The Planning Inspectorate

Appeal Decision

Site visit made on 28 March 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2023

Appeal Ref: APP/E3715/D/22/3303264
Highwood Farm, Coventry Road, Brinklow, Warwickshire CV23 0NJ

- 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 Dale Aston against the decision of Rugby Borough Council.
- The application Ref R22/0134, dated 16 February 2022, was refused by notice dated 19 May 2022.
- The development proposed is described as 'Extensions and Alterations to Highwood Farm (revisions to approval R20/0142)'.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   - whether the 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 development on the openness of the Green Belt; and
   - 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

3. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. One such exception being 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.

4. Policy GP2 of the Rugby Borough Council Local Plan 2011 -2031 (RLP) sets out that development in the Green Belt will be permitted only where it is in accordance with national policy.

5. The appeal proposal comprises an extension to the side of the existing detached dormer bungalow which also projects beyond the front and rear elevations. The extension would provide a swimming pool enclosure, a double garage, 2 first floor bedrooms over part of the swimming pool and garage and a plant room at basement level.

6. The property benefits from an extant planning permission for extensions and alterations (Ref: R20/0142). I note the appellants assertion that the extant permission was granted on the basis that the proposals were not considered to be disproportionate and were therefore not deemed to constitute inappropriate development in the Green Belt. However, the officers report indicates that the proposed extension was an amalgamation of previous approvals for development at the site and that permission was granted on the basis of the weight to be attached to the fallback position of those extant approvals.

7. Furthermore, the appellant suggests that as the basement would result in a further increase in the size of the extension granted by the extant permission of only 8.8%, it would not render the extension as a whole disproportionate. The appeal submissions indicate that previous approvals for extensions to the property amount to a 77% increase in the size of the original dwelling. Aside from changes to fenestration and the internal layout the main difference between the appeal proposal and the extant permission is the inclusion of a basement below the garage, which would increase the size of the extension by a further 42m^2. Despite the apparent invisibility of the basement element of the scheme, it would nevertheless increase the size of the extension. As such, when taken cumulatively the proposed extension would represent a significant increase over and above the size of the dwelling and would therefore be a disproportionate addition to the original building.

8. My attention is drawn to several appeal decisions pertaining to development including basements, some of which are of a considerable age, which means it is difficult to be certain of their relevance in light of policy changes and more recent caselaw. Moreover, a number of the examples cited refer to replacement dwellings which require a different policy test to be applied as to whether the proposal would be materially larger as opposed to a disproportionate addition and in that regard are not directly comparable to the appeal proposal.

9. Whilst the case of appeal Ref APP/N5090/D/17/3174495 at Folly Farm relates to the provision of a new basement, in that case the Inspector determined that the proposal did not amount to a disproportionate addition to the existing building, which differs from my findings in the appeal before me. Furthermore, in appeal Ref. APP/T2215/A/13/2200600 at Court Wood House the Inspector attributed weight to the fallback position of permitted development rights, which is not relevant in the case of the appeal proposal.

10. Consequently, I find that the proposal would represent a disproportionate addition over and above the original building. The proposal would not meet any of the exceptions listed at para 149 of the Framework and would constitute inappropriate development, which is, by definition, harmful to the Green Belt. The proposal therefore fails to accord with LP Policy GP2 and the protection of the Green Belt objectives within the Framework.

Openness

11. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. Whilst the land on which the extension would be located is in part occupied by the existing swimming pool, the remaining part is currently undeveloped. The proposed extension, which would project beyond the front, side and rear walls of the existing dwelling, would result in a significant increase in the footprint of the building, as well as the overall bulk and massing. Furthermore, whilst set back from the highway boundary, the proposed extension would be visible in glimpsed views from the road through gaps in the boundary treatment, as well as from the neighbouring quarry and in longer distance views across the open countryside.

12. Whether or not the basement is modest in size in relation to the previously approved extension, I have found the extension as a whole to be a disproportionate addition to the original building. Therefore, as a consequence of the increase in built form, I find that the extension would harm the openness of the Green Belt in both spatial and visual terms. As such, the proposal would cause moderate harm to the openness of the Green Belt in this location.

Other considerations

13. I have found that the appeal proposal would represent inappropriate development in the Green Belt, which is harmful by definition. It would also cause moderate harm to the openness of the Green Belt. In accordance with paragraph 148 of the Framework, any harm to the Green Belt must be given substantial weight, weighing against the appeal proposal. In terms of the other considerations, there are no other matters weighing against the appeal proposal.

14. I have not been presented with any substantive evidence to suggest that the extant consent, which includes the provision of a plant room within the existing dwelling, does not have a real prospect of being implemented in the event that planning permission is not granted. In that regard it is more than a theoretical possibility and therefore represents a realistic fallback position.

15. As the proposed basement would be entirely subterranean, the appeal proposal would not give rise to any greater harm to the openness of the Green Belt than the extant permission having regard to the above ground elements. Nor would it deviate from the domestic nature of the extant proposals. As such, in terms of the impact on the openness of the Green Belt, the effect of the appeal proposal would be indistinguishable to that of the extant permission.

16. It may be that previous Inspectors have found basements not to be harmful, and indeed this proposal would not result in greater harm to the openness of the Green Belt than the existing planning permission. However, having regard to *Gambone*[1] because it causes no greater harm, the fallback position provided by the permitted scheme is a neutral consideration in my determination of the appeal.

17. The appellant highlights a number of operational and amenity benefits to the scheme and that the proposals would enable the installation of a ground source heat pump at the property. Given these benefits reflect the preferences of the appellant, I attribute limited weight to these considerations. Moreover, I am

[1] *Raffaele Gambone v Secretary of State for Communities and Local Government* [2014] EWHC 952 (Admin)

not persuaded that the appeal proposal would be the only way to achieve these outcomes.

18. Consequently, I conclude that the matters weighing in favour of the appeal proposal would not clearly outweigh the harm to the Green Belt by reason of inappropriateness. They do not therefore amount to the very special circumstances needed to justify the development.

Conclusion

19. For the reasons set out above, the harm to the Green Belt would not be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. Consequently, the appeal is dismissed.

Emma Worley

INSPECTOR