
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/T3725/D/22/3300202

29 Red Lane, Burton Green, Kenilworth CV8 1NZ

- 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 Tom Lee against the decision of Warwick District Council.
 - The application Ref W/21/2022, dated 29 November 2021, was refused by notice dated 29 April 2022.
 - The development proposed is a single storey rear side extension front roof canopy.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed single storey rear side extension front roof canopy at 29 Red Lane, Burton Green, Kenilworth CV8 1NZ in accordance with the terms of the application, Ref W/21/2022, dated 29 November 2021, 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 following plans:8423-01D.

Main Issues

2. The main issues in this case are:
 - Whether the proposed development would be inappropriate in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt; 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

Whether Inappropriate Development

3. The National Planning Policy Framework (the Framework) makes clear at paragraph 149 that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions. One of these is the extension or alteration of a building that does not result in disproportionate additions over and above the size of the original building.
4. Policy DS18 and H14 of the Warwick District Local Plan – adopted September 2017, deal with developments within the Green Belt and Extensions to

Dwellings in the Open Countryside. Policy DS18 is broadly consistent with the Framework stating that the Council will apply national planning policy to proposals within the Green Belt. The supporting text to Policy H14 indicates that additions of more than 30% for dwellings within the Green Belt are likely to be considered disproportionate.

5. The main parties disagree on the floor area of the original building. The appellant indicates that the original building had a floor area of 79.44 sqm, whereas the Council has provided a figure of 76.96. The proposal would, according to the appellant, add a further 41.86 sqm of floorspace creating a total floorspace of 121.3 sqm. This would represent a 52.69% addition over and above the original building. The Council indicate that the total floorspace, would be 114.01 sqm, if the proposal was to be allowed, which would represent a 48.14% increase to the original floor area. Irrespective of which figures are used it is clear to me that the additional floorspace created would significantly exceed the guidance provided in Policy H14.
6. No quantitative guidance is provided in national policy regarding what might be considered disproportionate. That said, assessing proportionality is primarily an objective test based on size, and floor area should not be the sole basis for considering whether such a change is disproportionate. As such, it is important to consider this issue in terms of scale, bulk, massing and built form that would result from the changes sought.
7. The demolition of the existing conservatory, car port and garage, which did not form part of the original building, would result in a net reduction of approximately 4.9 sqm in the overall floor area when compared with the current situation. Moreover, it would result in the removal of existing outbuildings and extensions that are arranged in a sporadic manner and the creation of additional garden space. This would improve openness when compared with the current situation. Taking these matters into account I conclude that the proposed development would not be a disproportionate extension to the original building and consequently would not be inappropriate development in the Green Belt.

Openness and Very Special Circumstances

8. 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. Similarly, given my conclusion that the proposed extensions would not constitute inappropriate development, it is unnecessary for me to consider whether very special circumstances exist to justify the development.

Other Considerations

9. The Council consider that the proposed development constitutes good quality design and is in keeping with the host property and the surrounding area. They also consider that it would not have an adverse effect on the living conditions

of neighbouring residents. I have no reason to disagree with them on these matters.

Conditions

10. In the interests of the appearance of the area and certainty, conditions relating to the use of matching materials and the specification of the relevant drawings have been imposed.

Conclusion

11. The proposal would not be a disproportionate extension to the existing dwelling and as such would not be inappropriate development in the Green Belt. 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