belt;
- the effect of the proposed development on the character and appearance of the area; and
- if the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances to justify it.

Reasons

5. The appeal site is located within a ribbon of detached and semi-detached houses that front Rumbush Lane. The dwellings have evolved over a period of time resulting in a varied pattern of buildings in terms of location, scale, and design. The appeal property comprises a large, detached house, set behind a landscaped front garden, and overlooks open countryside.

Whether Inappropriate Development

6. Paragraph 149 of the Framework establishes that new buildings in the Green Belt are inappropriate, subject to a number of exceptions. One of the exceptions set out in paragraph 149 of the Framework 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. The Framework defines 'original building' as meaning the building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally.
7. In the case of *Sevenoaks District Council v Secretary of State for the Environment and Dawe* (1997) the judge concluded that a proposed detached covered building for car parking should be considered in the same way as an extension to a house in the Green Belt, even though it was sited some distance away. Furthermore, in *Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe* [2022] EWHC 2145 (Admin) the judge concluded that paragraph 149 (c) "... is not to be interpreted as being confined to physically attached structures but that an extension for the purposes of that provision can include structures which are physically detached from the building of which they are an extension." Therefore, whether a detached structure would amount to an extension of the existing building is a matter of fact and degree.
8. The appellant has provided a number of appeal decisions that have permitted the erection of detached buildings at varying distances from their host properties. However, in the absence of substantive details of each of the individual cases I am unable to assess with any certainty whether they are directly comparable with the case before me. In any case I have dealt with this particular case on its merits.
9. I have also taken into account the appeal decision relating to 261 Rumbush Lane¹ noting that the Inspector considered that, given the scale of the

¹ APP/Q4625/A/01/1076502

development in relation to the size of the site and the general characteristics of the surroundings, the development should be regarded as a limited extension to the dwelling. Whilst the proposed development would be a greater distance from the host dwelling, than was the case at No 261, it would still retain a similar relationship. In my view it would be both physically and functionally related to the host property. Consequently, I find that it can reasonably be treated as an extension to it.

10. Policy 17 of the Solihull Local Plan (December 2013) (LP) deals with Countryside and Green Belt. Whilst the development plan was adopted some time ago, its aims are nevertheless broadly consistent with the approach in the Framework insofar as this appeal is concerned.
11. No quantitative guidance is provided in local or national policy regarding what might be considered disproportionate. Moreover, the Council's House Extension Guidelines Supplementary Planning Document (February 2010), does not apply a specific limit for the size of extensions within established ribbons of development.
12. In the absence of substantive evidence, I am unable to identify what constituted the original building nor am I able to quantify the degree to which it might have been extended. That said, given the scale of the proposed development in relation to the size of the host property, and the size of the garden within which it sits, I find that the proposal would not constitute a disproportionate addition.
13. Consequently, I conclude, on this main issue, that the proposed garage would not amount to a disproportionate addition over and above the size of the original building, and therefore would not constitute inappropriate development in the Green Belt for the purposes of the Framework and Policy 17 of the LP.

Openness

14. Unless there is a specific requirement to consider the actual effect on openness, the impact on openness is implicitly taken into account in the exceptions contained within Framework paragraph 149. The exception contained within paragraph 149 c) of Framework does not say that an assessment of the effect of a proposal on openness is a determinative factor in assessing whether a scheme would fall to be considered as inappropriate development. Accordingly, there is no requirement to assess the impact of the extension on the openness of the Green Belt.

Character and Appearance

15. Whilst the proposed garage would be visible at the front of the host property, in most views it would be seen with the host property in the background. Moreover, it would be seen in association with the existing detached garage at No 261 which is located forward of the property it serves. Given its design and context the proposed development would appear as a subservient addition in keeping with the scale, proportions and appearance of the host property. Existing landscape features would also mitigate the visual impact of the proposed development. Consequently, it would not appear as a prominent or incongruous feature within the street scene.
16. I therefore conclude, on this main issue, that the proposal would not detract from the character and appearance of the area. Consequently, it would not

conflict with LP Policy 15 or the House Extensions Guidelines Supplementary Planning Document which jointly seek to achieve good quality design that conserves and enhances local character, distinctiveness and streetscape quality.

Very Special Circumstances

17. Given my conclusion that the proposed garage would not constitute inappropriate development, it is not necessary for me to consider whether very special circumstances exist to justify the development.

Conditions

18. In the interests of the appearance of the area and certainty, conditions relating to materials and the specification of the relevant drawing have been imposed.

Conclusion

19. The proposed development would not be a disproportionate extension to the existing dwelling and as such would not be inappropriate development in the Green Belt. Furthermore, the proposed development would not detract from the character and appearance of the area. Accordingly, the proposal would not conflict with the objectives of the Framework or the development plan when taken as a whole. For these reasons and having taken into account all other matters I conclude that the appeal should be allowed subject to the conditions set out above.

John Gunn

INSPECTOR