



Appeal Decision

Site visit made on 14 November 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/Q4625/D/23/3324569

Nailcote Farm Cottage, Hodgetts Lane, Berkswell, Solihull CV7 7DF

- 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 Amarjit Kalsi & Mrs Harmesh Kalsi against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2023/00175/PPFL, dated 27 January 2023, was refused by notice dated 30 March 2023.
 - The development proposed is single storey link to existing outbuilding.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in my banner heading above is taken from the Council's decision notice, as I consider this to be a clearer description of the proposal.

Main Issues

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 proposal 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

4. The appeal site lies within the Green Belt. The host property is a two-storey detached dwelling sited within a very large plot at the corner of Hodgetts Lane and Nailcote Lane. The proposal would result in a single storey link between the main dwelling and an existing single storey outbuilding.

Inappropriate Development

5. 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; and that the construction of new buildings within the Green Belt is inappropriate

development. There are however a limited number of exceptions to this, as set out in the Framework, including that at paragraph 149 c) which refers 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 building¹.

6. Policy 17 of the Solihull Local Plan 2013 (SLP) sets out that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances; and that development involving extension or alteration of buildings in the Green Belt will not be permitted if (among other things) it will harm the purposes of including land within the Green Belt. The policy therefore broadly conforms to the general thrust of national policy regarding Green Belt.
7. The Framework does not provide a definition of 'disproportionate additions' and neither does Policy 17. However, the Council's House Extension Guidelines 2010 Supplementary Planning Document (SPD) addresses the exception, albeit with reference to a much earlier version of the Framework. The SPD sets out that the Council will limit extensions to any property to no more than 40% of the original habitable floor space measured externally. The SPD makes clear that the 40% permissible is inclusive of any extensions carried out under permitted development rights, and/or any unimplemented approvals.
8. The proposed link extension would be about 2.5m x 5.3m, with a ridge height of about 3.6m, and an eaves height of about 2.3m. By itself, it would be a modest addition. However, the Council states that Nailcote Cottage has been extended in the past by about 78% above the original floorspace; and that the proposal would effectively link the existing dwelling to the existing outbuilding, resulting in a combined cumulative increase to the original dwelling of about 257%. Therefore, this would represent a significantly large disproportionate addition in cumulative floorspace terms. Although there are no volume calculations before me, the proposal would result in a significant cumulative increase in volume to the original dwelling.
9. The Council's figures are not disputed by the appellants, but rather the dispute centres on the inclusion of the outbuilding in the Council's calculation. There is little substantive evidence from either party to clearly demonstrate the circumstances that led to the existence of the outbuilding.
10. While outbuildings are not treated as extensions under permitted development rights, The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) does not affect the policies of the Framework or their interpretation. It is established practice to consider whether physically detached outbuildings fall to be considered under paragraph 149 c), if they form a normal domestic adjunct, having due regard to their purpose and use, size, and relationship to the original building. While the link extension could be considered as an extension to the existing outbuilding, this would not prevent it from falling within the exception at paragraph 149 c).
11. The existing outbuilding is single storey and of a significant size. It is broadly in an irregular L-shape, with three distinct sections, with each section neither aligning to the front or rear elevations of any adjacent section. The smaller part of the L-shape includes a gym and shower room and is sited very close to the rear projection of the existing dwelling. The small gap between would form the

¹ The Framework defines 'original building' as the building as it existed on 1 July 1948, or if it was constructed after that date, as it was built originally.

site of the proposed link extension. The longer part of the L-shape includes a central section with large snooker room and garaging. The final section is slightly offset to include garaging for a tractor. Consequently, I find that the existing outbuilding reads as a normal domestic adjunct.

12. Therefore, the inclusion of the outbuilding within the Council's calculations is reasonable in order to assess whether the proposal would result in a disproportionate addition over and above the size of the original building.
13. I therefore conclude that the proposed development would result in inappropriate development in the Green Belt, and it conflicts with Policy 17 of the SLP, the SPD and the Framework.

Openness

14. Openness is an essential characteristic of the Green Belt, and it has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
15. The proposed extension would occupy the existing gap between the outbuilding and the rear projection of the existing dwelling. Due to its overall scale, footprint and volume, it would be of limited impact in spatial terms.
16. The appeal property is screened by vegetation at its boundary along Nailcote Lane and thus the proposed extension would not be seen in public views from along that street. Public views of the proposal from along Hodgetts Lane would be significantly restricted by the presence of the existing dwelling and the existing outbuilding. Therefore, the proposal would have little impact upon the visual aspect of openness.
17. I therefore conclude that the proposed development would fail to preserve the openness of the Green Belt, but to a limited extent. It conflicts with Policy 17 of the SLP, and the fundamental aims of the Framework.

Other considerations

18. My attention is drawn to a nearby example of a link extension at Nailcote House, Waste Lane, together with a block plan. I am not aware of all the considerations that applied in that case, nor can I be certain that the national and local policy position was the same as that before me.
19. The design of the proposal would be satisfactory, and it would not harm the character and appearance of the area, nor harm the living conditions of neighbouring occupiers. These considerations are neutral factors in my assessment, carrying neither positive nor negative weight.
20. My attention is drawn to the purpose of the proposal which is to provide a sheltered route for the occupiers of the property as they approach retirement and in light of personal health issues. From the evidence before me, it is not clear if and how this consideration was taken into account at the time of determination. Under the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, I have had due regard to the impact of the proposal in relation to this matter. I am therefore required to balance the harm I find against the purpose of the proposal.

21. The purpose of the proposal would be a positive consideration, in terms of eliminating discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons and fostering good relations between them and others. While the proposal could assist in meeting any personal health needs of the occupiers by providing a sheltered route, these needs have not been specified nor robustly evidenced. Therefore, I cannot be certain that the harm I have identified would be outweighed by the personal health needs of the occupiers. Therefore, I conclude that it would be proportionate and necessary to dismiss the appeal.

Other Matters

22. The appellants draw my attention to their efforts to obtain advice and guidance from the Council prior to and during the determination phase. However, the conduct of the council is not a matter that affects my findings on the main issues and/or the planning merits of the scheme.

Green Belt Balance and Conclusion

23. The proposal would represent inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. In addition, openness is an essential characteristic of the Green Belt, so a reduction in openness would also be harmful, even if limited. I am also required to give substantial weight to any harm to the Green Belt.
24. In this case, it is clear that other considerations would not outweigh the harm I have identified, and the very special circumstances necessary to justify the proposal do not exist.
25. For the reasons above, I conclude that the appeal should be dismissed.

J Moore

INSPECTOR