



Appeal Decision

Site visit made on 22 March 2023

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2023

Appeal Ref: APP/T3725/D/22/3310040

Old Folly Barn, Kites Nest Lane, Beausale, Warwickshire CV35 7PB

- 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 & Mrs S & J Rawden against the decision of Warwick District Council.
 - The application Ref W/22/0988, dated 9 June 2022, was refused by notice dated 30 September 2022.
 - The development proposed is the erection of an oak framed structure, solar panels and back-up battery pack to service existing dwelling.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Old Folly Barn is a barn converted to a dwelling in the West Midlands Green Belt. Permitted development rights have been withdrawn by planning condition¹. An enforcement notice was issued by the Council in 2020 relating to a timber car port structure, and an appeal against it was dismissed in 2020. That structure has been removed, and the appellant seeks planning permission in a similar location for an oak framed structure with solar panels and backup battery to service the existing dwelling.
3. The main issues are:
 - whether the proposed development 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 proposed development on the openness of the Green Belt;
 - If the development is inappropriate, whether the 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

Whether inappropriate development in the Green Belt:

4. Paragraph 149 of the Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate development,

¹ Condition 9 of planning Permission ref: W/14/1263 granted by Warwick District Council on 18/11/2014

subject to exceptions. The exception in 149(c) relates to 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. Although the proposed building is not attached to the dwelling, the appellants claim support from the 149(c) exception. In doing so they cite the recent *Warwick DC v SSLUHC & others* (2022) High Court judgement² (the Warwick judgement). In that judgement Justice Eyre found that 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. Whether or not any particular physically detached structure is an extension remains a matter of planning judgement³.
6. The dwelling itself is a building on an extensive plot, set in spacious surroundings. Despite its 3 storeys, it does not appear as a particularly large building, with one storey being below ground level, and its ground floor set into the ground behind low retaining walls. A wide gravel parking and turning area stands between the entrance and the dwelling, which amplifies the sense of space, and sets the dwelling well back in the plot.
7. The proposed structure would be distinctly separate from the dwelling, and some distance from it. It would be sited in a location more closely associated with the gravel parking and turning area, with which it would be at the same level, and higher than the ground floor of the dwelling.
8. Functionally, the structure would support solar panels and contain batteries to service the dwelling. In doing so it would also function as a back-up power supply for the subterranean sump pump. However, the plans show the solar panels would cover only a small part of the roof structure, and I have not been provided with details of the physical size of the batteries. Domestic battery systems can be relatively small, and it would be surprising if a structure of the size proposed was required to contain them. From the information before me, I have not seen sufficient justification for a structure of the size and design proposed solely on the basis of the solar panels and backup battery. The proposed structure is similar to, and is sited in a similar location to, the previous carport structure, and it appears likely that the structure would serve a dual purpose; one which was related to the dwelling itself, but nevertheless separate from it.
9. Overall, for the reasons above, the proposed structure would not be an extension of the building (i.e. the dwelling) for the purposes of paragraph 149 of the Framework, and the exemption does not apply. It is therefore not necessary for me to consider whether the proposal would result in disproportionate additions over and above the size of the original building.
10. I note that the Inspector considering a similar structure at the enforcement appeal came to a similar view.
11. As a consequence, the proposal is inappropriate development in the Green Belt, which is by definition harmful, and substantial weight should be given to any harm to the Green Belt.

² *Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe* [2022] EWHC 2145 (Admin)

³ Paragraph 20 of the Warwick judgement

Openness:

12. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and permanence.
13. Spatially, the structure would introduce development into an open and undeveloped area. It would be a relatively bulky structure, similar in size to a double garage, and with a ridged roof of a notable height. Spatially, the proposed development would therefore reduce the openness of the Green Belt.
14. Visually, it would stand as a new building in an open and sparsely developed location with open views of the countryside beyond the domestic curtilage. Although the boundaries adjacent to the proposed structure and with the Lane contain hedgerows, the proposed structure would exceed their height. It would be visible from Kites Nest Lane above the boundary hedgerows and from gaps in the hedgerows at domestic and agricultural accesses. The presence of the proposed structure in a previously undeveloped location would therefore visually reduce the openness of the Green Belt.
15. Overall, the development does not preserve the openness of the Green Belt. Unless very special circumstances are found to justify the development, it therefore conflicts with Warwick District Local Plan 2011-2029 (2017) (WDLP) Policy DS18, which applies national planning policy to proposals in the green belt, and Chapter 13 of the Framework, which seeks to protect Green Belt land.

Other considerations

16. As described above, the structure would support, and contain, solar panels and batteries which would provide a backup electricity supply for the sump pump, which the appellant states must function at all times to safeguard the subterranean living space. The appellant considers the structure would facilitate the best possible orientation of the solar panels and the installation of appropriately sized battery packs. However, with the information before me I find the case for a structure of the size and design proposed unconvincing. I am also not persuaded by the appellant's suggestion that any other configuration of solar panels and battery packs would require greater and distinct separation from the property to facilitate the same benefit. I therefore attach only very limited weight to these matters in favour of the development.

Conclusion

17. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
18. The development is inappropriate development in the Green Belt, and harms openness, to which I must attribute substantial weight against the development. The harm to the Green Belt is therefore not clearly outweighed by the other considerations, and the very special circumstances required to justify a grant of planning permission therefore do not exist. The development would therefore conflict with WDLP Policy DS18 and Chapter 13 of the Framework, which are described above.

19. For the reasons above, I conclude the development would conflict with the development plan as a whole and the approach in the Framework. There are no other material considerations that require a decision to be made other than in accordance with the development plan, and the appeal should therefore be dismissed.

Peter White

INSPECTOR