



Appeal Decision

Site visit made on 8 March 2023

by D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 11th April 2023

Appeal Ref: APP/T3725/C/22/3305384

Land at Oaktrees, The Cumsey, Pinley Green, Warwick CV35 8LU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (1990 Act). The appeal is made by Mr Gurmit Singh Jutla against an enforcement notice issued by Warwick District Council.
- The notice was issued on 20 July 2022.
- The breach of planning control as alleged in the notice is:
Without planning permission, the erection of a second-floor extension.
- The requirements of the notice are to:
 - [i] Remove the second floor extension & reinstate the first floor roof structure at former height, pitch and using similar materials.
 - [ii] Remove from the Land all resulting waste and materials.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.

Summary Decision: The appeal succeeds in part and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

The ground (a) appeal and deemed planning application

Main Issues

1. The main issues are:
 - Whether the alleged breach of planning control constitutes inappropriate development in the Green Belt, having regard to the development plan and the National Planning Policy Framework (the Framework);
 - If the alleged breach of planning control constitutes inappropriate development in the Green Belt its effect on the openness and purposes of the Green Belt;
 - The effect of the alleged breach of planning control on the character and appearance of the surrounding area and the host building;
 - Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, whether this amounts to the very special circumstances required to justify the alleged breach of planning control.

Reasons

2. The appeal site comprises a detached dwelling, its gardens, parking areas and outbuildings. The detached dwelling is close to The Cumsey and there are nearby dwellings to the south served off an access drive from The Cumsey. The alleged breach of planning control relates to a second floor extension, in

the form of a flat roofed dormer, (the dormer) across the rear of the dwelling. Prior to the works being carried out the dwelling was relatively modest in size. The section of the building fronting The Cumsey was 1 and a half storeys with a gabled 'M' shaped roof and at 90 degrees to that is a 2-storey gabled roof section that projects forward towards The Cumsey. The first-floor rooms were partially within the 'M' shaped roof space with small gabled dormer windows to the elevation facing The Cumsey.

Whether the alleged breach of planning control constitutes inappropriate development

3. The site lies within the Green Belt and Policy DS18 of the Warwick District Local Plan (LP) states that the Council will apply national planning policy proposals within the Green Belt. LP Policy H14 states that extensions to dwellings in the open countryside will be permitted unless they result in disproportionate additions to the original dwelling (excluding any detached outbuildings) which:-
 - a) do not respect the character of the original dwelling by retaining its visual dominance;
 - b) do not retain the openness of the rural area by significantly extending the visual impression of built development; or
 - c) substantially alter the scale, design and character of the original dwelling.The explanatory text¹ to the policy indicates that what is considered a disproportionate addition will be dependent on various factors. Nonetheless, it goes on to state that as a guide additions (taking into account any previous extensions) that represent an increase of more than 30% to the gross floor space of the original dwelling, if the dwelling is in the Green Belt, excluding any detached buildings, are likely to be considered disproportionate. The original dwelling is defined as the building that stood on 1 July 1948 if it was built prior to 1948.
4. These policies are consistent with paragraph 149 of the Framework. That paragraph states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt apart from certain clearly defined exceptions. These exceptions include at c) 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.
5. There is no dispute that the original dwelling dates from before 1 July 1948 and that it has been extended since that time. From the figures supplied within the appellant's evidence the previous extension when combined with the dormer results in a 36% increase from the original floorspace of the dwelling. The Council has not specifically disputed these figures and I have no reason to disagree with them. The increase in floorspace is therefore greater than the 30% figure that is contained within the explanatory text to LP Policy H14.
6. Nevertheless, I recognise that the assessment of numerical values is not the lone means of evaluating the dormer. The breach of planning control is in the form of a flat roofed dormer and the eaves of the 'M' shaped roof are still visible. However, the dormer has been built up off external walls of the dwelling and it occupies most of the 'M' shaped rear roof slopes. Its overall height is appreciably taller than the ridge lines of the 'M' shaped roof and the gabled projection roof. Additionally, the walls of the dormer have been finished in render to match the walls of the dwelling.
7. Due to the above factors, the dormer appears as a bulky, box-like structure, completely dominating the rear of the dwelling in visual terms and significantly eroding and masking the original roof profiles at the rear of the dwelling. This,

¹ Paragraphs 4.94 & 4.95

together with the extent of the works and their elevated nature means that the dormer has the appearance of a flat roofed additional storey to the rear of the dwelling rather than a traditional dormer window extension. This has made it look very top-heavy, ungainly and out of keeping with the essentially simple form and modest proportions of the host building. Moreover, when viewed from The Cumsey the raising of the ridge line is apparent and the increase in height of that roof diminishes the former dominance of the gabled projection. As a result, the size and design of the extension is such that it is unduly large and does not appear subordinate to the host dwelling. Consequently, it does not respect the scale and character of that dwelling.

8. The appellant has suggested that he would accept a planning condition to clad the walls of the dormer with wavy edge boarding if I considered that this would mitigate the harm identified. However, I do not consider that cladding the walls of the dormer would appreciably reduce the visual impact of the development as its bulky, box like structure would remain.
9. The Cumsey is lined with hedgerows that have mature trees within them and there are no pavements for pedestrians within it. Nonetheless, the dormer is clearly apparent over the top of those hedgerows when travelling along The Cumsey. In addition, it is visible when travelling along the access drive that serves the nearby properties to the south.
10. The dormer appears as a bulky and incongruous addition that has substantially altered the scale and character of the original dwelling and the original dwelling's visual dominance has not been retained. Furthermore, when considered cumulatively with the previous extension it results in a disproportionate addition over and above the size of the original building. Therefore, it does not comply with LP Policy H14 and paragraph 149 c) of the Framework. Against this background the dormer as constructed amounts to inappropriate development within the Green Belt.

Effect on openness of the Green Belt

11. Paragraph 137 of the Framework notes that the Government attaches great importance to Green Belts and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
12. The dormer has not extended the footprint of the dwelling, but it has noticeably increased the height and bulk of the built form of the dwelling. However, the additional floorspace covered by the dormer is modest in comparison to the overall floorspace of the dwelling and visually whilst it can be seen from The Cumsey and nearby properties that impact is relatively localised. Consequently, the dormer has reduced the openness of the Green Belt, albeit that reduction is modest.
13. Although I have found that the reduction in openness is modest, that impact also amounts to encroachment into the countryside and conflicts with the purposes of including land within the Green Belt. It adds to the harm I have identified in respect of the structure being inappropriate development. I therefore attach substantial weight to the total harm to the Green Belt I have identified.

Character and appearance

14. The appeal dwelling is a detached dwelling located in a predominantly rural area. The dwelling is of traditional design and has a detached outbuilding and

garage to the rear. As stated previously, the building has an 'M' shaped roof section fronting The Cumsey and at 90 degrees to that a gabled section that projects towards that road. The 'M' shaped roof ridge lines would have been noticeably lower than the ridgeline of the gabled projection. That higher ridge line and projection means that the gabled elevation would have been the dominant feature on the front elevation. I observed that there is variety to the age, architectural style and type of dwellings in the surrounding area. Nevertheless, I noted that most of the dwellings' roofs have a traditional double pitched design. Moreover, even though there are a few other examples of dormer windows visible in the immediate vicinity of the appeal site they generally only involve dormers that are visually subordinate within the roof slopes.

15. I have found that the dormer appears as a bulky, box-like structure, completely dominating the rear of the dwelling in visual terms and significantly eroding and masking the original roof profiles at the rear of the dwelling. This, together with the extent of the works and their elevated nature means that the dormer has the appearance of a flat roofed additional storey to the rear of the dwelling rather than a traditional dormer window extension. This has made it look very top-heavy, ungainly and out of keeping with the essentially simple form and modest proportions of the host building. Moreover, when viewed from The Cumsey the raising of the ridge line is apparent and the increase in height of that roof diminishes the former dominance of the gabled projection. As a result, the size and design of the dormer is such that it is unduly large and does not appear subordinate to the host dwelling. Consequently, it does not respect the scale and character of that dwelling.
16. I have also found that cladding the walls of the dormer would not appreciably reduce the visual impact of the development as its bulky, box like structure would remain.
17. Therefore, the dormer appears as a bulky and incongruous addition to the dwelling and it is at odds with other development in the vicinity. It is visible from The Cumsey over the top of the hedgerows, and it can also be clearly seen from the drive that provides access to nearby dwellings to the south. Whilst reasonably localised in its extent, the effect of the dormer diminishes unacceptably the character and appearance of the host building with consequent harm to the character and appearance of the surrounding area. As such, it conflicts with LP Policy BE1 which states, amongst other things, that new development will be permitted where it positively contributes to the character and appearance of its environment through good design.

Other considerations

18. The Council did not object to the dormer due to its impact on the neighbouring occupiers' amenity, biodiversity or highway safety. However, the lack of harm in these respects is a neutral consideration that does not weigh for or against the proposal.

Conclusion – ground (a) appeal and deemed planning application

19. The dormer is inappropriate development in the Green Belt. Paragraph 148 of the Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

20. For the reasons given above, I find that the totality of the other considerations do not clearly outweigh the harm to the Green Belt and the harm to the character and appearance of the area and the host building. As a result, there is conflict with LP Policy DS18 and the Framework. Consequently, the very special circumstances necessary to justify the development do not exist.
21. Moreover, I have found that the dormer also conflicts with LP Policies H14 and BE1. With regard to paragraph 219 of the Framework the LP Policies are consistent with the Framework and therefore the conflict with those policies has full weight. The development conflicts with the development plan as a whole and material considerations do not indicate that it should be determined other than in accordance with the development plan.
22. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

The ground (g) appeal

23. That any period specified in the notice in accordance with section 173(9) of the 1990 Act falls short of what should reasonably be allowed. The appellant submits that 12 months is not a reasonable period of time to comply with the requirements of the notice and that this should be increased to 18 months. This is due to the complexity of the works required and the difficulties in obtaining a contractor to carry out those works. The Council accepts that a longer period may be required.
24. Balancing the competing considerations and taking into account the complexity of removing the dormer and sourcing a contractor, I conclude that the compliance period should be extended. A period of 18 months is reasonable and proportionate to allow the appellant to comply with the requirements, whilst ensuring the harms identified above do not continue for longer than necessary.
25. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Formal Decision

26. It is directed that the enforcement notice is varied by:
- the deletion of 12 months and the substitution of 18 months as the period for compliance.
27. Subject to the variation, the enforcement notice is upheld.

D Boffin

INSPECTOR